

EDPS Formal comments on the draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards the formats and procedures for annual reports by supervisory bodies

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 Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ('EUDPR')¹, and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:

1. Introduction and background

1. On 30 April 2025, the European Commission consulted the EDPS on the draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards the formats and procedures for annual reports by supervisory bodies ('the draft implementing regulation'), as part of the consultation on 12 draft implementing regulations to be adopted pursuant to Regulation (EU) No 910/2014². The current batch is the third batch of implementing acts for consultation since Regulation (EU) No 910/2014 was amended by Regulation (EU) 2024/1183 establishing the European Digital Identity Framework³.
2. The objective of the draft implementing regulation is, in accordance with Article 46a(6) and Article 46b(7) of Regulation (EU) No 910/2014, to specify the information to be provided by the supervisory bodies designated pursuant to Article 46a(1) of Regulation (EU) No 910/2014 to the Commission in their annual reports⁴.

¹ OJ L 295, 21.11.2018, p. 39.

² Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.8.2014, p. 73–114.

³ Regulation (EU) 2024/1183 of the European Parliament and of the Council of 11 April 2024 amending Regulation (EU) No 910/2014 as regards establishing the European Digital Identity Framework, OJ L, 2024/1183, 30.4.2024.

⁴ Recital 3 of the draft implementing regulation.

3. The draft implementing regulation is adopted pursuant to Article 46a(6) and Article 46b(7) of Regulation (EU) No 910/2014.
4. The EDPS previously issued formal comments on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity⁵.
5. The present formal comments of the EDPS are issued in response to a consultation by the European Commission pursuant to Article 42(1) of EUDPR. The EDPS welcomes the reference to this consultation in Recital 5 of the draft implementing regulation.
6. 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 acts⁶.
7. 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 implementing regulation that are relevant from a data protection perspective.

2. Comments

8. Article 3(3) of the draft implementing regulation would require supervisory bodies for the European Digital Identity Wallets ('EUDIW') referred to in Article 46a(1) of Regulation (EU) No 910/2014 to ensure that their annual reports include the information set out in Annex I. Similarly, Article 3(4) of the draft implementing regulation would require supervisory bodies of trust services referred to in Article 46b(1) of Regulation (EU) No 910/2014 to ensure that their annual reports include the information set out in Annex II.
9. The EDPS welcomes the reference - at point (12) of Annex I and at point (9) of Annex II to the draft implementing regulation - to the information on the frequency and nature of cooperation with competent data protection supervisory authorities where personal data protection rules appear to have been breached and about security breaches which appear to constitute personal data breaches. In addition, the EDPS recommends adding a reference to any cooperation which may have taken place

⁵ [Formal comments of the EDPS on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation \(EU\) No 910/2014 as regards establishing a framework for a European Digital Identity](#), issued 28 July 2021.

⁶ 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.

following reports by users to data protection authorities pursuant to Article 5a(4)(d)(iii) of Regulation (EU) No 910/2014⁷ via the common dashboard.

10. With regard to Annex I, the EDPS takes note of the fact that both points (5) and (6) seem to deal with the same type of supervisory activity, that is on-site inspections and off-site supervision activities, covering different aspects of it (product/provider-related or supervisory activity-related). The EDPS suggests merging them in one point.
11. The EDPS invites the Commission to consider requesting further information relating the uptake of the EUDIW, for example by adding to Annex I the following information: statistical information about the number of relying parties that newly registered or whose registration was cancelled in the reference year-period.
12. The EDPS welcomes Recital 4 of the draft implementing regulation, which recalls that Regulation (EU) 2016/679⁸ and, where relevant, Directive 2002/58/EC⁹ shall be applicable to the processing of personal data under this Regulation. The EDPS recalls that, insofar as the submission of information to the Commission involves processing of personal data, the processing of such data by the European Commission shall be subject to Regulation (EU) 2018/1725¹⁰.

Brussels, 28 May 2025

(e-signed)

Wojciech Rafał Wiewiórowski

⁷ Article 5a(4)(d)(iii) of Regulation (EU) No 910/2014 refers to “report a relying party to the competent national data protection authority, where an allegedly unlawful or suspicious request for data is received;”

⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.

⁹ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

¹⁰ See Article 3(1) of the draft implementing regulation, setting out the obligation for supervisory bodies to submit their annual reports to the Commission through a secure electronic channel to be made available by the Commission. Though in most cases the annual reports, as specified in Annex I and II to the draft implementing regulation, would not contain personal data, it cannot be excluded that, for instance contact details, can constitute personal data within the meaning of Article 4(1) GDPR and Article 3(1) EUDPR. See, in this regard, see the recent judgment of the Court (first Chamber) of 3 April 2025, *L.H. v Ministerstvo zdravotníctví*, C-710/23, ECLI:EU:C:2025:231, paragraphs 30-31.