

EDPS Formal comments on the draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards the registration of wallet-relying parties and the common mechanism for the identification and authentication of wallet-relying parties

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')¹, and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:

1. Introduction and background

1. On 10 December 2024, the European Commission consulted the EDPS on the draft Commission Implementing Regulation laying down rules for the application of Regulation (EU) No 910/2014² as regards the registration of wallet-relying parties and the common mechanism for the identification and authentication of wallet-relying parties ('the draft implementing regulation').
2. The objective of the draft implementing regulation is to lay down rules for the registration of wallet-relying parties, to be updated on a regular basis to keep in line with technology and standards developments and with the work carried out on the basis of Commission Recommendation (EU) 2021/946, and in particular the Architecture and Reference Framework³.
3. The draft implementing regulation is adopted pursuant to Article 5b(11) of Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

¹ OJ L 295, 21.11.2018, p. 39.

² Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

³ Article 1 of the draft implementing regulation.

4. The EDPS previously issued formal comments on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity⁴.
5. 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 13 of the draft implementing regulation.
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 acts⁵.
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 implementing regulation that are relevant from a data protection perspective.

2. Comments

2.1. General comments

8. The EDPS welcomes recital 2 of the draft implementing regulation, confirming that Regulation (EU) 2016/679⁶ ('GDPR') and, where relevant, Directive 2002/58/EC⁷ apply to the personal data processing activities under the draft implementing regulation.
9. The draft implementing regulation aims to lay down rules for the registration of wallet-relying parties, i.e. relying parties that intend to rely upon wallet units for the provision of public or private services by means of digital interaction⁸. As set out in Regulation (EU) No 910/2014, wallet-relying parties are not to request users to provide any data other than those indicated for the intended use of wallets during the registration process⁹.

⁴ [Formal comments of the EDPS on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation \(EU\) No 910/2014 as regards establishing a framework for a European Digital Identity, issued on 28 July 2021.](#)

⁵ 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.

⁶ 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).

⁷ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

⁸ Article 2(1) of the draft implementing regulation.

⁹ Article 5b(3) of Regulation (EU) No 910/2014. See also Recital (11) of the draft implementing regulation.

10. As already suggested in previous formal comments, the EDPS considers that a functionality ensuring automated detection and blocking of excessive access requests could be an important safeguard to help protect the wallet user from excessive data access requests by relying parties¹⁰.

2.2. Registration of wallet-relying parties

11. The recitals to the draft implementing regulation clarify that one of the objectives of the registration of relying parties is to facilitate the verification by Member States of the lawfulness of the activities of the wallet-relying parties¹¹.
12. Against this background, the EDPS welcomes that Annex I would require information to be provided regarding the list of attributes that a relying party intends to request, as well as description of the intended use of those attributes.
13. The EDPS underlines that the description of the intended use of the attributes to be requested to the wallet user should be specific enough to enable verification that the requested attributes are both necessary and proportionate in light of their intended use. The EDPS therefore recommends underlining in the draft implementing regulation the need for sufficiently specific information, as well as the need to ensure compliance with the requirement of data minimisation.

2.3. Wallet-relying party registration certificates

14. Article 2(15) of the draft implementing regulation defines a ‘wallet-relying party registration certificate’ as a ‘data object that indicates the attributes the relying party has registered to intend to request from users’.
15. The recitals to the draft implementing regulation recognise the importance of enabling wallet users to verify the registration data of relying parties and that the attributes being requested by the wallet-relying party are within the scope of their registered attributes. In order to achieve this goal, Article 8(1) of the draft implementing regulation provides that Member States *may* require the issuance of wallet-relying party registration certificates to registered wallet-relying parties¹².
16. The EDPS observes that, in case these certificates are not issued, it would be considerably more difficult and cumbersome for wallet users to verify whether the attributes being requested by the wallet-relying party are within the scope of their registered attributes.

¹⁰ The EDPS previously made this recommendation having regard to the draft implementing regulation that has been adopted as Commission Regulation (EU) 2024/2979 of 28 November 2024 in the [EDPS Formal comments on the draft Commission Implementing Regulation \(EU\) laying down rules for the application of Regulation \(EU\) No 910/2014 of the European Parliament and of the Council, as regards the integrity and core functionalities of European Digital Identity Wallets](#), paragraph 30. The EDPS considers that this recommendation remains relevant and should be considered in the context of this draft implementing regulation.

¹¹ Recital 7 of the draft implementing regulation.

¹² Recital 11 of the draft implementing regulation.

17. On the other hand, mandatory issuance of wallet-relying party registration certificates may make it possible for the wallet unit to verify, in an automated manner: (a) whether or not the wallet relying party has effectively completed the registration process; (b) whether or not the attributes being requested by the wallet-relying party are within the scope of their registered attributes.
18. Against this background, the EDPS strongly recommends replacing “may” with “must” in Article 8(1) of the draft implementing regulation (as well as in the corresponding recital 11), of the draft implementing regulation. In line with this recommendation, the EDPS also recommends deleting “where applicable” in Article 9(3) of the draft implementing regulation.

2.3. Suspension or cancellation of a registration as relying party

19. Article 9(2) of the draft implementing regulation provides that the registrar, when considering the suspension or cancellation of a relying party, must conduct a “proportionality assessment”. This assessment would take into account “the severity of the disruption caused by the suspension or cancellation and the associated costs, both for the wallet-relying party and the user”.
20. The EDPS considers that Article 9 should list the elements to be considered in this assessment weighing in favour of the suspension or cancellation of the registration. The EDPS recommends explicitly mentioning, among the elements to be considered, the impact of any of the situations listed in Article 9(1) on wallet users.

2.4 Other provisions

21. Article 3(4) of the draft implementing regulation refers to “the API referred to in paragraph 2”. The EDPS notes that the reference should be made to paragraph 3 instead.
22. The reference to Article 3(2) in Annex II, Section 1, of the draft implementing regulation should be replaced by a reference to Article 3(3) of the draft implementing regulation.

Brussels, 30 January 2025

(e-signed)
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