



EDPS informal comments on a draft Decision of the Committee of the Regions adopting implementing rules concerning Regulation (EU) 2018/1725.

We welcome the drafting of those implementing rules in line with Article 45(3) of Regulation (EU) 2018/1725 and the timely consultation. We have analysed the text of the draft implementing rules, which seem very complete and well drafted.

General recommendations:

- Article 4: We recommend adding a reference to Article 39 of the Regulation and the involvement of the DPO in a data protection impact assessment in Article 4 of the draft implementing rules.
- Article 4 (8): We particularly welcome the fact that the Committee of the Regions has chosen to clearly ensure that the DPO has access to all personal data, offices and data processing installations, although the Regulation no longer explicitly sets out this right. We would, however, suggest changing the wording slightly and instead of “all data processing installations and data carriers”, rather refer to “all information, data processing operations and data bases”.
- Article 7: "the relevant organisational entity (...) shall inform the DPO about the incident without delay". In accordance with our Guidelines on personal data breach notification of 7 December 2018, we consider that, as soon as there is an indication that a security incident might affect personal data, the DPO should be consulted immediately.
- Article 8: "The DPO shall set up and maintain the central register (...) in which the records of processing activities shall be kept". If the DPO is best-placed to be the guardian of this central register kept by the EUJ, we would suggest specifying that he performs this task on behalf of the controller who remains the one responsible for the content of those records.
- Article 9: "The request [to exercise data subjects' rights] shall contain: (...) - the category or categories of the personal data concerned; - the data subject's signature and the date of the request". While data subjects may exercise their rights in relation to specific categories of data, they may also request access to all their data, without necessarily being aware of the extent of the information processed about them, nor the specific category or categories of data that this information falls in. Such obligation to specify the category or categories of data should not deprive them from submitting such requests, nor from obtaining a full answer from your institution. We also consider that the data subject's signature is not necessary information for the Committee of the Regions to process to answer data subjects' requests, and may even prove to be cumbersome for data subjects when the request is made via email (as per Article 9.2 of the draft implementing Rules). Therefore, in line with the data minimisation principle, we recommend removing the requirement for data subjects to provide their signatures when submitting a request for exercising their rights.

Brussels, 27/02/2020