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COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards cross-border identity matching of natural persons by public sector bodies

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COMMISSION IMPLEMENTING REGULATION (EU) .../...

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laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards cross-border identity matching of natural persons by public sector bodies

THE EUROPEAN COMMISSION,

Having regard to 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/EC¹, and in particular Article 11a(3) thereof,

Whereas:

- (1) Regulation (EU) No 910/2014 requires that the European Digital Identity Wallets ('wallets') and notified electronic identification means can be used to authenticate towards online cross-border services. In such cross-border authentication scenarios, records containing attributes pertaining to the user of wallets or the notified electronic identification means are sometimes already available to the relying party through an external register, or through their own register, often in the form of a user account. In these instances, certain attributes pertaining to the user which are obtained from the wallets or from the notified electronic identification means should be matched by or on behalf of that relying party, for example by using a centralised solution operated by a public sector body, against those attributes already held by that relying party or by a register relied upon by the relying party, for example a population register or a database with user account information.
- (2) Regulation (EU) 2016/679 of the European Parliament and of the Council² and, where relevant, Directive 2002/58/EC of the European Parliament and of the Council³ apply to the personal data processing activities under this Regulation.
- (3) The Commission regularly assesses new technologies, practices, standards or technical specifications. To ensure the highest level of harmonisation among Member States for the development and certification of the wallets, the technical specifications set out in this Regulation rely on the work carried out on the basis of Commission Recommendation (EU) 2021/946 on a common Union Toolbox for a coordinated approach towards a European Digital Identity Framework⁴ and in

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¹ OJ L 257, 28.8.2014, p.73, ELI: <http://data.europa.eu/eli/reg/2014/910/oj>.

² 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, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>.

³ 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, ELI: <http://data.europa.eu/eli/dir/2002/58/oj>.

⁴ OJ L 210, 14.6.2021, p. 51, ELI: <http://data.europa.eu/eli/reco/2021/946/oj>.

particular the Architecture and Reference Framework. In accordance with recital 75 of Regulation 2024/1183⁵, the Commission should review and update this Implementing Regulation, if necessary, to keep it in line with global developments, the architecture and reference framework and to follow the best practices on the internal market.

- (4) In order to ensure that the identity matching process functions in a reliable manner across all Member States, Member States acting as relying parties should undertake the initial identity matching of natural persons when a natural person first requests access to a service operated by the relying party, based on a common set of attributes which should be used as the starting point for identity matching.
- (5) The attributes used for unequivocal identity matching when using the wallets should be both the mandatory and optional attributes, which are needed to ensure that the set of person identification data is unique as defined in the person identification dataset as set out in section 1 of the Annex to [Commission Implementing Regulation (EU) 2024/XXX⁶ laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards person identification data and electronic attestations of attributes issued to European Digital Identity Wallets].
- (6) The attributes used for unequivocal identity matching when using notified electronic identity schemes should be the mandatory attributes as defined in section 1 of the Annex of Implementing Regulation 2015/1501⁷ and include the place of birth and nationality from the additional list of attributes.
- (7) Due to the dependence on pre-existing attributes used by the relying party to ensure unequivocal identity matching, the identity matching process based on the aforementioned predefined sets of attributes might not be successful in all instances. To provide an appropriate degree of flexibility for relying parties, Member States may foresee complementary procedures that achieve an equivalent level of confidence.
- (8) With the objective of making appropriate recourse mechanisms available whenever identity matching is applied, Member States acting as relying parties or the party acting on its behalf should keep appropriate logs in relation to the matching process, the attributes used for matching and any other supporting documentation provided by the natural person and the outcome of the identity matching process. Further, these logs should be retained for a minimum of six months and a maximum of twelve months with the objective to enable the registration and processing of complaints by users. The retention time could be extended if required by Union or national law.

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⁵ Regulation (EU) 2024/1183 of the European Parliament and of the Council of 11 April 2024 amending Regulation (EU) No 910/2014 as regards establishing the European Digital Identity Framework, OJ L, 2024/1183, 30.4.2024, ELI: <http://data.europa.eu/eli/reg/2024/1183/oj>.

⁶ Commission Implementing Regulation (EU) 2024/XXX⁶ laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards person identification data and electronic attestations of attributes issued to European Digital Identity Wallets, OJ XXX, ELI XXX.

⁷ Commission Implementing Regulation (EU) 2015/1501 of 8 September 2015 on the interoperability framework pursuant to Article 12(8) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market, OJ L 235, 9.9.2015, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2015/1501/oj.

- (9) To avoid that wallet users need to undergo the identity matching process repeatedly to access the same services, Member States may require that identity matching systems are capable of issuing an electronic attestation of attributes with a link between the wallet user and a register in which they are registered as known users. Alternatively, Member States may store a link as a reference to a register that is accessible to the relying party.
- (10) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725⁸ and delivered its opinion on [XX.XX. 2024].
- (11) The measures provided for in this Regulation are in accordance with the opinion of the committee referred to in Article 48 of Regulation (EU) No 910/2014,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down rules for cross-border identity matching of natural persons by public sector bodies or by bodies acting on behalf of a public sector body, 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 Framework.

Article 2

General requirements

1. Where a public sector body acts as a relying party in the context of an online cross-border service offered by or on behalf of that public sector body, Member States shall ensure that the process set out in paragraph 2 is used to ensure unequivocal identity matching of natural persons.
2. Unequivocal identity matching shall be done by, or on behalf of, the relying party, by requesting, receiving, and validating the authenticity of the attributes listed in paragraphs 3 or 4, as applicable.
3. The attributes which shall be used as the starting point for unequivocal identity matching when made available through a wallet shall be the mandatory attributes in section 1 of the Annex to [Commission Implementing Regulation (EU) 2024/XXX⁹ laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards person identification data and electronic attestations of attributes issued to European Digital Identity Wallets] and the optional attributes needed to ensure that the presented dataset is unique.

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⁸ 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, OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>.

⁹ Commission Implementing Regulation (EU) 2024/XXX⁹ laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards person identification data and electronic attestations of attributes issued to European Digital Identity Wallets, OJ XXX, ELI XXX.

4. The attributes which should be used as the starting point for unequivocal identity matching when made available through a notified electronic identification scheme shall be the mandatory attributes in section 1 of the Annex to Commission Implementing Regulation (EU) 2015/1501 and the place of birth and nationality.
5. When determining whether there is an unequivocal identity match, the relying party, or the party acting on its behalf, shall match the attributes provided by the user to those that the relying party or a party acting on its behalf or a register relied upon by relying parties has already registered in relation to existing users of its service.
6. The outcome of the process described in paragraph 5 shall not be affected by differences in transliteration, blank spaces, hyphenation, concatenation, and similar orthographic variations that are accepted and as long as required under Union law or national law of the Member State.
7. Where the match is exact for the attributes referred to in paragraph 2 and relates to precisely one natural person, the identity matching process shall be deemed successful resulting in an unequivocal identity match. Where the match is not exact or does not relate to precisely one natural person, the initial identity matching process based on the default attributes shall be deemed unsuccessful.
8. Member States may rely on centralised identity matching systems, operated by a public sector body established in that Member State, to ensure that notified electronic identification means or wallets from another Member State can be matched with existing registrations and records at identity assurance level high using online procedures. This may include additional documentation provided by the user.

Article 3

Obligations of relying parties where the identity matching process is successful

1. Whenever an identity matching process is deemed successful pursuant to Article 2(5) or Article 2(6), the relying party or the party acting on its behalf shall ensure that users of the notified electronic identification means or of the wallets receive the following information:
 - (a) a message indicating that the data made available through either a notified electronic identification means or a wallet has been successfully matched to precisely one existing user of the relying party or to an existing user in a register relied upon by the relying party;
 - (b) a notification informing the user, where applicable, of any available options for storing the result of the identity matching process:
 - by storing a link in a register operated by the relying party or in a register relied upon by the relying party;
 - by means of a dedicated electronic attestation of attributes containing the link;
 - alternative options provided by the relying party or the party acting on behalf of the relying party.

Article 4

Obligations of relying parties where the initial identity matching process based on default attributes is not successful

1. Whenever an identity matching process is deemed unsuccessful pursuant to Article 2(5) or Article 2(6), the relying party or the party acting on its behalf shall ensure that users of the notified electronic identification means or of the wallets receive the following information:
 - (a) a message indicating that the data made available through either a notified electronic identification means or a wallet could not be successfully matched to any existing user or could not be matched to precisely one existing user in a register relied upon by the relying party;
 - (b) a message indicating any other options for identity matching available to the user or other methods for gaining access to the service that was initially requested by the user.
2. The options referred to in the notifications set out in paragraph 1, point (b) may include:
 - (a) a different notified electronic identification means or wallet;
 - (b) an update of attributes already registered with the relying party, the party acting on its behalf or a register relied upon by the relying party;
 - (c) information on how to register to the service as a first time user;
 - (d) any other methods provided by the relying party or a party acting on their behalf for identity matching.
3. If the complementary methods result in a successful match or registration the outcome shall follow the obligations in Article 3.

Article 5

Obligations of relying parties following the completion of the identity matching procedure

1. Whenever an identity matching process as set out in Article 2 is completed, whether successfully or unsuccessfully, the relying party or the party acting on its behalf shall keep the logs that show the matching process and its outcome, including where available:
 - (a) the date and time of the identity matching process;
 - (b) any relevant documentation necessary for dispute handling;
 - (c) any identifiers or account numbers used by the relying party that relates to the natural person.
2. Relying parties or the parties acting on their behalf, shall retain the logs for a minimum of 6 months and a maximum of 12 months with the objective to enable the registration and processing of complaints by the users. The retention time can be extended if required by Union or national law.

Article 6

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [date to be inserted by the OP – 12 months after publication].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN

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