

From: [REDACTED] (HOME)
Sent: vendredi 5 novembre 2021 17:55
To: HoS.LEG
Cc: [REDACTED] (HOME); [REDACTED] (HOME); [REDACTED] (JUST)
Subject: Commission written comments on the three modules discussed at the Workshop on personal data held on 28 October 2021
Attachments: Concept paper_non OPD Rules (Module 2) COM comments final.docx; Draft MB Decision on restrictions of certain data-subject rights (Module 3) COM comments final.docx; Draft MB Decision_OPD implementing rules_COM comments final.docx

Dear Colleagues,

First of all I would again like to thank you for organizing the workshop on personal data and for giving the participants the opportunity to provide written comments to supplement the discussion at the workshop. Attached is the Commission's comment on the three documents.

I would also like to reiterate the importance of finalising all the foreseen implementing rules related to data protection as a matter of urgency, while still respecting the need for proper consultation of the DPO and, where necessary, also the EDPS.

The Commission welcomes the progress made on the different implementing rules and looks forward to receiving a draft text on the last foreseen set of implementing rules related to so-called ^{out of scope} [REDACTED], for possible comments.

In line with this and as also mentioned during the workshop, we would advise you to consider consulting the EDPS on the OPD rules and, when a draft is ready, also the "non"-OPD rules.

As for the implementing rules on OPD and ^{out of scope} [REDACTED], we would like to see the final draft to avoid a situation where questions are still pending when the draft is presented to the Management Board for adoption.

Specifically on the implementing rules on OPD:

As stated during the workshop and a numerous occasions earlier, the Commission would like to remind that, in accordance with the legal basis for the EBCG Regulation, Frontex is not a law enforcement agency and therefore it is important to be very cautious especially when defining rules on operational personal data to ensure that we stay within the limits set in the Regulation, more specifically in relation to tasks under Article 10(1)(q) of the Regulation.

Kind regards,

[REDACTED]

[REDACTED]
Legal and Policy Officer



European Commission

Directorate-General Migration & Home Affairs

B1: Schengen and External Borders

[Redacted] | B-1049 Brussels | Belgium
[\[Redacted\]@ec.europa.eu](mailto:[Redacted]@ec.europa.eu)



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