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COVER NOTE

From:	European Data Protection Supervisor (EDPS)
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
Subject:	Proposal for a Directive of the European Parliament and of the Council on the recognition of qualifications of third-country nationals - Opinion of the European Data Protection Supervisor (EDPS)

Delegations will find enclosed the opinion 33/2026 of the European Data Protection Supervisor (EDPS) on the above.



EUROPEAN DATA PROTECTION SUPERVISOR

The EU's independent data protection authority

Opinion 33/2026

on the Proposal for a Directive on the recognition of qualifications of third-country nationals

edps.europa.eu

The European Data Protection Supervisor (EDPS) is an independent institution of the EU, responsible under Article 52(2) of Regulation 2018/1725 'With respect to the processing of personal data... for ensuring that the fundamental rights and freedoms of natural persons, and in particular their right to data protection, are respected by Union institutions and bodies', and under Article 52(3)'... for advising Union institutions and bodies and data subjects on all matters concerning the processing of personal data'.

Wojciech Rafał Wiewiórowski was appointed as Supervisor on 5 December 2019 for a term of five years. The selection procedure for a new EDPS mandate for a term of five years is still ongoing.

*Under **Article 42(1)** of Regulation 2018/1725, the Commission shall 'following the adoption of proposals for a legislative act, of recommendations or of proposals to the Council pursuant to Article 218 TFEU or when preparing delegated acts or implementing acts, consult the EDPS where there is an impact on the protection of individuals' rights and freedoms with regard to the processing of personal data'.*

This Opinion relates to the Proposal for a Directive on the recognition of qualifications of third-country nationals[1]. This Opinion does not preclude any future additional comments or recommendations by the EDPS, in particular if further issues are identified or new information becomes available. Furthermore, this Opinion is without prejudice to any future action that may be taken by the EDPS in the exercise of his powers pursuant to Regulation (EU) 2018/1725.

This Opinion is limited to the provisions of the Proposal that are relevant from a data protection perspective.

[1] COM(2026) 990 final.

Executive Summary

On 15 September 2026, the European Commission issued a Proposal for a Directive on the recognition of qualifications of third-country nationals.

The European Data Protection Supervisor welcomes the Commission's objective of establishing a clear, common and predictable framework for the recognition of the qualifications of third-country nationals, obtained in another Member State or in a third country, for the purposes of access to a regulated profession in a Member State and of obtaining a long-stay visa or residence permit.

The EDPS provides some recommendations to accompany such harmonization of procedures and establishment of coordination and authorities in charge of this process in a way that a high level of data protection is ensured, in compliance with fundamental rights to privacy and to the protection of personal data, as enshrined in Article 7 and 8 of the Charter of Fundamental Rights of the European Union.

Against this background, the EDPS recommends specifying in a recital of the Proposal that any use of the European Digital Identity Wallet for this purpose must comply with Regulation (EC) No 910/2014 as amended by Regulation (EU) 2024/1183 and its implementing acts.

The EDPS furthermore invites to define clearly and precisely the meaning in the context of the Proposal of the terms 'digital tools', 'international databases' and 'cooperation with third countries and educational and professional bodies'.

The EDPS also recommends clarifying that any personal data must be rendered anonymous (or alternatively pseudonymous) by the Member States before the sharing with the Commission for statistical purposes, provided that those purposes can be fulfilled in this manner. In the same vein, the EDPS recommends specifying that the reports to be submitted by the Member States to the Commission on the application of the Proposal must not contain personal data.

The EDPS also recommends specifying in the enacting terms of the Proposal that all safeguards provided for the handling of the alerts and personal data relating to alerts in IMI must also be complied with regard to the alerts envisaged in the context of the Proposal. Hence, the EDPS recommends either deleting the wording 'mutatis mutandis' in Article 35 of the Proposal or specifying the adaptations warranted with regard to the alert mechanism envisaged in the Proposal.

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THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 ('EUDPR')[2], and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING OPINION:

1. Introduction

1. On 15 September 2026, the European Commission issued a Proposal for a Directive of the European Parliament and of the Council on the recognition of qualifications of third-country nationals [3] ('the Proposal').

2. The objective of the Proposal is to define rights of third-country nationals legally residing in a Member State (the host Member State) regarding the recognition of professional qualifications obtained from a third country or another Member State, facilitating access to a regulated profession, where entry is contingent upon possessing specific professional qualifications[4].

3. The Proposal is part of the Skills Portability Initiative[5] and its general objective is to facilitate the recognition of qualifications of third-country nationals in order to address labour and skills shortages in the Union. The specific objectives pursued by the Proposal are: (i) streamlined recognition systems within and between Member States; (ii) reduced legal and administrative complexity for third-country national applicants, employers and authorities; and (iii) increased trust in, and understanding of, qualifications obtained in third countries[6].

4. The Proposal is part of a legislative package of four legislative proposals, comprising, in addition to this proposal, a Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/36/EC as regards the digitalization of procedures and recognition of professional qualifications issued outside the Union and Regulation (EU) No 1024/2012[7]; a Proposal for a Regulation of the European Parliament and of the Council on

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[2] OJ L 295, 21.11.2018, p. 39.
[3] COM(2026) 990 final.
[4] Article 1 and 2 of the Proposal.
[5] See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Fair Labour Mobility Package, COM(2026) 970 final. See also recital 3 of the Proposal.
[6] COM(2026) 990 final, p. 2.
[7] COM(2026) 995 final.

portability of qualifications and skills and amending Regulation (EU) 2018/1724 ("Skills Portability Act")[8]; a Proposal for a Regulation of the European Parliament and of the Council on digitalizing the coordination of social security systems, laying down a framework for the European Social Security Pass (ESSPASS) and amending Regulations (EC) No 833/2004, (EC) No 987/2009 and (EU) No 2018/1724[9]. The EDPS has been separately consulted on these proposals and has issued an opinion for each of them.

5. The present Opinion of the EDPS is issued in response to a consultation by the European Commission of 15 September 2026, pursuant to Article 42(1) of EUDPR. The EDPS welcomes the reference to this consultation in Recital 54 of the Proposal. In this regard, the EDPS also positively notes that it was already previously informally consulted pursuant to recital 60 of EUDPR.

2. General remarks

6. The EDPS welcomes the objective of establishing a clear, common and predictable framework for the recognition of the qualifications of third-country nationals, obtained in another Member State or in a third country, for the purposes of access to a regulated profession in a Member State and of obtaining a long-stay visa or residence permit[10].

7. The EDPS provides some recommendations to accompany such harmonization having regard to the procedures and the conditions for the recognition of third-country nationals' professional qualifications in a way that a high level of data protection is ensured, in compliance with fundamental rights to privacy and to the protection of personal data, as enshrined in Article 7 and 8 of the Charter of Fundamental Rights of the European Union.

8. The EDPS notes that the handling of applications of third country nationals under the Proposal would entail the processing of personal data of such applicants by the competent authorities of the host Member State[11] or by the Commission when providing support services for the assessment of authenticity of qualifications, diplomas, certificates or other evidence of formal qualifications issued in a third country[12]. The EDPS therefore welcomes the reference to the applicability of Regulation (EU) 2016/679[13] ('GDPR') and of the EUDPR in recital 53 of the Proposal. However, to provide a clearer, streamlined, and more comprehensive wording, the EDPS recommends replacing the wording in recital 53 of the

[8] COM(2026) 992 final.
[9] COM(2026) 980 final.
[10] Recital 1 of the Proposal.
[11] Article 27 of the Proposal.
[12] Article 28 of the Proposal.
[13] 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).

Proposal with the following one: "*The processing of personal data under this Directive shall comply with Regulation (EU) 2016/679 and, where applicable, Regulation (EU) 2018/1725*".

3. Documentation and formalities

9. The EDPS welcomes the exhaustive specification of the types of documents and certificates that may be required by the host Member State when deciding on the recognition of a qualification by virtue of Title II or Article 26 of the Proposal[14].

10. The EDPS notes the reference to the possible reliance on a digital credential issued under a trusted framework provided in Regulation (EC) No 910/2014[15] proving a presumption of authenticity for the competent authority[16]. In this regard, the EDPS recommends specifying in a recital of the Proposal that any use of the European Digital Identity Wallet for this purpose must comply with Regulation (EC) No 910/2014, as amended by Regulation (EU) 2024/1183[17], and its implementing acts.

4. Support services for the assessment of authenticity

11. The EDPS notes that the Commission would provide support services for the assessment of authenticity of documents submitted by applicants who are nationals of third countries nationals [18]. Such support services would entail the processing of personal data, relying notably on digital tools and international databases, as well as cooperating with third countries and educational and professional bodies[19]. These support services would be required to provide Member States with a justified and non-binding assessment of authenticity (i.e., Members States would remain solely responsible for the recognition decision), including detailed explanations of the evaluation process and findings[20].

12. The EDPS recalls that legislative measures that imply the processing of personal data must comply with primary EU law, in particular Article 8 of the Charter of Fundamental Rights of the European Union ("Charter"). In this respect, it is key that the law lays down clear and precise rules governing the scope and application of a measure and imposing minimum

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[14] Article 27(1) of the Proposal. See also Article 27(8), applicable in particular when the applicant duly documents that, despite reasonable efforts, they were unable to obtain the documents referred to in paragraph 1.
[15] 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/EC, OJ L 257, 28.8.2014, pp. 73–114.
[16] Article 27(5) of the Proposal.
[17] 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
[18] Article 28(1) of the Proposal.
[19] Article 28(2) and (3) of the Proposal.
[20] Article 28(4) of the Proposal.

safeguards, so that the persons whose personal data are concerned have sufficient guarantees that their data will be effectively protected against the risks of abuse and against any unlawful access to and use of those data[21].

13. The EDPS is concerned that the references in Article 28(3) of the Proposal to 'digital tools', 'international databases' and 'cooperation with third countries and educational and professional bodies' do not provide clear and precise rules regarding the processing of personal data to be carried out by the support services (nor do they allow to assess the necessity or proportionality of such measures). Taking into account the important consequences for data subjects who might receive a negative assessment by the support services of the authenticity of the documents they have submitted, the potential large scale of the processing at issue, the potential use of automated processing technologies by the support services, as well as potential international transfers of personal data by the support services, the EDPS recommends to more clearly and precisely determine the exact meaning and scope of these terms.

14. The EDPS welcomes the clear indication in the Proposal that the Commission would act as controller in the context of the provision of support services[22], and in that context be required in particular to ensure the security of the processing of personal data by implementing appropriate technical and organisational measures.

15. The specification of the categories of personal data that the Commission would be allowed to process "to the extent strictly necessary for a given assessment" is also welcome. The EDPS also welcomes the specification that the Commission shall not process special categories of personal data and that, where this incidentally occurs (i.e., since the documentation submitted might contain such data), the Commission must ensure that these data are not retained and are deleted without delay[23].

16. The EDPS welcomes that the Proposal provides the maximum retention period for personal data to be processed by support services for the purpose of assessing authenticity[24].

5. Information provision

17. The EDPS welcomes that the Proposal would require Member States to ensure that third country nationals have access to timely, comprehensive and user-centred information and support concerning procedures for the recognition of qualifications under the Proposal[25].

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[21] In line with Article 52(1) Charter, limitations to the fundamental right to the protection of personal data must not only be provided for by law (as reflected in Article 5(2) EUDPR), but must also comply with other requirements, including the pursuit of objectives of general interest recognised by the EU, and compliance with the principles of necessity and proportionality See also EDPS Guidance for co-legislators on key elements of legislative proposals, 7 May 2025, and Recital 41 GDPR.
[22] Article 28(9) of the Proposal.
[23] Article 28(10) of the Proposal.
[24] Article 28(11) of the Proposal.
[25] Article 32(1) of the Proposal.

This information would cover the applicable legal and administrative requirements; procedural steps, expected timelines and applicable costs; the rights and obligations of applicants; available remedies, appeal mechanisms and complaint procedures[26].

18. The EDPS also welcomes the requirement for Member States to ensure that refugees and beneficiaries of subsidiary protection in accordance with Regulation (EU) 2024/1347[27] have access to tailored information, assistance and support services, considering their specific legal status, needs and vulnerabilities[28].

19. The EDPS also welcomes that the Proposal would establish a confidentiality duty for Member States and the competent authorities involved in the processing of personal data obtained in the context of information provision and assistance[29].

6. Statistics and Reports

20. Article 37 of the Proposal would require Member States to communicate to the Commission statistics on the implementation of the Proposal on a yearly basis. Such statistics would include information on the number of applications handled and decisions taken, and would be disaggregated by citizenship, occupation, status, type of procedure, and outcome of the decision. The EDPS recommends clarifying in the enacting terms of the Proposal that any personal data shall be rendered anonymous (or alternatively pseudonymous) by the Member States before the sharing with the Commission, provided that the statistical purpose can be fulfilled in this manner[30].

21. Article 39 of the Proposal would require Members States to send a report to the Commission on the application of the Proposal every five years. Such report would contain data on processing times of applications, outcomes, user experience, and results of the review of the procedures. For the compilation of information for the report, Member States would be required to collect feedback from employers, professional bodies, migrants, and other stakeholders. The EDPS understands that only non-personal data would be needed for the reporting. Therefore, the EDPS recommends clarifying in the enacting terms of the Proposal that the reports to be submitted by the Member States to the Commission shall not contain personal data (of applicants or of the other data subjects).

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[26] Article 32(2) of the Proposal.
[27] Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council, OJ L, 2024/1347, 22.5.2024, ELI: http://data.europa.eu/eli/reg/2024/1347/oj.
[28] Article 32(6) of the Proposal.
[29] Article 32(10) of the Proposal.
[30] EDPS Opinion 40/2023 on the Proposal for a Regulation on European statistics, 6 September 2023, paragraphs 7 and 8.

7. Alert mechanism

22. Article 35 of the Proposal would require the competent authority of the Member State where a third-country national is restricted or prohibited from pursuing any of the professional activities referred to in Article 56a(1) of Directive 2005/36/EC to inform the competent authorities of all other Member States. Article 35 of the Proposal also specifies that for such 'alert' Article 56a of Directive 2005/36/EC would apply 'mutatis mutandis'.

23. The EDPS recommends specifying in the enacting terms of the Proposal that all safeguards provided for the handling of the alerts and personal data relating to alerts in IMI must also be complied with in the context of the Proposal. This is due in particular to the impact on rights and freedoms of persons concerned by such alerts. Therefore, the EDPS recommends either deleting the wording 'mutatis mutandis' in Article 35 of the Proposal or specifying the adaptations to Article 56a of Directive 2005/36/EC warranted with regard to the alert mechanism envisaged in the Proposal.

8. Exercise of the delegation

24. The EDPS recalls the need to consult the EDPS pursuant to Article 42(1) EUDPR on any delegated act for which the Commission would be granted powers under Article 36 of the Proposal, where they would have an impact on the protection of individuals' rights and freedoms with regard to the processing of personal data[31].

9. Conclusions

25. In light of the above, the EDPS makes the following recommendations:

(1) to replace the wording in recital 53 of the Proposal with the following one: "The processing of personal data under this Directive shall comply with Regulation (EU) 2016/679 and, where applicable, Regulation (EU) 2018/1725";

(2) to specify in a recital of the Proposal that any use of the European Digital Identity Wallet for this purpose must comply with Regulation (EC) No 910/2014, as amended by Regulation (EU) 2024/1183, and its implementing acts;

[31] See also Article 28(13) of the Proposal.

(3) *having regard to the reference in Article 28(3) of the Proposal to 'digital tools', 'international databases' and 'cooperation with third countries and educational and professional bodies', to more clearly and precisely determine the envisaged meaning and scope of these terms;*

(4) *to clarify in Article 37 of the Proposal that any personal data shall be rendered anonymous (or alternatively pseudonymous) by the Member States before the sharing with the Commission for statistical purposes, provided that such purposes can be fulfilled in this manner;*

(5) *to clarify in Article 39 of the Proposal that the reports to be submitted by the Member States to the Commission shall not contain personal data;*

(6) *to specify in the enacting terms of the Proposal that all safeguards provided for the handling of the alerts and personal data relating alerts in IMI must also be complied with in the context of the Proposal. Therefore, the EDPS recommends either deleting the wording 'mutatis mutandis' in Article 35 of the Proposal or specifying the adaptations to Article 56a of Directive 2005/36/EC warranted with regard to the alert mechanism envisaged in the Proposal.*

Brussels,



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