

EDPS Formal Comments on the draft Commission Implementing Decisions amending Decisions C(2021) 5620 and C(2021) 5619 laying down a standard form for informing individuals of the creation of a white link pursuant to Regulations (EU) 2019/817 and 2019/818 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 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 16 April 2025, the European Commission consulted the EDPS on two draft Commission Implementing Decisions that would amend Implementing Decisions C(2021) 5620² and C(2021) 5619³ of 3.8.2021 laying down a standard form for informing individuals of the creation of a white link pursuant to Regulations (EU) 2019/817⁴ and 2019/818⁵ of the European Parliament and of the Council ('the draft Implementing Decisions')⁶.
2. Regulations (EU) 2019/817 and 2019/818 (Interoperability Regulations) establish a framework of interoperability between the EU information systems in the field of borders, visa, police and judicial cooperation, asylum and migration. That framework

¹ OJ L 295, 21.11.2018, p. 39.

² Commission Implementing Decision of 3.8.2021 laying down a standard form for informing individuals of the creation of a white link pursuant to Regulation (EU) 2019/817 of the European Parliament and of the Council (C(2021) 5620).

³ Commission Implementing Decision of 3.8.2021 laying down a standard form for informing individuals of the creation of a white link pursuant to Regulation (EU) 2019/818 of the European Parliament and of the Council (C(2021) 5619).

⁴ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA, OJ L 135, 22.5.2019, p. 27.

⁵ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816, OJ L 135, 22.5.2019, p. 85.

⁶ Due to the fact that not all Member States participate in all the EU policies in the fields of borders and visas, police cooperation and judicial cooperation in criminal matters, and asylum and migration, it is necessary to adopt parallel implementing acts based on the separate empowerments in the Regulations establishing interoperability in these different fields. Given the essential similarity of the substance of both draft Implementing Decisions, the EDPS has assessed the two Proposals together.

includes a number of interoperability components, including a multiple-identity detector (MID). The MID creates and stores links between data in the different EU information systems in order to detect multiple identities, with the dual purpose of facilitating identity checks for bona fide travellers and combating identity fraud. Where those different identities are detected, a yellow link is created and the authorities are to carry out a manual verification of the different identities⁷.

3. When such a manual verification is completed, the authorities turn a yellow link into a green, red or white link. A white link confirms that the different biographical identities belong to the same person⁸.
4. In order to ensure that individuals are informed that data concerning them has resulted in the creation of a white link, Commission Implementing Decisions C(2021) 5620 and C(2021) 5619 were adopted to lay down a standard form for informing individuals of the creation of such white link.
5. The objective of the draft Implementing Decisions is to ensure that, following the adoption of Regulation (EU) 2024/1358 (Eurodac recast Regulation)⁹, the standard form for informing individuals of the creation of a white link is updated accordingly.
6. The draft Implementing Decisions are adopted pursuant to Article 33(6) of Regulation (EU) 2019/817 and Article 33(6) of Regulation (EU) 2019/818 of the European Parliament and of the Council.
7. The EDPS has previously issued formal comments on the drafts of the current Commission Implementing Decisions C(2021) 5620 and C(2021) 5619¹⁰, as well as Opinion 4/2018 on the Proposals for two Interoperability Regulations¹¹.
8. The present formal comments of the EDPS are issued in response to a consultation by the European Commission of 22 April 2025, pursuant to Article 42(1) of EUDPR. The EDPS welcomes the reference to this consultation in Recital 13 of the draft Implementing Decisions.
9. 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

⁷ Recital (2) of the draft Implementing Decisions.

⁸ Recital (3) of the draft Implementing Decisions.

⁹ Regulation (EU) 2024/1358 of the European Parliament and of the Council of 14 May 2024 on the establishment of 'Eurodac' for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council, OJ L, 2024/1358, 22.5.2024.

¹⁰ EDPS [Formal comments on the draft Commission Implementing Decisions laying down a standard form for notification of a white link pursuant to Regulation \(EU\) 2019/817 and Regulation \(EU\) 2019/818 of the European Parliament and of the Council](#), issued on 22 April 2021.

¹¹ EDPS [Opinion 4/2018 on the Proposals for two Regulations establishing a framework for interoperability between EU large-scale information systems](#), issued on 16 April 2018.

available, for example as a result of the adoption of other related implementing or delegated acts¹².

10. 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

11. The EDPS notes that the subject matter of the draft Implementing Decisions is limited to adding the European Asylum Dactyloscopy Database (Eurodac) among the systems where discrepancies in the personal information regarding the third-country nationals have been discovered, and welcomes this update, which is in line with the recommendation provided in his previous formal comments.
12. In addition, the EDPS recalls the comments and the recommendation set out in Section 2.2.2 “Conclusion of the verification authorities” of his previous formal comments from 22 April 2021, and the importance to inform the data subject not only in a technically accurate, but also in comprehensible manner. In particular, the verification authorities should indicate the identified (justified) discrepancies between the data stored in different systems or at least explain them in abstract terms, including what it practically means that they are deemed justified.
13. Finally, the EDPS recalls that he is not competent to supervise handling of data subject rights where controllers are national authorities, therefore the inclusion of his contact details among the useful contacts details for data subjects may be confusing for individuals if the scope of the competence of the EDPS is not further clarified. In light of this, the EDPS invites the Commission to further clarify this point.

Brussels, 10 June 2025

(e-signed)
Wojciech Rafał WIEWIÓROWSKI

¹² 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.