



**EDPS Formal comments on the draft Commission Implementing Regulation specifying the details and functionalities of the information and communication systems to be used for the purposes of Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937**

**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 13 February 2026, the European Commission consulted the EDPS on the draft Commission Implementing Regulation specifying the details and functionalities of the information and communication systems to be used for the purposes of Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937 ('the draft implementing regulation').
2. The draft implementing regulation would be adopted pursuant to Article 7(7)(a) of Regulation (EU) 2024/3015 ('the basic act')<sup>2</sup>.
3. The objective of the draft implementing regulation is to specify in a standardised format the data elements and information to be transmitted by the Commission and competent authorities related to investigations, decisions and enforcement of the basic act<sup>3</sup>. This information would be communicated through a new 'Forced Labour Module' in the Information and Communication System for Market Surveillance

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

<sup>2</sup> Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937 (Text with EEA relevance), OJ L, 2024/3015, 12.12.2024.

<sup>3</sup> Recital 5 of the draft implementing regulation.



(‘ICSMS’) referred to in Article 34 of Regulation (EU) 2019/1020<sup>4</sup>, to be used for investigations, decisions and enforcement of the basic act pursuant to its Article 7(1)<sup>5</sup>.

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 19 of the draft implementing regulation. The EDPS also welcomes that he has already been informally consulted by the Commission at the early stage of the drafting of the 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>6</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 application of the implementing regulation would entail the processing of personal data, notably in the context of communication of information on the economic operator subject to investigations or decisions<sup>7</sup>. Therefore, the EDPS welcomes the reference, in recital 15 of the draft implementing regulation, to the applicability of Regulation (EU) 2016/679 (‘the GDPR’)<sup>8</sup> and of the EUDPR.
8. The EDPS positively notes the specification of the retention period of personal data contained in the Forced Labour Module in ICSMS<sup>9</sup>. The EDPS understands that this provision would regulate the retention of personal data contained in the Forced Labour Module in ICSMS. The EDPS considers that the data retention period of 10 years<sup>10</sup> is justified, taking into account among others the length of possible administrative and judicial procedures (for instance, in case of appeal of decisions on

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<sup>4</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (Text with EEA relevance), OJ L 169, 25.6.2019, pp. 1–44.

<sup>5</sup> See recital 1 and 6 of the draft implementing regulation.

<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, for instance, Article 4, point (c), of the draft implementing regulation. Under Article 2(9) of the basic act, “‘economic operator’ means any natural or legal person or association of persons placing or making available products on the Union market or exporting products”.

<sup>8</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, p. 1-88.

<sup>9</sup> Article 9(1), recital 16 of the draft implementing regulation.

<sup>10</sup> As proposed by the Commission as comment to Article 9(1) of the draft implementing regulation.

violations) and the need to inform further investigations<sup>11</sup>. The EDPS also welcomes the specification that the 10 years limit will also start from the event under letter (d) of Article 9, namely the communication of the withdrawal of, or changes to, a decision establishing a violation of Article 3 of the basic act. However, for the sake of legal certainty, the EDPS recommends adding to Article 9, first sentence, after “starting from” the wording “one of” the following events.

9. The EDPS recalls that personal data extracted from ICSMS and retained by the Commission or competent national authorities also needs to comply with the storage limitation principle laid down, respectively, in Article 4(e) of the EUDPR and Article 5(1) of the GDPR. In this regard, the EDPS recommends clarifying in recital (17) that compliance with the storage limitation principles should also be ensured by the Commission and by competent national authorities once they extract personal data from the ICSMS.
10. The EDPS positively notes the specification of retention period of personal data of ICSMS users<sup>12</sup>. In this regard, the EDPS recalls the need to ensure an appropriate period of time to allow for a control of the logs and identification of the user who consulted or disclosed personal data.
11. The EDPS welcomes that recital 18 of the draft implementing regulation specifies that both the Commission and the competent authorities should be considered joint controllers as regards the processing of personal data in the ICSMS forced labour module<sup>13</sup>. Ensuring clarity on the role of each actor involved in the processing of personal data is important to promote transparency of processing and the effective exercise of data subject rights and to determine responsibilities. Designating the role of controller(s) from the outset also helps avoiding possible problems of interpretation in assessing that role<sup>14</sup>. However, the EDPS recommends inserting the specification on joint controllership also in the enacting terms of the draft implementing regulation.
12. The EDPS also welcomes that recital 18, second sentence, specifies that the Commission and competent authorities should enter into a joint controllership agreement establishing the respective responsibilities to ensure compliance with the EUDPR and the GDPR<sup>15</sup>.

Brussels, 13 March 2026

*(e-signed)*

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<sup>11</sup> In this regard, the EDPS notes that Article 14(3), point (a), of the basic act requires the Commission and the competent authorities of Member States to follow a risk-based approach, which must take into account *inter alia* information and decisions encoded in the information and communication system referred to in Article 7(1), including any previous cases of compliance or non-compliance of an economic operator. Recital 16 refers to the need for data to be available for the performance of the risk-based assessment referred to in Article 14(3), point (a), of the basic act, as well as to the need to take into account the length of possible review and appeal procedures.

<sup>12</sup> Article 10 of the draft implementing regulation.

<sup>13</sup> Pursuant to Article 28(1) EUDPR and Article 26(1) GDPR.

<sup>14</sup> [EDPS Guidance for co-legislators on key elements of legislative proposals](#), 7 May 2025, paragraph 25.

<sup>15</sup> The joint controllership agreement must be in accordance with Article 28 EUDPR and 26 GDPR and determine the aspects specified therein.