

EDPS Formal comments on the draft Commission Implementing Decision amending Implementing Decision (EU) 2022/2470 as regards technical specifications for the quality, resolution and processing of facial images, necessary for the technical development and implementation of the centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN)

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 Decision amending Implementing Decision (EU) 2022/2470 as regards technical specifications for the quality, resolution and processing of facial images, necessary for the technical development and implementation of the centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) ('the draft implementing decision').
2. The objective of the draft implementing decision is to enable central authorities to enter facial images into ECRIS-TCN by laying down the necessary technical specifications for the quality, resolution and processing of the facial images². Commission Implementing Decision (EU) 2022/2470³ lays down measures necessary for the technical development and implementation of ECRIS-TCN, including the

¹ OJ L 295, 21.11.2018, p. 39.

² Recital 5 of the draft implementing decision.

³ Commission Implementing Decision (EU) 2022/2470 of 14 December 2022 laying down measures necessary for the technical development and implementation of the centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN), OJ L 322, 16.12.2022, p. 107.

technical specifications concerning alphanumeric and fingerprint data⁴. As Commission Implementing Decision (EU) 2022/2470 focuses on the technical specifications concerning alphanumeric and fingerprint data, this Decision introduces the relevant technical specifications regarding facial images⁵.

3. The draft implementing decision is adopted pursuant to Article 10(1) of Regulation (EU) 2019/816 of the European Parliament and of the Council⁶.
4. The EDPS previously issued his Opinion on the proposal for a Regulation on ECRIS-TCN⁷.
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 14 of the draft implementing decision.
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 acts⁸.
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 decision that are relevant from a data protection perspective.

2. Comments

8. The EDPS notes that until the entry into force of the delegated act provided for in Article 6(2) of Regulation (EU) 2019/816, facial images should not be used to query the system. Their use should be currently limited to confirming the identity of a third-country national who has been identified as a result of an alphanumeric search or a search using fingerprint data, in accordance with Article 6(1) of Regulation (EU)

⁴ Recital 2 of the draft implementing decision.

⁵ Recital 9 of the draft implementing decision.

⁶ Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726, OJ L 135, 22.5.2019, p. 85.

⁷ [EDPS Opinion 11/2017 on the proposal for a Regulation on ECRIS-TCN](#), issued on 12 December 2017.

⁸ 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.

2019/816, and to enabling detection of multiple identities across the interoperable IT systems in accordance with Article 13(1), point (b), and Article 27(2) of Regulation (EU) 2019/818. The EDPS welcomes this clarification of use cases in Recital 6 of the draft implementing decision.

9. The EDPS welcomes the specific emphasis in Recital 7 of the draft implementing decision on data quality. The rules on the quality, resolution and processing of facial images, provided for in the draft implementing decision, relate to accuracy, which is one of the basic data protection principles laid down in Article 5(1)(d) of the GDPR and Article 4(1)(d) of the EUDPR. In this context, the quality of the facial images stored in ECRIS-TCN will have a direct impact not only on the proper functioning of the automated matching processes but also on the fundamental rights of the affected data subjects.
10. As to the enacting terms of the draft implementing decision, the EDPS has no specific comments.

Brussels, 5 June 2025

(e-signed)

Wojciech Rafał WIEWIÓROWSKI