

EDPS Formal comments on the draft Commission Implementing Regulation amending the Commission Implementing Regulation (EU) 2022/423 laying down the technical specifications, measures and other requirements for the implementation of the decentralised IT system referred to in Regulation (EU) 2020/1784 of the European Parliament and of 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 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 8 February 2024, the European Commission consulted the EDPS on the draft Commission Implementing Regulation amending the Commission Implementing Regulation (EU) 2022/423 laying down the technical specifications, measures and other requirements for the implementation of the decentralised IT system referred to in Regulation (EU) 2020/1784 of the European Parliament and of the Council ('the draft Implementing Regulation').
2. The objective of the draft Implementing Regulation is to align Implementing Regulation (EU) 2022/423² with Regulation (EU) 2022/850 (e-CODEX)³, in particular by clarifying that the authorised e-CODEX access points of the decentralised IT system referred to in the revised Service of Documents Regulation (Regulation (EU) 2020/1784) will be operated in accordance with the legal framework established by the e-CODEX Regulation.
3. The draft Implementing Regulation is adopted pursuant to Article 25(1) of Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020

¹ OJ L 295, 21.11.2018, p. 39.

² Commission Implementing Regulation (EU) 2022/423 of 14 March 2022 laying down the technical specifications, measures and other requirements for the implementation of the decentralised IT system referred to in Regulation (EU) 2020/1784 of the European Parliament and of the Council (OJ L 87, 15.3.2022, p. 9).

³ Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerised system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system), and amending Regulation (EU) 2018/1726 (OJ L 150, 1.6.2022, p. 1).

on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents).

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 EUDPR. In this regard, the EDPS invites the Commission to add a reference to this consultation in the recitals of the draft Implementing Regulation.
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 decision that are relevant from a data protection perspective.

2. Comments

7. The EDPS has already had the opportunity to comment on the above-mentioned Union acts related to the e-CODEX system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters⁵ and on the service of judicial and extrajudicial documents in civil or commercial matters (service of documents)⁶, including on the proposal for Commission Implementing Regulation (EU) 2022/423⁷.
8. In the cited Opinion and formal comments, the EDPS welcomed the overall objectives of the proposals to improve the efficiency of judicial cooperation in civil or commercial matters, in particular through digitalisation and the use of IT technology, and shared the view that the proposed measures could have a real impact on the everyday lives of EU citizens. Moreover, the EDPS specifically encouraged the alignment of the implementing acts concerning service of documents with the legal framework of the e-CODEX system.

⁴ In case of other implementing or implementing 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 [EDPS Formal comments on the Commission proposal for a Regulation of the European Parliament and of the Council on a computerised system for communication in cross-border civil and criminal proceedings \(e-CODEX system\), and amending Regulation \(EU\) 2018/1726.](#)

⁶ [Opinion 5/2019 on the revision of the EU Regulations on service of documents and taking of evidence in civil or commercial matters.](#)

⁷ [EDPS Formal comments on the draft Commission implementing Regulations \(EU\) laying down the technical specifications, measures and other requirements for the implementation of the decentralised IT system referred to in by Regulation \(EU\) 2020/1783 of the European Parliament and of the Council and by Regulation \(EU\) 2020/1784 of the European Parliament and of the Council.](#)

9. Given the objective of the draft Implementing Regulation to create a bridge between the e-CODEX Regulation and the Service of Documents Implementing Regulation and the fact that the draft does not touch upon the data protection provisions in these legal acts, the EDPS does not have any specific comments and recommendations.

Brussels, 8 March 2024

(e-signed)

Wojciech Rafał WIEWIÓROWSKI