

EDPS Formal comments on the draft Commission Decision on laying down the reporting template for the annual reports to the European Data Protection Board by Member States on the exercise of the rights of data subjects related to the Schengen Information System

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 Community institutions and bodies and on the free movement of such data ('EUDPR')¹, and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:

1. Introduction and background

1. On 29 June 2022 the European Commission issued draft Commission Decision on laying down the reporting template for the annual reports to the European Data Protection Board by Member States on the exercise of the rights of data subjects related to the Schengen Information System ('the draft Proposal').
2. The objective of the draft Proposal is to facilitate a consistent supervision by the national supervisory authorities of the exercise of the rights of data subjects for access, rectification and erasure of their personal data stored in the Schengen Information System (SIS)².
3. The draft Proposal is adopted pursuant to Article 54(3) of Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006³, and Article 68(3) of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and

¹ OJ L 295, 21.11.2018, p. 39.

² See Recitals 4 and 6 of the Proposal.

³ OJ L 312, 7.12.2018, p. 14.

repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU⁴.

4. The EDPS previously issued Opinion 7/2017 on the new legal basis of the Schengen Information System⁵, where he welcomed the approach of a single coherent model of supervision coordination for EU large scale information systems in the framework of the European Data Protection Board.
5. The present formal comments of the EDPS are issued in response to a consultation by the European Commission of 29 June 2022, pursuant to Article 42(1) of Regulation 2018/1725. In this regard, the EDPS welcomes the reference to this consultation in Recital 16 of the preamble of the Proposal.
6. 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 acts⁶.
7. 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.

2. Comments

8. The EDPS notes that the subject matter of the draft Commission Decision is related exclusively to the collection and provision of statistical information by Member States with the specific aim to facilitate the coordinated supervision by the national supervisory authorities and the EDPS within the European Data Protection Board of the exercise of the rights of data subjects for access, rectification and erasure of their personal data stored in the SIS.
9. In addition, the EDPS is aware of the fact that, in the process of preparation of the draft Proposal, the Commission has consulted the national supervisory authorities

⁴ OJ L 312, 7.12.2018, p. 56.

⁵ EDPS Opinion 7/2017 on the new legal basis of the Schengen Information System, issued on 2 May 2017, paragraph 51.

⁶ 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.

through the dedicated body for coordinated supervision of the SIS - the Schengen Information System Supervision Coordination Group (SIS SCG)⁷.

10. In light of the above, the EDPS has no specific comments or recommendations on the proposed draft Commission Decision on laying down the reporting template for the annual reports to the European Data Protection Board by Member States on the exercise of the rights of data subjects related to the Schengen Information System.

Brussels, 11 July 2022

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

⁷ For more information see https://edps.europa.eu/data-protection/european-it-systems/schengen-information-system_en