

**EDPS Formal comments on the draft Commission Implementing Regulation (EU) on establishing the technical specifications and other requirements for the decentralised IT system, referred to in Regulation (EU) 2023/1543 of the European Parliament and of the Council**

**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')<sup>1</sup>, and in particular Article 42(1) thereof,

**HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:**

**1. Introduction and background**

1. On 27 May 2025, the European Commission consulted the EDPS on the draft Commission Implementing Regulation (EU) on establishing the technical specifications and other requirements for the decentralised IT system, referred to in Regulation (EU) 2023/1543 of the European Parliament and of the Council ('the draft Implementing Regulation') and its Annex.
2. The objective of the draft Implementing Regulation and its Annex is to set out the technical specifications and requirements, measures and objectives of the decentralised IT system<sup>2</sup> referred to in Article 25 (1) of Regulation (EU) 2023/1543<sup>3</sup> ('the E-evidence Regulation') for communication within the meaning of Article 19 of that Regulation<sup>4</sup>.
3. The draft Implementing Regulation is adopted pursuant to Article 25 of the E-evidence Regulation.

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<sup>1</sup> OJ L 295, 21.11.2018, p. 39.

<sup>2</sup> 'decentralised IT system' means a network of IT systems and interoperable access points, operating under the individual responsibility and management of each Member State, Union agency or body, which enables the cross-border exchange of information to take place in a secure and reliable manner (Art 3(21) of the E-evidence Regulation).

<sup>3</sup> Regulation (EU) 2023/1543 of the European Parliament and of the Council of 12 July 2023 on European Production Orders and European Preservation Orders for electronic evidence in criminal proceedings and for the execution of custodial sentences following criminal proceedings (OJ L 191, 28.7.2023, p. 118).

<sup>4</sup> See Article 1 of the draft Implementing Regulation.

4. The EDPS previously issued his Opinion 7/2019 on Proposals regarding European Production and Preservation Orders for electronic evidence in criminal matters<sup>5</sup>.
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 9 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 acts<sup>6</sup>.
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. The EDPS notes that according to the E-evidence Regulation, and in particular Article 19 thereof, the written communication between competent authorities and designated establishments or legal representatives under this Regulation, including the exchange of forms provided for in this Regulation and the data requested under a European Production Order or a European Preservation Order, should be carried out through a secure and reliable decentralised IT system. In order to establish such decentralised IT system, it is necessary to define and adopt technical specifications, measures and objectives for the implementation of that system<sup>7</sup>.
9. The EDPS recalls that in his Opinion 7/2019 on Proposals regarding European Production and Preservation Orders for electronic evidence in criminal matters, he particularly underlined, among others, the importance of the consistency with the EU legal framework on data protection as well as the need to ensure high level of personal data security.
10. In this regard, the EDPS welcomes that Section 5 of the Annex clearly provides that the components of the decentralised IT system must ensure secure communication

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<sup>5</sup> [EDPS Opinion 7/2019 on Proposals regarding European Production and Preservation Orders for electronic evidence in criminal matters](#), issued on 6 November 2019.

<sup>6</sup> 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.

<sup>7</sup> See Recital 1 of the draft Implementing Regulation.

and data transmission and that any development of the components of the system must be in accordance with the principle of data protection by design and by default, and appropriate administrative, organisational, and technical measures, to ensure a high level of cybersecurity.

11. The EDPS also welcomes the clear references to the need for compliance with the respective data protection legislation when it comes to the design, development, maintenance of the reference implementation software by the Commission, the use of the reference implementation software or a different national IT system by the Member States, as well as participation of Eurojust and the European Public Prosecutor's Office in the decentralised IT system<sup>8</sup>.
12. In the same vein, also in line with the comments and recommendations in his Opinion from 2019, the EDPS positively notes the specific attention given in the draft Implementing Regulation on measures related to the authenticity and confidentiality of orders and data transmitted<sup>9</sup>.
13. In light of the above, the EDPS has no specific comments or recommendations on the proposed draft Implementing Regulation.
14. Finally, the EDPS notes that Recitals 5 and 6 of the draft Implementing Regulation recall the legal possibility for the Commission to amend this Implementing Regulation. In that regard, the EDPS would like to remind that, if such a situation would occur, the EDPS needs to be consulted as well, pursuant to Article 42(1) of EUDPR, as in the case at hand.

Brussels, 25 June 2025

*(e-signed)*

Wojciech Rafał WIEWIÓROWSKI

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<sup>8</sup> See Sections 5.4-5.6 of the Annex of the draft Implementing Regulation.

<sup>9</sup> See e.g. Sections 4.7, 5.1 (f), 5.2. and others of the Annex of the draft Implementing Regulation.

