



EDPS Formal comments on the draft Commission Implementing Regulation laying down the rules for the application of Regulation (EU) 2018/1727 of the European Parliament and of the Council, as regards the technical specifications, measures and other requirements for the establishment and use of the decentralised IT system for secure processing and communication of information

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 September 2025, the European Commission consulted the EDPS on the draft Implementing Regulation laying down the rules for the application of Regulation (EU) 2018/1727 of the European Parliament and of the Council², as regards the technical specifications, measures and other requirements for the establishment and use of the decentralised IT system for secure processing and communication of information ('the draft Implementing Regulation').
2. The objective of the draft Implementing Regulation is to set out technical specifications, measures and other requirements for the establishment of secure digital communication channels via the decentralised IT system referred to in Article 22a of Regulation (EU) 2018/1727 as amended by Regulation (EU) 2023/2131. The decentralised IT system aims at enabling the secure digital communication between Eurojust and the national competent authorities³.

¹ OJ L 295, 21.11.2018, p. 39.

² Consolidated text: Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA, ELI: <http://data.europa.eu/eli/reg/2018/1727/2023-10-31>.

³ Recital 2 of the draft Implementing Regulation.



3. The draft Implementing Regulation is adopted pursuant to Article 22b of Regulation (EU) 2018/1727 as amended by Regulation (EU) 2023/2131.
4. The EDPS previously issued an opinion on the package of legislative measures reforming Eurojust and setting up the European Public Prosecutor's Office ('EPPO')⁴, and formal comments on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1727 of the European Parliament and the Council and Council Decision 2005/671/JHA, as regards the digital information exchange in terrorism cases⁵.
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 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. According to Article 21a (4) of the amended Regulation (EU) 2018/1727, the information transmitted in relation to terrorist offences may include personal data listed in Annex III of that Regulation, but only if such personal data are held by or can be communicated to the competent national authorities in accordance with national law and if the transmission of those data is necessary to identify reliably a data subject under Article 27(5) of the same Regulation. Consequently, specific provisions of Chapter IX of the EUDPR apply directly to the processing of operational personal data exchanged

⁴ EDPS Opinion on the package of legislative measures reforming Eurojust and setting up the European Public Prosecutor's Office ('EPPO'), issued on 5 March 2014.

⁵ EDPS Formal comments on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1727 of the European Parliament and the Council and Council Decision 2005/671/JHA, as regards the digital information exchange in terrorism cases, issued on 26 January 2022.

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.

between competent national authorities and Eurojust, as stated in Article 26(3) of Regulation (EU) 2018/1727.

9. Against this background, the EDPS welcomes the provisions of the draft Implementing Regulation⁷ which provide that the components of the decentralised IT system must ensure secure communication 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.
10. In particular, the EDPS positively notes the inclusion, in the draft Implementing Regulation, of technical requirements relating to the configuration and implementation of the protocols used: where TLS (Transport Layer Security) is employed, the text provides, as a matter of principle, that *‘the latest stable version of the protocol shall be used’*, and that *‘only key lengths that ensure an adequate level of cryptographic security shall be permitted’*⁸.
11. Similarly, the EDPS welcomes that the draft Implementing Regulation specifies that *‘to the extent possible, PKI digital certificates used for the purposes of operation of the decentralised IT system shall be issued by Certification Authorities recognised as Qualified Trust Service Providers in accordance with Regulation (EU) No 910/2014 of the European Parliament and of the Council’* and that *‘Measures shall be implemented to ensure that such certificates are used solely for their intended purpose’*⁹.
12. The EDPS also welcomes the clear references¹⁰ to the need for compliance with the EUDPR when it comes to the design, development, and maintenance of the reference implementation software by the Commission, which should allow the Member States to comply with their obligations pursuant to Regulation (EU) 2016/679 (‘GDPR’)¹¹ and Directive (EU) 2016/680 (‘LED’)¹².
13. In the same vein, the EDPS positively notes the specific attention given in the draft Proposal on back-end systems, in order to ensure that they comply with the European data protection framework¹³.

⁷ Sections 5.2 and 5.5 of Annex I.

⁸ Section 5.3 of Annex I.

⁹ Section 5.4 of Annex I.

¹⁰ Section 5.6 of Annex I.

¹¹ 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, pp. 1–88.

¹² Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, pp. 89–131.

¹³ Sections 5.7 and 5.8 of Annex I.

14. The EDPS recalls the importance of effective logging in a decentralised system, to ensure accountability. In the event of a personal data breach, unlawful access, or misuse of data, the logs are often the only means to reconstruct the sequence of events and trace the action back to its source. In this regard, the EDPS welcomes the inclusion, in a footnote¹⁴ of the draft Implementing Regulation, of a reference to the requirements set out in Article 88 of Regulation (EU) 2018/1725 and, where applicable, Article 25 of Directive (EU) 2016/680. According to these provisions, the logs of consultation and disclosure should make it possible to establish the justification for, and the date and time of, such operations, the identification of the person who consulted or disclosed operational personal data, and, as far as possible, the identity of the recipients of such operational personal data. However, given that different systems will interact in this decentralised system, the EDPS recommends to introduce specific mandatory fields for the log files on the interconnected IT systems. In particular, the EDPS recommends clarifying the logging fields of the e-Codex system and which extra fields Member States should log in their national systems, to ensure the chain is complete and the user launching an action (to see operational data) is adequately identified.
15. Finally, the EDPS encourages the inclusion in the draft Implementing Regulation of additional relevant technical details that would help establish the baseline required to implement the planned measures and achieve the intended objectives (for example, a more detailed system architecture, data flows specification, security mechanisms, and interfaces with other systems).

Brussels, 21 October 2025

(e-signed)
Wojciech Rafał WIEWIÓROWSKI

¹⁴ Footnote 1 in Annex I.