



EDPS Formal comments on the Proposal for a Regulation of the European Parliament and of the Council on substances that deplete the ozone layer and repealing Regulation (EC) No 1005/2009

1. Introduction and background

1. On 5 April 2022, the European Commission issued a Proposal for a Regulation of the European Parliament and of the Council on substances that deplete the ozone layer and repealing Regulation (EC) No 1005/2009 ('the Proposal')¹.
2. The objective of the Proposal is to ensure that the EU ozone depleting substances (ODS) policy is aligned with the objectives set out in the European Green Deal, the Montreal Protocol on Substances that Deplete the Ozone Layer and the Paris Agreement on Climate Change. In this context, the Proposal aims to replace the current ODS Regulation², as the main instrument targeting ODS in the EU³.
3. The present formal comments of the EDPS are issued in response to a consultation by the European Commission of 6 April 2022, pursuant to Article 42(1) of Regulation 2018/1725⁴ ('EUDPR'). In this regard, the EDPS welcomes the reference to this consultation in Recital 40 of the Proposal.
4. 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.
5. 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 Proposal that are relevant from a data protection perspective.

¹ COM(2022) 151 final.

² Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (Text with EEA relevance) (OJ L 286, 31.10.2009, p. 1–30).

³ COM(2022) 151 final, p. 1.

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons 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 (OJ, 21.11.2018, L.295, p. 39).



2. Comments

6. The EDPS understands that this Proposal would entail processing of personal data. Article 16 of the Proposal would require undertakings to submit applications in order to obtain a license for ozone depleting substances. In accordance with the rules and procedures laid down in Annex VII, certain personal data must be provided in order to obtain a licence, such as the full name and electronic address of a contact person of the undertaking. The Commission would be tasked to set up and ensure the operation of the electronic licensing system for ozone depleting substances.
7. The EDPS welcomes recital 39 of the Proposal confirming that the protection of individuals with regard to the processing of personal data by the Member States is governed by Regulation (EU) No 2016/679⁵ ('GDPR') and the protection of individuals with regard to the processing of personal data by the Commission is governed by the EUDPR.
8. The EDPS notes that the Proposal envisages the interconnection of the licensing system with the European Single Window Environment for Customs, which would allow for automatic customs controls per shipment. In this regard, the EDPS would like to recall his Formal Comments on the Commission Proposal for a Regulation establishing the European Union Single Window Environment for Customs⁶. In addition, the EDPS understands that by interconnection of the licensing system with the European Union Single Window Environment for Customs, the processing of personal data in the licensing system would also be subject to the provisions concerning data protection contained in the Regulation for European Union Single Window Environments for Customs⁷. For the avoidance of doubt, the EDPS suggests to confirm this by way of a recital in the Proposal. If this would not be the case, the EDPS recommends introducing similar provisions in the enacting terms of this Proposal.

⁵ Regulation (EU) No 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 (OJ L 119, 4.5.2016, p. 1).

⁶[EDPS formal comments on a Proposal for a Regulation of the European Parliament and of the Council establishing the European Union Single Window Environment for Customs and amending Regulation \(EU\) No 952/2013](#), issued on 20 November 2020.

⁷ See Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 (COM(2020) 673 final), in particular Articles 6, 7 and 9 thereof.

9. Given the subject matter and the provisions of the Proposal, which do not raise significant issues having regard to the protection of personal data, the EDPS has no further comments on the Proposal.

Brussels, 20 May 2022

(e-signed)

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