

EDPS Formal comments on the draft Implementing Regulation laying down rules for the application of Directive 2009/103/EC of the European Parliament and of the Council as regards the template for the claims-history statement

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 5 February 2024, the European Commission consulted the EDPS on the draft Implementing Regulation laying down rules for the application of Directive 2009/103/EC of the European Parliament and of the Council as regards the template for the claims-history statement² ('the draft Implementing Regulation').
2. The objective of the draft Implementing Regulation is to lay down the template for the claims history statement and the instructions to fill in this template. This is provided by the Annex to the draft Implementing Regulation (respectively, in Part A and in Part B if the Annex).
3. The draft Implementing Regulation is adopted pursuant to Article 16 of Directive 2009/103/EC.
4. The present formal comments of the EDPS are issued in response to a consultation by the European Commission pursuant to Article 42(1) of Regulation (EU) 2018/1725 ('EUDPR')³.

¹ OJ L 295, 21.11.2018, p. 39.

² Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (Codified version) (Text with EEA relevance), OJ L 263, 7.10.2009, p. 11-31.

³ 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 (Text with EEA relevance), OJ L 295, 21.11.2018, p. 39-98.

5. 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 acts⁴.
6. 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

7. The EDPS positively notes that the draft Implementing Regulation specifies, in Part A of the Annex, the information to be included in the claims-history statement. The EDPS notes that the information to be provided are in accordance with Article 16 of Directive 2009/103/EC. Therefore, the EDPS has no specific comment in this regard.
8. Concerning the identification number of the policyholder⁵, the EDPS recalls that pursuant to Article 87 of Regulation (EU) 2016/679 ('GDPR')⁶, Member States may have further determined the specific conditions for the processing of this unique identifier. The EDPS therefore recommends to amend the instructions for filling in the form accordingly. The insurance undertakings or bodies appointed by Member States should determine and specify which identification number may be provided, having regard to the specific conditions that may apply in the relevant Member State.
9. Finally, the EDPS notes the absence of a recital referring to this consultation in the draft Implementing Regulation and therefore recommends amending it accordingly.

Brussels, 4 March 2024

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

⁴ 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.

⁵ Information no. 7, under B., of Part A of the Annex to the Draft Implementing Regulation.

⁶ Regulation (EU) 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 (General Data Protection Regulation) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1-88.