

EDPS Formal comments on the draft Commission Delegated Regulation amending Regulation (EU) 2018/858 of the European Parliament and of the Council as regards the standardised access to vehicle on-board diagnostics information and repair and maintenance information, and the requirements and procedures for secure access to on-board diagnostic 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 9 February 2026, the European Commission consulted the EDPS on the draft Commission Delegated Regulation amending Regulation (EU) 2018/858 of the European Parliament and of the Council as regards the standardised access to vehicle on-board diagnostics information and repair and maintenance information, and the requirements and procedures for secure access to on-board diagnostic information ('the draft delegated regulation').
2. The draft delegated regulation would be adopted pursuant to Article 61(11) of Regulation (EU) 2018/858 ('the basic act')².
3. The objective of the draft delegated regulation is to provide an update of the specific requirements on access by independent operators to vehicle on-board diagnostics (OBD) information, vehicle repair and maintenance information³. The draft delegated

¹ OJ L 295, 21.11.2018, p. 39.

² Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 of May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) 595/2009 and repealing Directive 2007/46/EC, OJ L 151, 14.6.2018, pp. 1–218.

³ See Explanatory Memorandum to the draft delegated regulation, page 1. The Explanatory Memorandum also refers to the need to ensure that vehicle manufacturers are not prevented from applying effective measures protecting the vehicle against cyberattacks related to access to vehicle OBD information, as well as to take into account technological progress.

regulation is accompanied by an annex, amending Annex X to the basic act, laying down the details of the technical requirements for access to vehicle OBD information and vehicle repair and maintenance information, in particular technical specifications on how vehicle OBD information and vehicle repair and maintenance information are to be provided.

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 EUDPR. The EDPS welcomes the reference to this consultation in recital 21 of the draft delegated regulation.
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 acts⁴.
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 delegated regulation that are relevant from a data protection perspective.

2. Comments

7. The application of the draft delegated regulation concerns access to OBD information that may result in the processing of personal data, as the information is generated by a vehicle identifiable by its Vehicle Identification Number⁵. The draft delegated regulation also entails the processing of information related to the employee of the operator who access OBD information⁶. The EDPS therefore welcomes the reference to the applicability of Regulation (EU) 2016/679 ('the GDPR')⁷ in recital 20 of the draft delegated regulation. However, the EDPS recommends replacing the reference in this recital to respect of data subject's right to control how their personal data are processed with a broader reference to the applicability of the GDPR and Directive

⁴ 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.

⁵ See Annex, at point 6.1.2., page 5. On Vehicle Identification Number (VIN) as possibly constituting personal data, see judgment of the Court of Justice of 9 November 2023, *Gesamtverband Autoteile-Handel eV v Scania CV AB*, Case C-319/22, ECLI:EU:C:2023:837, paragraphs 44-49.

⁶ See Annex, at point 3.3., page 12; point 3.6., letter (c), page 12; point 8.2., page 15; point 10.2, page 17.

⁷ 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, pp. 1–88.

2002/58/EC (ePrivacy Directive)⁸ in the context of the implementation of the delegated regulation.

8. The EDPS also notes that access to vehicle OBD information is already required under the basic act, as specified in its Annex X that would be amended by the draft delegated regulation.
9. The EDPS considers that the amendments introduced by the draft delegated regulation do not give rise to specific concerns from a data protection perspective. Therefore, the EDPS has no further comments on the draft delegated regulation.

Brussels, 20 February 2026

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

⁸ 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, pp. 37–47.