

EDPS Formal comments on the draft Commission Implementing Regulation on the application of the principles for verification of declared embedded emissions pursuant to Regulation (EU) 2023/956 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 10 November 2025, the European Commission consulted the EDPS on the draft Commission Implementing Regulation on the application of the principles for verification of declared embedded emissions pursuant to Regulation (EU) 2023/956 of the European Parliament and of the Council ('the draft Implementing Regulation').
2. The draft Implementing Regulation would be adopted pursuant to Article 8(3) of Regulation (EU) 2023/956 ('the basic act').²
3. The objective of the draft Implementing Regulation is to set out rules on: (1) physical site visits and replacement of such visits by virtual site visits or waiver³; (2) conditions for virtual site visit or waiver of the obligation to carry out a physical site visit⁴; (3) conditions for virtual site visits due to serious, extraordinary and unforeseeable circumstances⁵; (4) emission levels and other parameters⁶; and (5) the format of the verification report⁷. The draft Implementing Regulation is accompanied by an annex, specifying the information to be provided in the template of the verification report.

¹ OJ L 295, 21.11.2018, p. 39.

² Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (Text with EEA relevance), OJ L 130, 16.5.2023, pp. 52–104.

³ Article 2 of the draft implementing Regulation.

⁴ Article 3 of the draft implementing Regulation.

⁵ Article 4 of the draft implementing Regulation.

⁶ Article 5 of the draft implementing Regulation.

⁷ Article 6 of the draft implementing Regulation.

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. The EDPS recommends adding a reference to this consultation in a recital 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 acts⁸.
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 notes that the implementation of the draft Implementing Regulation would entail the processing of personal data⁹. Therefore, the EDPS recommends adding to the draft Implementing Regulation a recital confirming that Regulation (EU) 2016/679 ('the GDPR')¹⁰, as well as, where relevant, the EUDPR¹¹, apply to the personal data processing activities under the draft Implementing act.
8. The EDPS has no specific comments on the types of personal data to be processed as specified in the draft Implementing Regulation.

Brussels, 17 November 2025

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

⁸ 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.

⁹ See for instance, among the information to be provided in the verification report as specified in the annex to the draft implementing Regulation: identification and address of the operator; identification and address of the verifier; name of the verification team leader, lead auditor, auditors and technical experts members of the verification team.

¹⁰ 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), OJ L 119, 4.5.2016, p. 1.

¹¹ See in this regard Article 14 of the basic act.