

**EDPS Formal comments on the draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards onboarding of users to the European Digital Identity Wallets by electronic identification means conforming to assurance level high or by electronic identification means conforming to assurance level substantial in conjunction with additional remote onboarding procedures where the combination meets the requirements of assurance level high**

**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 18 December 2025, the European Commission consulted the EDPS on the draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards onboarding of users to the European Digital Identity Wallets by electronic identification means conforming to assurance level high or by electronic identification means conforming to assurance level substantial in conjunction with additional remote onboarding procedures where the combination meets the requirements of assurance level high ('the draft implementing regulation').
2. The draft implementing regulation would be adopted as pursuant to Article 5a(24) of Regulation (EU) No 910/2014 ('the basic act')<sup>2</sup>. The EDPS previously issued formal comments on the basic act<sup>3</sup>.

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

<sup>2</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.8.2014, pp. 73–114.

<sup>3</sup> [EDPS Formal comments on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation \(EU\) No 910/2014 as regards establishing a framework for a European Digital Identity](#), issued on 28 July 2021.

3. The objective of the draft implementing regulation is to set out standards and specifications for the onboarding of wallet users with remote onboarding procedures in conjunction with the electronic identification means conforming to assurance level substantial. The draft implementing regulation is accompanied by an annex, setting out the list of reference standards and specifications.
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 6 of the draft implementing 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 acts<sup>4</sup>.
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

7. The EDPS welcomes that the draft implementing regulation recalls that the onboarding of users to the wallets is a crucial step as regards the verification of the identity of the wallet users, the binding of the personal identification data of the users to their wallets and to the user device in which the wallet units are installed<sup>5</sup>. The EDPS also welcomes the reference to the applicability of Regulation (EU) 2016/679 ('the GDPR')<sup>6</sup>, as well as, where relevant, of the EUDPR, and of Directive 2002/58/CE ('ePrivacy Directive')<sup>7</sup>, in recital 5 of the draft implementing regulation.
8. The EDPS welcomes the approach of referring to established standards, in this case standard ETSI TS 119 461 V2.1.1 (2025-01) ('the standard')<sup>8</sup>, while introducing adaptations to the standard where necessary, as specified in the annex to the draft implementing regulation.

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<sup>4</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>5</sup> Recital 1 of the draft implementing regulation.

<sup>6</sup> 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.

<sup>7</sup> 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, pp. 37–47.

<sup>8</sup> Clause 9.1 and clause 9.5.

9. The EDPS notes that the standard includes a clause on compliance (clause 7.13)<sup>9</sup>. This clause makes a cross-reference to clause 7.13 of ETSI EN 319 401, which specifies that “[a]ppropriate technical and organizational measures shall be taken against unauthorized or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.” Note 1 of clause 7.13 further specifies that “[Trust Service Providers] operating in Europe are required to ensure that personal data is processed in accordance with Regulation (EU) 2016/679. In this respect, authentication for a service online concerns processing of only those identification data which are adequate, relevant and not excessive to grant access to that service online”. The EDPS welcomes these important specifications.
10. The EDPS also welcomes requirements ISS-8.5.2-01, ISS-8.5.2-04 and ISS-8.5.2-08 of the standard, which require among others the definition of a retention time for the storage of the evidence of the identity proofing process and the deletion of this evidence when the retention time has expired.
11. The EDPS also welcomes the requirement for Trust Service Providers (‘TSPs’) to provide clear guidance to users undergoing the onboarding process (see example under requirement INI-8.1-03X of the standard) and to provide trainings for registration officers that perform manual validation of physical documents (see requirement VAL-8.3.3-14X of the standard).
12. The EDPS remarks that certain requirements for the binding of the users to their wallet rely upon the processing of biometric data (e.g., video recording of the user’s face and processing of user’s biometric data for unique identification). These data can be considered special categories of personal data under Article 9 GDPR. The EDPS recalls the prohibition on processing special categories of personal data under Article 9(1) GDPR, subject to the exceptions provided in Article 9(2) GDPR, among which when processing is necessary for reasons of substantial public interest<sup>10</sup>, subject to suitable safeguards.
13. The EDPS underlines that the onboarding of users is a key step for the trustworthiness and security of the whole digital identity wallet system. The EDPS recommends integrating, either within the draft implementing regulation or through adaptations to the standard, additional references to:
  - the requirement to implement measures to ensure compliance with the requirement of data protection by design and by default<sup>11</sup> during the onboarding process, especially as regards the processing of biometric data. Relevant measures, may consist, for instance, in adequate privacy-enhancing cryptographic protocols, devices and organisational measures. Those measures should limit to what is strictly necessary the processing of biometric data and any other personal data to be collected from the physical and digital sources of identification for the binding of the user’s personal identification data to their wallets and to the user device in which the wallet units are installed;

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<sup>9</sup> Clause 9.1 includes reference to clause 7.

<sup>10</sup> Article 9(2)(g) GDPR.

<sup>11</sup> Article 25 GDPR.

- the data protection principle of accuracy<sup>12</sup>, in particular in the context of the identification and the use of different sources of identity listed in the standard. In particular on the processing of biometric data, the EDPS recommends making reference to the monitoring of threats and to the identification and adoption of state of the art technical standards on biometrics ensuring accuracy;
- transparency<sup>13</sup> and safeguards for the wallet user to be onboarded. Requirement INI-8.1-03X requires that the user is provided with information “*on the applicable data protection rules, notably GDPR if the identity proofing process is carried out under the legislation of an EU Member State*”. This requirement should be further specified, referring to the main transparency obligations under the GDPR<sup>14</sup> of the controller of the onboarding process, and the need to ensure that individuals are provided with sufficient explanations and remedies in cases where identity proofing process was aborted, particularly in case of unattended remote identity proofing. The information provided should ensure that individuals can effectively contribute to the prompt resolution of the problem and, if needed, exercise their data subject rights — such as the right to rectification or the ability to contest the decision — against the relevant controller<sup>15</sup>.

14. The EDPS highlights that recital 4 of the draft implementing regulation requires the Commission to review and, if necessary, update the draft implementing regulation, to keep it in line with global developments, new technologies, standards or technical specifications and to follow the best practices in the internal market in particular regarding the onboarding of users to the wallet. In this regard, the EDPS would like to stress in particular the challenges represented by deepfakes and by biometrics-advanced threats, by quantum-related threats to cryptography, and the need for updates in the light of developments related to privacy-enhancing protocols and methodologies of authentication.

Brussels, 30 January 2026

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

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<sup>12</sup> Article 5(1)(d) GDPR.

<sup>13</sup> Article 5(1)(a) GDPR.

<sup>14</sup> Articles 12-14 GDPR.

<sup>15</sup> See in this regard also [EDPS Formal comments on the draft Commission Implementing Regulation laying down rules for the application of Regulation \(EU\) No 910/2014 of the European Parliament and of the Council as regards reference standards for the verification of the identity and attributes of person to whom the qualified certificate or the qualified electronic attestation of attributes is to be issued](#), 6 June 2025, at paragraphs 15-19.