

**EDPS Formal comments on the draft Commission Implementing Regulation on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and the Council**

**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')<sup>1</sup>, and in particular Article 42(1) thereof,

**HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:**

**1. Introduction and background**

1. On 17 November 2022, the European Commission issued the draft Commission Implementing Regulation on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and the Council ('the draft Proposal').
2. The objective of the draft Proposal is to specify important technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013<sup>2</sup> ('Union Customs Code' or 'UCC'). Furthermore, according to Recital 3, the draft Proposal also aims to specify further arrangements concerning data protection, updating of data, limitation of data processing and systems ownership and security.
3. The draft Proposal would support the cooperation between Member States and the Commission to develop, maintain and employ electronic systems as provided for in Article 16 of the Union Customs Code, serving the objective laid down in Article 6(1) of the Union Customs Code that all exchanges of information between customs

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

<sup>2</sup> Regulation (EU) No 952/2013 of the European Parliament and the Council of 9 October 2013 laying down the Union Customs Code, OJ L 269, 10.10.2013, p. 1.

authorities and between economic operators and customs authorities shall be made using electronic data-processing techniques.

4. The draft Proposal follows three predecessor Commission Implementing Regulations of 2017<sup>3</sup>, 2019<sup>4</sup>, and 2021<sup>5</sup>, each laying down the technical arrangements for additional electronic systems. The current draft Proposal would additionally lay down the technical arrangements concerning the Registered Exporter System (REX), the Proof of Union Status System (PoUS), the Surveillance system, and the anti-Counterfeit and anti-Privacy Information System (COPIS).
5. The draft Proposal, as far as it concerns the technical arrangements for developing, maintaining and employing electronic systems for the exchange of information between customs authorities and with the Commission and for the storage of such information, would be adopted pursuant to Article 17 of the Union Customs Code. No legal basis under Regulation (EU) No 608/2013<sup>6</sup> is specified for the laying down of technical arrangements regarding COPIS.
6. The EDPS previously issued Formal Comments on the draft Implementing Regulation on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information under the Union Customs Code on 11 December 2020<sup>7</sup>. This draft became Commission Implementing Regulation (EU) 2021/414<sup>8</sup> and is the immediate predecessor of the draft Proposal and is currently in force.

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<sup>3</sup> Commission Implementing Regulation (EU) 2017/2089 of 14 November 2017 on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information under the Union Customs Code, OJ L 297, 15.11.2017, p. 13–21.

<sup>4</sup> Commission Implementing Regulation (EU) 2019/1026 of 21 June 2019 on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information under the Union Customs Code, OJ L 167, 24.6.2019, p. 3–17.

<sup>5</sup> Commission Implementing Regulation (EU) 2021/414 of 8 March 2021 on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and of the Council, OJ L 81, 9.3.2021, p. 37–64.

<sup>6</sup> Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003; OJ L 181, 29.6.2013, p. 15–34.

<sup>7</sup> Formal comments of the EDPS on the draft Implementing Regulation on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information under the Union Customs Code, issued on 11 December 2020, available at [https://edps.europa.eu/system/files/2021-03/2020-1135\\_formal\\_comments\\_en.pdf](https://edps.europa.eu/system/files/2021-03/2020-1135_formal_comments_en.pdf).

<sup>8</sup> Commission Implementing Regulation (EU) 2021/414 of 8 March 2021 on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and of the Council, OJ L 81, 9.3.2021, p. 37–64.

7. The present formal comments of the EDPS are issued in response to a consultation by the European Commission of 3 February 2023, pursuant to Article 42(1) of Regulation 2018/1725<sup>9</sup> ('EUDPR'). In this regard, the EDPS welcomes the reference to this consultation in Recital 23 of the draft Proposal.
8. 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>10</sup>.
9. 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**

### **2.1. General comments**

10. Article 6(1) of the Union Customs Code requires that all exchanges of information, such as declarations, applications or decisions, between customs authorities and between economic operators and customs authorities, and the storage of that information, as required under the customs legislation, are made by using electronic data-processing techniques.
11. According to Article 16(1) of the Union Customs Code, Member States shall cooperate with the Commission to develop, maintain and employ electronic systems for the exchange of information between customs authorities and with the Commission and for the storage of such information, in accordance with the Code.
12. According to Article 17 subparagraph 1, the Commission shall specify, by means of implementing acts, the technical arrangements for developing, maintaining and employing the electronic systems referred to in Article 16(1) of Union Customs Code.

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<sup>9</sup> 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, L295, p. 39.

<sup>10</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.

13. The EDPS notes that the basic act, in particular Article 16(1) of the Union Customs Code, does not further elaborate on the electronic systems for the exchange of information between customs authorities and with the Commission and for the storage of such information. He further notes that the basic act only occasionally explicitly refers to the exchange of data, for example in Article 46(3) and (5) and Article 47(2) of the Union Customs Code regarding risk management.
14. The EDPS notes that the Annex to Commission Implementing Decision (EU) 2019/2151 identifies legal bases for the electronic systems that would be further regulated by the draft Proposal. For example, the Proof of Union Status (PoUS) system is linked to Article 153 of Regulation (EU) No 952/2013 about the presumption of customs status of Union goods, which provides for the possibility that the customs status of Union goods shall need to be proven. Article 56(5) of Regulation (EU) No 952/2013, invoked for the Surveillance system, reads that the release for free circulation or the export of goods (...) may be made subject to surveillance<sup>11</sup>. These identified provisions of the basic act do not explicitly refer to a specific exchange of data as such.
15. The EDPS supports the objective of the draft Proposal, including the increased use of electronic systems and data processing techniques to uniform application of the customs legislation and to combat fraud. While processing of personal data may be necessary to achieve this goal, it is incumbent upon the EU legislator to ensure that the legal basis which enables the interference provides for clear and precise rules on the scope and application of the measure in question, so that its application should be foreseeable to persons subject to it<sup>12</sup>.
16. The EDPS considers that the Union Customs Code, in its current form, does not specify, in a sufficiently clear and precise manner, the relevant data exchanges and corresponding systems envisaged by the draft Proposal. Given the interoperability between many of the systems as required by the draft Proposal, the EDPS considers that more could be done to reduce complexity in regulation arising from the numerous systems and to increase transparency. The EDPS therefore recommends the Commission to consider remedying this situation at the level of the basic act, by providing a more comprehensive legal basis for each electronic system, with clearly

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<sup>11</sup> In the same vein, Section section II of the Annex to Commission Implementing Decision (EU) 2019/2151 identifies Article 64 of Regulation (EU) No 952/2013 as a specific provision for the Registered Exporter (REX) system. Article 64 of Regulation (EU) No 952/2013, which concerns the administration of rules on goods of preferential origin, does not make express reference to the registration of exporters as such.

<sup>12</sup> See Judgment of the Court of Justice of the European Union of 24 February 2022, SIA 'SS' v Valsts ieņēmumu dienests, Case C-175/20, paragraphs 54-56 and recital (41) GDPR.

defined purposes, roles and responsibilities, categories of personal data, categories of data subjects and storage duration for each system.

17. For the purposes of this consultation, however, the EDPS will focus on the draft Proposal, having regard to the empowering provisions included in the Union Customs Code. Against this background, the EDPS has taken into account the provisions of Commission Delegated Regulation (EU) 2015/2446 ('UCC Delegated Act')<sup>13</sup> and Commission Implementing Regulation (EU) 2015/2447 ('UCC Implementing Act')<sup>14</sup>.
18. The EDPS welcomes the reference to the GDPR and the EUDPR in Recital 22 of the draft Proposal.
19. Lastly, the EDPS notes that throughout the draft Proposal, certain provisions make reference to collection, storage, and sometimes analysis, on par with the term 'processing'<sup>15</sup>. The EDPS recommends to use the term 'processing' as defined by the GDPR and EUDPR, which encompasses any operation or set of operations which is performed on personal data or on sets of personal data.

## **2.2. Roles and responsibilities**

20. The EDPS notes that the Member States are designated in Article 118(a) of the draft Proposal as controllers of all systems. The Commission is, according to Article 118(b) of the draft Proposal, by default designated as processor. The points c to f of Article 118 contain derogations from point b in that they designate a joint controllership in the case of processing for certain purposes in the ICS2, including the newly added support for risk management processes as referred to in Article 43(3) of the draft

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<sup>13</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code; OJ L 343, 29.12.2015, p. 1–557; as amended; consolidated version available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02015R2446-20220101>. For example, in the context of the REX system, Article 37(21) of the UCC Delegated Act concretises the concept of registered exporter, and Article 70 and following of the UCC Implementing Act provide for obligations pertaining to the REX system.

<sup>14</sup> Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code; OJ L 343, 29.12.2015, p. 558; as amended; consolidated version available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02015R2447-20210315>.

<sup>15</sup> For example, Articles 43(3), 46(3), 102, and 118(c) of the draft Proposal contain enumerations of multiple processing activities, including the word processing. Furthermore, in Article 68, the term 'store' is used instead of process, in Article 72 both 'store and process' are used, although process would be enough, in Article 96 'exchange and store' and in Article 108 'submit, exchange and store' are used. Recital 18 mentions 'to store, manage and retrieve', all three being included in the term 'process'. The EDPS recommends to use specific terms for specific processing activities if the activities are to be limited to those specific processing activities, and otherwise to use the (more general) term 'processing'.

Proposal, in the case of the CRMS, in the case of processing for certain purposes in the REX system, and in case of the Surveillance system.

21. Article 4(7) of the GDPR and Article 3(8) of the EUDPR provide the ability for legislators to designate the controller, where the purposes and means of such processing are determined by Union or Member State law. Although not explicitly confirmed by the GDPR or EUDPR, the EDPS considers that similar considerations apply in case of joint controllers and/or processors.
22. Ensuring clarity of 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. The EDPS welcomes when the roles and responsibilities are clearly defined by determining controllership at the level of a legal act (preferably the basic legislative act), provided this determination is in line with the factual attribution of decision-making powers<sup>16</sup>. Generally speaking, decision-making power over the processing should correlate with the competences of the entities concerned and the purposes of the processing. To help establish which entities are likely to be able to exercise such decision-making power, a guiding question could be ‘whose tasks and competences are furthered by or depend on the processing that would take place?’.
23. In the draft Proposal, the European Commission is designated as joint controller together with the Member States with regard to the REX system in several cases, including where processing the data for synchronisation with a national system. The EDPS recalls that when demarcating one processing activity from another, one should apply a functional approach, guided by the purpose of the processing and not by technical means. Different technical means may serve one common purpose and together form one processing activity. Therefore, what matters is for which purpose the synchronisation takes place. In this regard, it seems probable that the synchronisation is not a purpose as such but an ancillary activity.
24. The EDPS further notes that according to Article 118 point (b) of the draft Proposal in connection with point (e), the Commission is assigned the role of a processor for the REX, including the REX for third countries with which the EU has a preferential trade arrangement, with the specific exceptions listed in point (e). This provision appears neither consistent with Article 89 and 113 of the draft Proposal (see below under ‘data subjects’ rights)<sup>17</sup>, nor with Article 83(3) of the UCC Implementing Act, which provides in the second subparagraph that the Commission shall be considered

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<sup>16</sup> EDPS guidelines on the concepts of controller, processor and joint controller under Regulation (EU) 2018/1725, p. 8.

<sup>17</sup> Article 89(4) last subparagraph and Article 113(3) last subparagraph both assume that the Commission acts as controller for the whole REX beyond the four specific activities mentioned in Article 118 point (e). The role of the third-country authorities as controllers, as attributed by Article 83(3) of the UCC Implementing Act and acted upon in Article 89(4) first subparagraph, is not reflected in Article 118 either.

as a joint controller with respect to the processing of *all* data to guarantee that the registered exporter will obtain his rights.

25. Furthermore, the EDPS notes that in relation to COPIS, certain components shall be developed, tested, deployed and managed by the EU Intellectual Property Office (EUIPO), according to Article 109(5). The Commission shall design and maintain the common specifications for the decentralised systems in close cooperation with the Member States and EUIPO. EUIPO also would be entrusted with developing, operating and maintaining an interface and, according to Article 110(7) of the draft Proposal, perform maintenance tasks of certain components and ensure uninterrupted operation of the electronic systems and the Commission shall inform the Member States and EUIPO of changes and updates to the common components. According to Article 117(1) of the draft Proposal, EUIPO shall ensure the security of the IPEP Trader Portal for COPIS components. However, in Article 118 of the draft Proposal determining Controller and Processor for the systems, the EUIPO is not mentioned, not even as a processor. Article 116 of the draft Proposal does name EUIPO as the system owner of the IPEP Trader Portal for COPIS components, however, ownership is not a category in data protection law and does not contribute to enlighten EUIPO's responsibilities in terms of data protection compliance<sup>18</sup>.
26. Against this background, the Commission is invited to reconsider the attribution of roles provided in Article 118 of the draft Proposal. In addition, the EDPS also considers that Article 118 should be amended to specify, in a systematic manner, the purposes for which the Member States and the Commission are deemed to act as (joint) controller(s), with reference to the relevant legal provisions in the draft Proposal and Union Customs Code that define the relevant tasks and competences of the Member States and the Commission<sup>19</sup>. In addition, the role of EUIPO should be explicitly clarified.

### 2.3. Categories of data

27. Article 43(3) of the draft Proposal provides that 'additional elements of information in conjunction with entry summary declaration in order to further support risk management processes' may be processed in the Import Control System 2 (ICS2). The paragraph lists four data categories that would be collected, stored, processed and

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<sup>18</sup> The concepts of controller and processor are also autonomous concepts in the sense that, although external legal sources can help identifying who is a controller, it should be interpreted mainly according to EU data protection law. The concept of controller should not be prejudiced by other - sometimes colliding or overlapping - concepts in other fields of law, such as the creator or the right holder in intellectual property rights or competition law. See EDPB Guidelines 07/2020 on the concepts of controller and processor in the GDPR, Version 2.1, Adopted on 7 July 2021; downloadable at [https://edpb.europa.eu/system/files/2021-07/eppb\\_guidelines\\_202007\\_controllerprocessor\\_final\\_en.pdf](https://edpb.europa.eu/system/files/2021-07/eppb_guidelines_202007_controllerprocessor_final_en.pdf).

<sup>19</sup> Currently Article 118 of the draft Proposal at times makes reference to relevant provisions of the draft Proposal, at times to the relevant provisions of the UCC, at times only to the name of the electronic system.

analysed in the ICS2. Of these four, two have a reference to a data exchange under certain provisions of Union Customs Code: Article 46(5) and 47(2). One more category refers to data collected by the Member States or the Commission under Article 46(4), second subparagraph of the Union Customs Code, which mentions collecting data and information, analysing and assessing risk, prescribing and taking action and regularly monitoring and reviewing that process and its outcomes. The fourth point, point (a), however, refers to 'other information referred to in paragraph 1 of this article' (i.e., of the draft Proposal), providing no further indication of either the legal basis for processing any of the data categories mentioned in Article 43(1) points (a) to (g) for risk management purposes nor which specific data categories would be involved.

28. Processing of personal data for risk analysis purposes warrants a detailed regulation of the data categories involved. However, the relationship between paragraph 3 and paragraph 1 is not clear, especially as point (e) of Article 43(1) already seems to contain points (b) and (c) of paragraph 3. The EDPS considers that Article 43(3) of the draft Proposal should be amended to unambiguously clarify which categories of data are envisaged by Article 43(3) of the draft Proposal, as well as the corresponding legal basis under the Union Customs Code.
29. In addition, the EDPS considers that for all systems it would be necessary to clarify whether the processing shall involve personal data directly identifying individuals. For example, Article 56(5) of the Union Customs Code allows that the release for free circulation or the export of goods (...) be made subject to surveillance. This provision is referred to by Article 99(1) of the draft Proposal on the objective and structure of the Surveillance system. According to Article 99(1) of the draft Proposal, the Surveillance system shall contain data 'extracted' from the customs declaration, which could indicate that the information need not contain personal data directly identifying a natural person. According to Article 100, the data in the system shall be used for statistical purposes in order to identify trends in trade and monitor trade. The EDPS recalls that processing of personal data for statistical purposes must, in accordance with Article 13 EUDPR, be subject to appropriate safeguards for the rights and freedoms of the data subject. Those safeguards must ensure that technical and organisational measures are in place in particular in order to ensure respect for the principle of data minimisation. Those measures may include pseudonymisation provided that those purposes can be fulfilled in that manner. Where those purposes can be fulfilled by further processing which does not permit or no longer permits the identification of data subjects, those purposes shall be fulfilled in that manner<sup>20</sup>. The EDPS recommends to provide clarity on the question whether personal data will be processed in each system and if so, whether it will be pseudonymised, particularly when data are used for statistical purposes.

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<sup>20</sup> Article 13 EUDPR.



30. Finally, the EDPS observes that Recital 22 indicates that *‘[t]he personal data of economic operators and other persons processed by the electronic systems are restricted to the dataset as defined in Annex A, Title I, Chapter 1, Group 3 – Parties; Annex A, Title I, Chapter 2, Group 3 – Parties; Annex B, Title I, Chapter 3, Group 3 – Parties; Annex B, Title II, Group 3 – Parties; and Annex 12-01 to Commission Delegated Regulation (EU) 2015/2446’*. Such datasets encompass data such as the ‘applicant/holder of the authorisation’, ‘representative’/‘representative identification’, ‘name and contact details of the person responsible for customs matters’, ‘contact person responsible for the application’, ‘person in charge of the applicant company’, ‘owner of goods’, ‘EORI number’, ‘VAT identification number’, and ‘third country unique identification number’. Most of the entries in the tables are identifiers and considering the purposes of the systems, they are not likely to be the only personal data processed by these systems. The EDPS considers that Recital 22 should be amended so as to provide a comprehensive overview of all personal data involved.

## **2.4. Data subject rights**

31. Article 89 of the draft Proposal is titled ‘data protection as regards the REX system for third countries with which the EU has a preferential trade agreement’ and deals in its paragraphs 2 to 4 with the exercise of data subjects’ rights to information, access, correction, and erasure. Article 89(4) provides that requests by data subjects to exercise their rights under the GDPR or EUDPR in principle must be exercised by submitting the request to the competent authorities in the third country which registered the data in the system. Requests to the Commission would be forwarded to the third country for treatment. Only if the registered exporter is denied his right by the third country, would the Commission handle the request, ‘acting as controller’. A similar mechanism is provided by the draft Proposal in Article 113(3) with regard to the competent authorities of the Member States.

32. Article 89(4) of the draft Proposal as outlined above does not seem to be in line with the role of the Commission as described in Article 118 point e, last indent of the draft Proposal, according to which the Commission is a joint controller of certain processing activities in the REX system as listed in point e together with the Member States, nor with Article 83(3) of the UCC Implementing Act, which provides in the second subparagraph that the Commission shall be considered as a joint controller with respect to the processing of *all* data to guarantee that the registered exporter will obtain his rights.

33. Article 28(3) EUDPR and Article 26(3) GDPR clarify that irrespective of the terms of the arrangement among joint controllers, the data subject may exercise his or her rights in respect of and against each of the controllers. Therefore it would not be in line with the EUDPR and GDPR if the draft Proposal allowed the Commission as

(joint) controller to refer the data subject to another (joint) controller. The EDPB has provided guidance on this point which reads, '*For example, in case of joint controllers established in different Member States, or if only one of the joint controllers is established in the Union, the data subject may contact, at his or her choice, either the controller established in the Member State of his or her habitual residence or place of work, or the controller established elsewhere in the EU or in the EEA.*'<sup>21</sup>

34. In the EDPS' view, the provisions of the draft Proposal (and the UCC Implementing Act) also go beyond providing an (optional) single point of contact.
35. The EDPS also notes that Article 89(3) and (4) seem to assume that the competent authorities of third countries are subject to the GDPR or the EUDPR when they register information of their non-EU exporters in the REX system (for which they are considered to be controllers). Having regard to the scope of the GDPR and EUDPR, it is not clear that the GDPR or EUDPR would apply directly to the competent authorities of third countries when processing data about third country nationals. Even if obligations under the GDPR or EUDPR would be applicable, they would not excuse the Commission from answering requests by data subjects directly.
36. The EDPS considers it necessary to bring also Article 113(3) of the draft Proposal in line with Article 28(3) EUDPR and Article 26(3) GDPR.
37. Moreover, the EDPS notes that Articles 113 and 89 of the draft Proposal refer to the Commission as a controller, while it would be a joint controller, in accordance with Article 83(3) of the UCC Implementing Act, or for the most part a mere processor in accordance with Article 118(b) in connection with Article 118(e), indents 3 and 4 of the draft Proposal. The EDPS recommends to resolve these contradictions, having regard to the existing guidance on the concepts of controller, joint controller and processor, as referred to in these formal comments.
38. Finally, the EDPS questions the solution provided in Article 83 of the UCC Implementing Act, which identifies the third country's customs authority as controller, but at the same time considers the Commission as a joint controller for the purpose of improving the enforcement possibilities for data subjects' rights. Given that the data registered in the REX system(s), according to Article 83(1) of the UCC Implementing Act, shall be processed solely for the purpose of application of the Generalised Scheme of Preferences (GSP) is an EU policy instrument, the EDPS invites the Commission to consider sole controllership over the data in the first place.

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<sup>21</sup> Guidelines 07/2020 on the concepts of controller and processor in the GDPR, Version 1.0, Adopted on 02 September 2020, para. 185 (p. 44).

## 2.5. Storage duration

39. Article 119(2) of the draft Proposal provides for 10 years storage duration periods for the systems where the Commission and Member States are joint controllers (ICS2, CRMS, REX and Surveillance).
40. The EDPS underlines that, in line with the storage limitation principle, personal data should be kept in a form which permits the identification of data subjects for no longer than necessary for the purposes for which personal data are processed. The EDPS recalls that the period of time should be as short as possible in relation to the purpose pursued and must be justified in order to ensure that the storage is limited to what is necessary for the purpose(s) pursued. In this regard, the EDPS notes that the Proposal does not provide any information to justify the proposed retention period of 10 years. As limiting the retention of personal data constitutes an important safeguard to protect individuals against misuse of their personal data, the EDPS recommends to carefully assess the necessity and proportionality of the proposed retention and to limit the maximum duration period for which personal data may be stored in the different electronic systems accordingly.

Brussels, 20 March 2023

*(e-signed)*

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