

EDPS Formal comments on the draft Commission Delegated Regulations amending Commission Delegated Regulations C(2021) 4982 and C(2021) 4983 of 30.9.2021 supplementing Regulations (EU) 2019/817 and 2019/818 of the European Parliament and of the Council with detailed rules on the operation of the central repository for reporting and statistics

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ('EUDPR')¹, and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:

1. Introduction and background

1. On 22 April 2025, the European Commission consulted the EDPS on two draft Commission Delegated Regulations amending Commission Delegated Regulations C(2021) 4982 and C(2021) 4983 of 30.9.2021 supplementing Regulations (EU) 2019/817 and 2019/818 of the European Parliament and of the Council with detailed rules on the operation of the central repository for reporting and statistics ('the draft Delegated Regulations') and their respective Annexes².
2. Regulations (EU) 2019/817³ and 2019/818⁴ ('Interoperability Regulations'), which establish a framework of interoperability between the EU information systems in the field of borders, visas, police and judicial cooperation, asylum and migration, provide

¹ OJ L 295, 21.11.2018, p. 39.

² Due to the fact that not all Member States participate in all the EU policies in the fields of borders and visas, police cooperation and judicial cooperation in criminal matters, and asylum and migration, it is necessary to adopt parallel implementing acts based on the separate empowerments in the Regulations establishing interoperability in these different fields. Given the essential similarity of the substance of both draft Delegated Regulations, the EDPS has assessed the two draft Delegated Regulations and their Annexes together.

³ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA, OJ L 135, 22.5.2019, p. 27.

⁴ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816, OJ L 135, 22.5.2019, p. 85.

for a number of interoperability components, including a central repository for reporting and statistics ('CRRS'). The CRRS is established for the purposes of supporting the objectives of the European Entry/Exit System ('EES'), Visa Information System ('VIS'), European Travel Information and Authorisation System ('ETIAS'), Schengen Information System ('SIS'), European Dactyloscopy ('Eurodac') and European Criminal Records Information System - Third Country Nationals ('ECRIS-TCN') in accordance with the respective legal instruments governing those systems, and to provide cross-system statistical data and analytical reporting for policy, operational and data quality purposes. The CRRS also supports the objectives of Regulations (EU) 2025/12 and 2025/13 of the European Parliament and of the Council⁵.

3. In accordance with Article 39(5) of the Interoperability Regulations, the European Commission has adopted Commission Delegated Regulations C(2021)4982 and C(2021) 4983 of 30.9.2021⁶, which lay down detailed rules on the operation of the CRRS, including specific safeguards for the processing of personal data and security rules applicable to the repository.
4. Following the adoption of Regulation (EU) 2021/1134 of the European Parliament and of the Council⁷, which reformed the VIS, Regulation (EU) 2024/1358⁸, establishing 'Eurodac', Regulation (EU) 2024/982⁹ on the automated search and exchange of data for police cooperation, and Regulations (EU) 2025/12¹⁰ and 2025/13¹¹ on the collection

⁵ Article 39(1) of the Interoperability Regulations.

⁶ It should be noted that Commission Delegated Regulations C(2021)4982 and C(2021)4983 of 30.9.2021 have been published in the Official Journal of the EU as Commission Delegated Regulation (EU) 2021/2223 of 30 September 2021 supplementing Regulation (EU) 2019/817 of the European Parliament and of the Council with detailed rules on the operation of the central repository for reporting and statistics (OJ L 448, 15.12.2021, p. 7) and Commission Delegated Regulation (EU) 2021/2222 of 30 September 2021 supplementing Regulation (EU) 2019/818 of the European Parliament and of the Council with detailed rules on the operation of the central repository for reporting and statistics (OJ L 448, 15.12.2021, p. 1), respectively.

⁷ Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System, OJ L 248, 13.7.2021, p. 11.

⁸ Regulation (EU) 2024/1358 of the European Parliament and of the Council of 14 May 2024 on the establishment of 'Eurodac' for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council, OJ L, 2024/1358, 22.5.2024, p. 1.

⁹ Regulation (EU) 2024/982 of the European Parliament and of the Council of 13 March 2024 on the automated search and exchange of data for police cooperation, and amending Council Decisions 2008/615/JHA and 2008/616/JHA and Regulations (EU) 2018/1726, (EU) No 2019/817 and (EU) 2019/818 of the European Parliament and of the Council (the Prüm II Regulation), OJ L, 2024/982, 5.4.2024, p. 1.

¹⁰ Regulation (EU) 2025/12 of the European Parliament and of the Council of 19 December 2024 on the collection and transfer of advance passenger information for enhancing and facilitating external border checks, amending Regulations (EU) 2018/1726 and (EU) 2019/817, and repealing Council Directive 2004/82/EC, OJ L, 2025/12, 8.1.2025, p. 1.

¹¹ Regulation (EU) 2025/13 of the European Parliament and of the Council of 19 December 2024 on the collection and transfer of advance passenger information for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, and amending Regulation (EU) 2019/818, OJ L, 2025/13, 8.1.2025, p. 1.

and transfer of advance passenger information for enhancing and facilitating external border checks and for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, Delegated Regulations C(2021)4982 and C(2021)4983 need to be amended to introduce provisions stemming from these Regulations¹².

5. The draft Delegated Regulations and their respective Annexes are adopted pursuant to Article 39(5) of the Interoperability Regulations.
6. The EDPS has previously issued formal comments on the drafts of the current Commission Delegated Regulations C(2021)4982 and C(2021)4983¹³, as well as Opinion 4/2018 on the Proposals for the two Interoperability Regulations¹⁴.
7. The present formal comments of the EDPS are issued in response to a consultation by the European Commission of 22 April 2025, pursuant to Article 42(1) of EUDPR. The EDPS welcomes the reference to this consultation in Recital 12 of the draft Delegated Regulations.
8. These formal comments do not preclude any additional comments by the EDPS in the future, in particular if further issues are identified or new information becomes available, for example as a result of the adoption of other related implementing or delegated acts¹⁵.
9. Furthermore, these formal comments are without prejudice to any future action that may be taken by the EDPS in the exercise of his powers pursuant to Article 58 of the EUDPR and are limited to the provisions of the draft Proposal that are relevant from a data protection perspective.

2. Comments

2.1. Legal basis for the processing of data and statistics from Regulation (EU) 2024/982 (Prüm II) and Regulation (EU) 2024/1358 (Eurodac)

10. Article 39 is the provision of the Interoperability Regulations, which lays down the legal basis of the CRRS. It also establishes, amongst others, the purposes of the

¹² Recital 4 of the draft Delegated Regulations.

¹³ [EDPS Formal comments on the draft Commission Delegated Regulations supplementing Regulation \(EU\) 2019/817 and Regulation \(EU\) 2019/818 of the European Parliament and Council with detailed rules on the operation of the central repository for reporting and statistics](#), issued on 17 June 2021.

¹⁴ [EDPS Opinion 4/2018 on the Proposals for two Regulations establishing a framework for interoperability between EU large-scale information systems](#), issued on 16 April 2018.

¹⁵ In case of other implementing or delegated acts with an impact on the protection of individuals' rights and freedoms with regard to the processing of personal data, the EDPS would like to remind that he needs to be consulted on those acts as well. The same applies in case of future amendments that would introduce new or modify existing provisions that directly or indirectly concern the processing of personal data.

CRRS¹⁶ as well as what data and statistics the CRRS should contain, the conditions for access to it and for which purposes¹⁷.

11. The conditions of Article 39 are further reflected and detailed in Commission Delegated Regulations C(2021)4982 and C(2021)4983 of 30.9.2021.
12. The EDPS notes that the objective of the draft Delegated Regulations is to change the scope and the conditions for access to the CRRS in the current Commission Delegated Regulations C(2021)4982 and C(2021)4983 of 30.9.2021, in order to include statistical data stemming from, amongst others, Regulation (EU) 2024/982 (Prüm II Regulation) and Regulation (EU) 2024/1358 (Eurodac Regulation).
13. The EDPS furthermore notes that Article 39 has been amended on multiple occasions, with the intention to ensure that statistics from the use of certain newly established EU information systems¹⁸ are included in the CRRS and that the relevant authorities have access to it. Due to the differentiation of fields of application in the two Interoperability Regulations, the respective Article 39 of each regulation refers to different EU information systems and their establishing regulations.
14. The latest two changes to the scope of the CRRS were made in 2024, with Article 71 of the Prüm II Regulation, and, subsequently, in 2025, with Article 41 of Regulation (EU) 2025/13 (API Regulation). Each of these changes introduced a reference to those regulations in Article 39 of Regulation 2019/818 in order to ensure that the CRRS would also be used to support the objective of those regulations.
15. It is to be noted that each amendment of Article 39 of Regulation 2019/818 repealed and replaced the previous text of the provision, in particular of paragraphs 1 and 2 thereof. The current text of Article 39(1) and (2) of Regulation 2019/818 is therefore reflected in Article 41 of the API Regulation.
16. In the light of the above, the Prüm II Regulation is no longer mentioned in the latest text of Article 39 of the Regulation 2019/818, as it has been omitted in the latest amending provision of Article 41 of the API Regulation. The EDPS understands that the omission of the reference to the Prüm II Regulation was likely an error, as there was no indication of the intention to no longer use CRRS to support the objectives of the Prüm II Regulation, either in the proposal leading to the API Regulation or in the subsequent legislative history.
17. The EDPS notes a similar situation with the Eurodac Regulation. While Article 39(1) of the Regulation 2019/818 does generally explain that the CRRS is established for the purpose of supporting the objectives of Eurodac, it neither refers to the Eurodac Regulation, nor provides for the CRRS to contain data and statistics stemming from

¹⁶ See Article 39(1) of the Interoperability Regulations.

¹⁷ See Article 39(2) of the Interoperability Regulations.

¹⁸ See the Regulations referred to in paragraph 2 above.

that Regulation (and does not grant access to the authorities referred to in Article 12 of the Eurodac Regulation)¹⁹.

18. Against this background, if it is indeed envisaged to keep making use of the CRRS to support the objectives of the Prüm II Regulation and the Eurodac Regulation, as the draft Delegated Regulations indicate, Article 39 of the Regulation 2019/818 should be amended accordingly.

2.2. Reference to Annexes of the draft Delegated Regulations

19. The EDPS furthermore notes that Article 1 of the draft Delegated Regulations indicates that the Annex of the draft Delegated Regulations would amend the Annexes of Commission Delegated Regulations C(2021)4982 and C(2021)4983 respectively. However, Delegated Regulations 2021/2223 (C(2021)4982) and 2021/2222 (C(2021)4983) do not contain Annexes and the Annexes of the draft Delegated Regulations themselves do not make any reference to an Annex. The EDPS therefore recommends deleting the reference to Annexes in Article 1 of the draft Delegated Regulations.

Brussels, 5 June 2025

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

¹⁹ See paragraph 2 of Article 39 of Regulation 2019/818, as amended by the API Regulation.