

EDPS Formal comments on a draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) 2023/1805 of the European Parliament and of the Council, as regards access rights and the functional and technical specifications of the FuelEU database

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 1 July 2025, the European Commission consulted the EDPS on the draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) 2023/1805² of the European Parliament and of the Council, as regards access rights and the functional and technical specifications of the FuelEU database ('the draft implementing Regulation').
2. The objective of the draft implementing Regulation is to lay down the rules for access rights and the functional and technical specifications, including notification rules and filtering, of the FuelEU database³. It builds upon existing IT systems in the European Maritime Safety Agency ('EMSA'), mainly THETIS-MRV⁴.
3. The draft implementing Regulation is adopted pursuant to Article 19(3) of Regulation (EU) 2023/1805.
4. The present formal comments of the EDPS are issued in response to a consultation by the European Commission pursuant to Article 42(1) of the EUDPR.

¹ OJ L 295, 21.11.2018, p. 39.

² Regulation (EU) 2023/1805 of the European Parliament and of the Council of 13 September 2023 on the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC, OJ L 234, 22.9.2023, p. 48–100.

³ Article 1 of draft implementing Regulation.

⁴ Pursuant to Article 2(1) of the draft implementing Regulation 'THETIS-MRV' means the automated Union operation system run by EMSA pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC, OJ L 123, 19.5.2015, p. 55–76.

5. 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 acts⁵.
6. 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

2.1. General comments

7. Regulation (EU) 2023/1805 lays down uniform rules imposing a limit on the greenhouse gas intensity of energy used on board a ship arriving at, staying at or departing from ports under the jurisdiction of a Member State, and an obligation to use an on-shore power supply ('OPS') or zero-emission technologies at berth in ports under the jurisdiction of a Member State⁶.
8. To ensure the compliance of monitoring of ships with Regulation (EU) 2023/1805, an electronic database (the 'FuelEU database') is to be set up pursuant to that Regulation, which should be used for actions necessary to fulfil the obligations set out in it⁷.
9. The EDPS notes that in accordance with Regulation (EU) 2023/1805 certain personal data, such as the name and address of the shipowner and the contact details of a contact person of the company⁸, would be processed in the context of the implementation of the draft implementing Regulation, notably when administering state, national accreditation body, company or verifier access to the FuelEU database. Therefore, the EDPS recommends adding a recital to the draft implementing Regulation recalling that, when personal data are processed in the context of the application of the draft implementing Regulation, Regulation (EU) 2016/679 ('the General Data Protection Regulation')⁹ applies.
10. The EDPS notes that the draft implementing Regulation does not specify a maximum storage period for the personal data processed in the FuelEU database. The EDPS recalls that personal data should be kept in a form which permits the identification of data subjects for no longer than necessary for the purposes for which the data were collected¹⁰. Against this background, the EDPS recommends specifying in the draft implementing Regulation maximum storage periods for personal data processed in the FuelEU database.

⁵ 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.

⁶ Recital 1 of the draft implementing Regulation.

⁷ Recital 2 of the draft implementing Regulation.

⁸ Article 3 of draft implementing Regulation in conjunction with Article 8(3) of the Regulation (EU) 2023/1805 and article 6 of draft implementing Regulation in conjunction with Article 22 of the Regulation (EU) 2023/1805.

⁹ 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) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1.

¹⁰ Article 5(1)(e) GDPR.

11. The EDPS notes the absence of the reference to this consultation in a recital of the draft implementing Regulation. Therefore, the EDPS recommends inserting such a reference in a recital of the draft implementing Regulation.
12. Given the subject matter and the provisions of the draft implementing Regulation, which do not raise specific issues having regard to the protection of personal data, the EDPS does not have any further comment on the draft implementing Regulation.

Brussels, 24 July 2025

(e-signed)

Wojciech Rafał WIEWIÓROWSKI