



Opinion of the European Data Protection Supervisor

on the Proposal for a Regulation on the statute and funding of European political parties and European political foundations

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16 thereof,

Having regard to the Charter of Fundamental Rights of the European Union, and in particular Articles 7 and 8 thereof,

Having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹,

Having regard to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 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 data²,

Having regard to the request for an Opinion in accordance with Article 28(2) of Regulation (EC) No 45/2001,

HAS ADOPTED THE FOLLOWING OPINION:

I. INTRODUCTION

I.1. Consultation of the EDPS

1. On 12 September 2012, the Commission adopted a Proposal for a Regulation of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations ("the Proposal")³. On the same day, the Proposal was sent by the Commission to the EDPS for consultation.
2. The EDPS welcomes the fact that he is consulted by the Commission in accordance with Article 28(2) of Regulation (EC) 45/2001 and that a reference to the EDPS consultation has been included in the preamble of the Proposal.

¹ OJ L 281, 23.11.1995, p. 31.

² OJ L 8, 12.01.2001, p. 1.

³ COM(2012) 499 final.

3. The EDPS is pleased that also before the adoption of the Proposal, he was given the possibility to provide comments to the Commission. The EDPS believes that the level of data protection in the Proposal has increased as a result.

I.2. Context and objectives of the Proposal

4. The aim of the Proposal is to strengthen and facilitate the role of the European political parties and foundations since they contribute to forming European political awareness and to expressing the will of citizens of the Union, as foreseen in Article 10(4) TEU and Article 12(2) of the Charter of Fundamental Rights. The Proposal envisages improving the funding and regulatory frameworks of the political parties at European level. It intends to replace the current Regulation (EC) No 2004/2003 on the regulations governing political parties at European level and the rules regarding their funding (which was revised in 2007).⁴ The recognition as a European political party or foundation is a precondition under the Proposal for eligibility for funding from the EU budget.⁵
5. The Commission considered that it was necessary to replace Regulation (EC) No 2004/2003 after an assessment of the current financing and regulatory framework of European political parties and foundations, following the report by the Secretary General of the European Parliament on party funding at European level and the European Parliament's resolution of 6 April 2011 on the application of Regulation (EC) No 2004/2003 ("the Ginnakou report")⁶.
6. The central element of the Proposal is the introduction of a European legal statute, giving the European political parties and foundations legal personality based on EU law, which should help them to overcome current obstacles in recognition and functioning under different national legal systems. In order to benefit from the status of a legal person under EU law, the European political parties and foundations will have to meet high standards on internal democracy, governance, accountability, transparency, and respect for the values on which the Union is founded⁷. Only those European political parties and foundations that have been recognised as such will be eligible for funding from the general budget of the EU⁸.
7. The Proposal also foresees that the European political parties and foundations are subject to a comprehensive and transparent regulatory and control framework to reinforce public control and the principle of transparency.⁹ The transparency foreseen by the proposal includes the compulsory publication of certain personal data.

⁴ See OJ L 297, 15.11.2003, p. 1 and OJ L 343, 27.12.2007, p. 5.

⁵ The funding from the EU budget will be regulated in a second proposal, to be adopted soon; see Commission Working Document prefiguring the proposal for an amendment to the Financial Regulation introducing a new title on the financing of European political parties, COM(2012) 500.

⁶ See the Report of the Secretary General on party funding at European level pursuant to Article 15 of the Decision of the Bureau of the European Parliament of 29 March 2004 laying down the procedures for implementing Regulation (EC) No 2004/2003 of the European Parliament and of the Council on the regulations governing political parties at European level and the rules regarding their funding - 18 October 2010 and Resolution of 6 April 2011, A7-0062/2011.

⁷ See recitals 10 and 11 of the Proposal and p. 6 of the Explanatory Memorandum to the Proposal.

⁸ See Article 12 and recital 12 of the Proposal and p. 6 of the Explanatory Memorandum to the Proposal.

⁹ See p. 6 of the Explanatory Memorandum to the Proposal.

II. ANALYSIS OF THE PROPOSAL

II.1. General Comments

II.1.1. Provisions on data protection

8. The EDPS welcomes the references to Directive 95/46/EC, Regulation (EC) No 45/2001 and Articles 7 and 8 of the Charter of Fundamental Rights in Recital 20. He also welcomes the references to the applicability of Directive 95/46/EC and Regulation (EC) No 45/2001 in the Preamble and in the legislative part of the Proposal.
9. Recital 21 and Article 25(1) specify that Regulation (EC) No 45/2001 applies to the processing of personal data carried out by the European Parliament and by the “committee of independent eminent persons” (hereinafter: “the committee”) that will issue opinions on the verification of the criteria to be met by European political parties and foundations¹⁰.
10. The EDPS welcomes this clarification. As its members will be appointed by EU institutions¹¹ and its secretariat and funding will be provided by the European Parliament¹², the committee will be an emanation of EU institutions¹³ and as such, its processing operations will be subject to Regulation (EC) No 45/2001.
11. Recital 23 refers to both Regulation (EC) No 45/2001 and Directive 95/46/EC, and recital 22 notes that Directive 95/46/EC applies in the application of the Proposal. Neither of the recitals make it clear which legislation is applicable in which case. Article 25(1) and recital 21 specify that the European Parliament and the committee shall comply with Regulation (EC) No 45/2001 and Article 25(2) specifies that European political parties, European political foundations and national authorities competent for controlling their financing, as well as independent bodies or experts authorised to audit their accounts shall comply with Directive 95/46/EC and national provisions implementing it. The EDPS welcomes this clarification and recommends clarifying recitals 22 and 23 accordingly.
12. Article 25 also contains more detailed provisions on data protection. The EDPS welcomes the designation of the data controllers laid down in Article 25(1) and 25(2) and the specification of the maximum data retention periods allowed in subparagraphs (3) to (5) of Article 25.
13. However, subparagraphs (6) to (8) of Article 25 only repeat provisions of Directive 95/46/EC and Regulation (EC) No 45/2001. These subparagraphs would only provide added value if they specified how the relevant data protection provisions will be implemented, e.g. which type of security measures should be implemented by controllers or how data subjects will be able to exercise their rights in practice. The EDPS recommends specifying this in the Proposal at least to some extent or replacing these subparagraphs by a general reference to Directive 95/46/EC and Regulation (EC) No 45/2001¹⁴.

¹⁰ See Article 7 of the Proposal.

¹¹ The European Parliament, the Council and the Commission.

¹² See Article 7(2) of the Proposal.

¹³ For the purposes of Article 3(1) of Regulation (EC) No 45/2001.

¹⁴ The references made in Article 25(1) and 25(2) of the Proposal could serve for this purpose.

14. Additionally, the EDPS welcomes the introduction of an obligation to include in the statute of a European political party rules on internal party policy covering, among other things, the party's approach to transparency, including privacy and the protection of personal data¹⁵.

II.1.2. Transparency, privacy and data protection

15. The EDPS recognises the effort of the Commission to strike a balance between the principle of transparency and control over the funding of the European political parties and foundations and the data subjects' rights to privacy and personal data protection.

16. Before moving to a more detailed analysis of the Proposal, the EDPS wishes to provide some more general reflections on the relation between transparency and data protection, in order to better understand the Proposal and the issues therein in its proper context.

17. The possible collision between transparency requirements on the one hand and privacy and data protection requirements on the other hand, has already led to several cases before the Court of Justice of the European Union. In two leading rulings, *Bavarian Lager*¹⁶ and *Schecke*¹⁷, the Court dealt with this issue and provided further guidance on how to come to a solution which does justice to the fundamental nature of both the principle of transparency and the rights to privacy and the protection of personal data¹⁸.

18. The EDPS has also provided guidance on how to reconcile the underlying interests. The EDPS has stated that the role of privacy and data protection is not to prevent public access to information whenever personal data is involved nor to unduly limit transparency¹⁹. Privacy and data protection should ensure that public disclosure of personal data is achieved only when duly justified and in an appropriate manner which does justice to the different interests at stake.

19. After the *Bavarian Lager* and *Schecke* rulings, in March 2011, the EDPS also published a background paper on the matter in which a proactive approach was encouraged. Such an approach implies an *ex ante* assessment of the question whether and to what extent disclosure of information includes or might include the public disclosure of personal data. If such disclosure is envisaged, it should be made clear to the persons involved before or at least at the moment the data are collected. The proactive approach ensures that data subjects involved are well-informed and are enabled to invoke their rights under the data protection rules²⁰.

¹⁵ Article 4(2)(f) of the Proposal.

¹⁶ CJEU, *Bavarian Lager* (C-28/08 P), [2010] ECR I-06055.

¹⁷ CJEU, *Schecke* (C-92/09 and C-93/09), [2010] ECR I-11063.

¹⁸ The transparency principle can be found in Articles 1 and 10 TEU and 15 TFEU, the rights to privacy and data protection are enshrined in Articles 7 and 8 of the Charter of Fundamental Rights. The right to data protection can furthermore be found in Article 39 TEU and Article 16 TFEU.

¹⁹ See para. 23 of the Opinion of the EDPS on the proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the annual budget of the Union, 15.04.2011, available at: http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2011/11-04-15_Financial_Rules_EN.pdf.

²⁰ See the EDPS background paper of 24 March 2011 on public access to documents containing personal data after the Bavarian Lager ruling, available at: http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/EDPS/Publications/Papers/BackgroundP/11-03-24_Bavarian_Lager_EN.pdf, in particular p. 6 and 7.

20. The decision to disclose personal data should be based on a proper balance of the different interests at stake. In this respect, the Court of Justice, in *Schecke*, considered that no automatic priority can be conferred on the objective of transparency over the right to protection of personal data²¹. The ECtHR has also referred to the balance between the public's right to know and the protection of privacy and personal data. In *Von Hannover*, the ECtHR considered that a fair balance must be sought between the competing interests of the individual and of the community as a whole²².
21. In *Schecke*, the Court of Justice underlined that the institutions should explore different methods of publication to find the one which would be consistent with the objective of publication, while causing the least interference with the beneficiaries' right to private life and to protection of personal data²³.
22. The EDPS has issued several opinions on legislative proposals in which the active publication of personal data was envisaged²⁴. The EDPS has repeatedly emphasised that the purpose of the publication of the data should be clearly defined, the necessity of having the data disclosed should be established, which includes a balance of the different interests involved, and that information should be provided on when and how the data will be disclosed in order to enable the data subjects to invoke their rights as contained in EU data protection legislation²⁵.
23. The transparency obligations foreseen in the present Proposal on political parties and foundations include the publication of certain personal data (i.e. information relating to an identifiable natural person), namely the names of members of political parties and foundations and their contributions, the names of donors and their corresponding donations and the names of legal representatives of the parties and foundations.
24. When weighing the different interests at stake, it should be borne in mind that while there is an obvious public interest in the transparency of political parties and foundations, the personal data involved reveals the political opinions and views of persons which are considered as a special category of personal data the processing of which is, in principle, prohibited²⁶. Only under certain strict conditions such data may be processed.
25. In general, the EDPS welcomes the approach taken by the Commission in the present Proposal, which clearly envisages to achieve transparency with due respect for the privacy and data requirements. Still, the EDPS would like to draw attention to some aspects that should be improved.

²¹ See CJEU, *Schecke* (C-92/09 and C-93/09), [2010] ECR I-11063, para. 85.

²² ECtHR, *Von Hannover v. Germany* (app. 59320/00), [2004] ECHR 294, para 25.

²³ See CJEU, *Schecke* (C-92/09 and C-93/09), [2010] ECR I-11063, para. 81.

²⁴ See, for example, Opinion of the EDPS on the proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the annual budget of the Union, 15.04.2011; Opinion of the EDPS on the Financial Regulation applicable to the general budget of the European Communities; Opinion of the EDPS on the Amendment to the Commission proposal COM(2011) 628 final/2 for a Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy, 09.10.2012; a package of 4 Opinions of the EDPS relating to the financial sector, 10.02.2012, all available at <http://www.edps.europa.eu/EDPSWEB/edps/Consultation/OpinionsC>.

²⁵ See e.g. para. 25 of the Opinion of the EDPS on the proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the annual budget of the Union, 15.04.2011, available at: http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2011/11-04-15_Financial_Rules_EN.pdf.

²⁶ See Article 10(1) of Regulation (EC) No 45/2001 and Article 8(1) of Directive 95/46/EC.

II.2. Transparency and data protection in the Proposal

II.2.1. Weighing the different interests at stake

26. Article 24 of the Proposal foresees creating a website where information about the European political parties and foundations, including personal data of certain persons, is published. As stated it concerns names of members of a European political party (Article 24(2)) and their contributions (Article 24(f)), the names of donors and their corresponding donations (Article 24(1)(e)) and the names of (legal) representatives (Article 24(1)(a) and (b) read in conjunction with Article 4(1)(g) and (i) and Article 5(i) of the Proposal). Also information related to offences to be published (Article 24(1)(g)) might lead to the disclosure of personal data.

Names of members or donors and their contributions or donations

27. It is stated in recital 19 of the Proposal that proportionality between transparency and privacy and data protection is achieved by the fact that natural persons have to give consent for their name to be published in the members list of the party or foundation on the website.

28. The EDPS welcomes the fact that according to Article 24(2), the names of natural persons who are members of political parties will not be published without their express written consent. This acknowledges the sensitivity of such data and is in conformity with the legitimate ground for processing of sensitive personal data in Article 10(2)(a) of Regulation (EC) No 45/2001 and Article 8(1)(a) of Directive 95/46/EC. To ensure consistency and clarity in the text of the Proposal, the EDPS recommends also adding the word "written" to the text of recital 19 to align it with Article 24(2).

29. However, following Article 24(1)(f) of the Proposal, the contributions of Members will be published with their name, as long as the contribution exceeds a value of EUR 1000 per year. This provision, read together with Article 24(2), seems to imply that names of members who contribute to the political party or foundation more than EUR 1000 per year, will be disclosed anyway, despite the absence of their express written consent. The EDPS recommends clarifying this.

30. The publication of the names of donors (and their donation), as required by Article 24(1)(e), is not based on the explicit written consent of the natural persons concerned. However, here as well, the names of natural persons whose donation is equal to or below EUR 1 000 per year will not be published.

31. The purpose for disclosing the names of donors and their donation as well as the contributions of members above EUR 1000 per year is further explained in recital 15 of the Proposal: "*in order to encourage a European political culture of independence, accountability and responsibility, certain types of donations and contributions to European political parties and foundations from sources other than the budget of the EU should be prohibited or subject to limitations and reinforced transparency requirements*".

32. In recital 19 of the Proposal it is stated that information considered to be of substantial public interest, including the donors, donations and contributions, should be made publicly available as it is "the most effective means of promoting a level playing field

and fair competition between political forces, and of upholding open, transparent and democratic legislative and electoral processes, thereby strengthening the trust of citizens and voters in European representative democracy, and, more broadly, preventing corruption and abuses of power".

33. There is no doubt that the aim of the publication is in itself legitimate. However, the question is whether the requirement as it is currently provided reflects a proper balance between this aim and the interests of the persons concerned. It should be noted that under Regulation (EC) No 45/2001, if no explicit consent is requested, the only possible other ground for such disclosure of sensitive data would be for reasons of substantial public interest, subject to the provision of appropriate safeguards (see Article 10(4) of that Regulation). The same applies under Directive 95/46/EC (see Article 8(4) of that Directive²⁷).
34. In this respect, the EDPS welcomes the insertion of a threshold which seems to imply that only publication of larger donations and contributions would meet the criterion of substantial public interest. Under Article 24(1)(e) and (f), the names of donors and their corresponding donations and contributions of members are disclosed, with the exception for natural persons if the amount does not exceed a value of EUR 1 000 per year and per donor or member.
35. The option of only publishing personal data above a certain threshold was also suggested by the Court of Justice in *Schecke* in order to achieve a proper balance between the principle of transparency and the fundamental rights to privacy and personal data protection²⁸.
36. In the present situation, setting a threshold per year would indeed enable to protect people whose donations or contributions are smaller and, for this reason, are not presumed to have a (decisive) impact on the decisions of the political party or foundation.
37. However, the EDPS has questions on how the threshold of 1000 Euro per annum has been established and why not a higher threshold has been chosen. Furthermore, it is unclear whether other means to achieve transparency have been considered. In this respect, the proposal does not show that the Commission considered several options to find the one most consistent with the objective of publication, while causing the least interference with the beneficiaries' right to private life and to protection of personal data as required by the Court of Justice in *Schecke*.
38. The EDPS therefore recommends to better justify the threshold of 1000 Euro per annum in light of the *Schecke* ruling. This could be done in the recitals.

²⁷ See also special provisions in Article 10(2)(e) of Regulation 45/2001 and Article 8(2)(d) of Directive 95/46/EC on data processing "carried out in the course of its legitimate activities with appropriate safeguards by a non-profit-seeking body (...) with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members of this body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed to a third party without the consent of the data subject."

²⁸ See CJEU, *Schecke* (C-92/09 and C-93/09), [2010] ECR I-11063, paras. 79, 81, 89 and 92.

Names of (legal) representatives

39. As for the (legal) representatives of the European political party or foundation, according to Article 4(1)(g) and (i) and Article 5(i) of the Proposal, information on the party's and foundation's (legal) representation has to be included in the statute of the party or foundation and, thus, also be published in accordance with Article 24(1)(a) and (b).
40. The EDPS notes that these people have deliberately taken up a representative position in the political party or foundation. The disclosure of such information could be considered as necessary for establishing, exercising or defending legal claims towards the legal person and would thus fall within the exceptions of Article 10(2)(d) of Regulation (EC) 45/2001 and Article 8(2)(e) of Directive 95/46/EC²⁹. Still, such data remains sensitive and appropriate safeguards, e.g. by taking a proactive approach and ensuring that the persons have sufficient information about the publication of their data, should be put in place³⁰.
41. The EDPS recommends specifying in the Proposal that the obligation to provide information about the publication and processing of personal data, as provided in Article 24(3) of the Proposal for potential members and donors, applies to the potential (legal) representatives of the parties and foundations, as well.

Personal data relating to offences

42. The EDPS notes that also data relating to offences are considered to be sensitive³¹. Therefore, the data published under Article 24(1)(g) of the Proposal may also be sensitive as the details of and reasons for a decision taken pursuant to Article 22, which concerns penalties, may include personal data of persons that were involved in or who can be linked to the offences committed. That may be especially so when the European political party or foundation has been the subject of a judgement which has the force of *res judicata* for illegal activities detrimental to the financial interests of the Union as defined in the Financial Regulation³² or in case of exclusion from funding because of grave professional misconduct³³.
43. In addition, published lists of party and foundation members can also be linked to the party's or foundation's offences. Although the influence of the latter is probably limited in case of large political parties and foundations, it may have an impact for smaller parties and foundations. In the latter case, the small number of members would facilitate linking persons, based on their role and tasks in the party, to the offences, even when no specific names are mentioned in the details and reasons for the final decision. This may have a negative impact on the persons concerned, who might feel named and shamed.
44. The EDPS welcomes the requirement in Article 24(1)(g) for any such publication to have due regard to the provisions of Regulation (EC) No 45/2001. Nevertheless, the EDPS recommends clarifying in the provision the details and the form of publishing the penalties and whether it, directly or indirectly, also foresees publishing personal

²⁹ See notably the second part of those provisions.

³⁰ See also part II.2.2. of the current Opinion.

³¹ Article 10(5) of Regulation (EC) 45/2001 and Article 8(5) of Directive 95/46/EC.

³² Article 22(1) of the Proposal.

³³ Article 22(6) of the Proposal.

data of natural persons. The EDPS also recommends clarifying in a recital which provisions of Regulation (EC) 45/2001 are particularly relevant in this respect.

45. However, the EDPS is not convinced that the publication of information relating to identified or identifiable natural persons in final decisions taken by the European Parliament pursuant to Article 22 of the Proposal, is actually necessary to achieve the purposes of the Proposal. Therefore, the EDPS would recommend stating explicitly in Article 24(1)(g) that personal data shall be excluded from publication on the website.
46. As regards smaller parties, for the reasons mentioned in paragraph 39 above, the EDPS would recommend to explicitly state in Article 24(1)(g) that before deciding to disclose the final decisions taken by the European Parliament pursuant to Article 22, due account should be taken of the effect such publication may have on the members of the party or foundation concerned.
47. The EDPS wishes to note that processing of personal data relating to offences is considered to present specific risks to the rights and freedoms of data subjects and will, therefore, be subject to prior checking by the EDPS under Article 27 (1) and (2)(a) of Regulation (EC) No 45/2001.

II.2.2. Further safeguards

Information to the data subject

48. The EDPS welcomes the obligation on the European political parties and foundations in Article 24(3) of the Proposal to provide potential members and donors with the information required by Article 10 of Directive 95/46/EC and inform them that their personal data may be made public and may be processed for auditing and control purposes by the European Parliament, OLAF, the Court of Auditors, competent national authorities and external bodies or experts authorised by these in a publicly available privacy statement; and the obligation of the European Parliament to include the same information in the calls for contributions or proposals referred to in Article 13(1) in the application of Article 11 of Regulation (EC) 45/2001³⁴.
49. That obligation is in line with the proactive approach, encouraged by the EDPS, to inform the data subjects beforehand, at the time the personal data are collected, that these data might be made public³⁵.
50. The EDPS would like to note that informing the data subjects about the possibility to access, rectify and delete their data is especially important because of the consequences that not keeping the sensitive data up to date and accurate might bring about, especially when it comes to the membership of political parties.
51. The EDPS also notes that, considering that the Proposal grants European political parties and foundations a European legal statute, a reference to Article 11 of

³⁴ Article 24(3) of the Proposal.

³⁵ See, for example, para. 8 of the Opinion of the EDPS on the Financial Regulation applicable to the general budget of the European Communities (OJ C 94, 28.4.2007, p. 12-18). See also Chapter III on proactive approach of the EDPS background paper: public access to documents containing personal data after the Bavarian Lager ruling, 24.03.2011, available at: http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/EDPS/Publications/Papers/BackgroundP/11-03-24_Bavarian_Lager_EN.pdf.

Regulation (EC) 45/2001 instead of Article 10 of Directive 95/46/EC in Article 24(3) of the Proposal would be more suitable.

Duration of the publication

52. The EDPS welcomes the fact that Article 25(3) and (5) of the Proposal set a maximum time limit for storing the personal data collected (24 months after publication of the relevant parts in accordance with Article 24 of the Proposal, unless necessary for the purposes of legal or administrative proceedings).
53. However, the EDPS recommends justifying in a recital the reason why this specific period has been chosen in the light of striking a balance between the principle of transparency, and the right to protection of privacy and personal data.

Access to the published information

54. The EDPS recommends adding in Article 24 of the Proposal an obligation for the European Parliament to ensure that the information published on the Registry's website that includes personal data will only be accessible through Internet search engines if necessary for the purposes of the Proposal. Exclusion from such search engines will alleviate the impact of the publication on sensitive data by excluding, e.g. the possibility to do research on people's political opinions before hiring them or using it in another way against them while at the same time still ensuring transparency of political parties and foundation which is, in fact, the aim of the publication.

Quality of the data

55. The data quality principle³⁶ requires data to be adequate, relevant and not excessive in relation to the purposes for which they are collected. As a consequence, the data processed should be properly and frequently checked. According to Article 6(7) of the Proposal, the updated lists of members of a European political party have to be sent to the European Parliament on an annual basis. It means that the Registry of the European Parliament, as well as the website created for the purpose, can be updated no more frequently than on an annual basis, too³⁷.
56. If a person is no longer a member of a political party but is still in the list, it may have unwanted consequences to that person. Because of the sensitivity of the information and the need to have accurate data, the EDPS recommends assessing whether an annual update is sufficient to ensure the quality of the data. The EDPS recommends considering whether, at least in case of members leaving the party or foundation, an immediate notification to the Registry would not benefit the aim of data quality better.

III. CONCLUSION

57. The EDPS welcomes the approach taken by the Commission in the present Proposal, which clearly envisages to achieve transparency with due respect to the privacy and data requirements.

³⁶ Article 4(1)(c) of Regulation (EC) 45/2001 and Article 6(1)(c) of Directive 95/46/EC.

³⁷ Article 24(1)(a) of the Proposal requires updating the website within four weeks after any amendments have been notified to the European Parliament.

58. However, he recommends the following improvements:

- to clarify in recitals 22 and 23 of the Proposal in which case Regulation (EC) 45/2001 and in which case Directive 95/45/EC is applicable, and to delete or specify subparagraphs (6) to (8) of Article 25 of the Proposal since the present text merely repeats obligations under Directive 95/46/EC and Regulation (EC) No 45/2001;
- to add the word "written" to the text of recital 19 to align it with Article 24(2) and ensure consistency in the text of the Proposal;
- to clarify the publication of names of contributors of more than EUR 1000 per year under Article 24(1)(f) of the Proposal without their express written consent pursuant to Article 24(2) of the Proposal;
- to explain in the recitals, in light of the *Schecke* ruling, whether other means to achieve transparency have been considered and to better justify the chosen threshold of EUR 1000 per year for publishing the names of donors and contributors;
- to specify that the obligation to provide information about the publication and processing of personal data, as provided in Article 24(3) of the Proposal for potential members and donors, also applies to potential (legal) representatives of the parties and foundation;
- to state explicitly in Article 24(1)(g) that personal data shall be excluded from publication on the website; or at least to clarify the details and the form of publishing the penalties and whether it, directly or indirectly, also foresees publishing personal data of natural persons;
- to clarify in a recital which provisions of Regulation (EC) 45/2001 are particularly relevant in the given context;
- as regards smaller parties, to state explicitly in Article 24(1)(g) that due account should be taken on the effect such publication may have on the members of the party or foundation concerned;
- to justify in a recital the reason why the respective maximum time limit for storing personal data collected in Articles 25(3) and (5) has been chosen;
- to add in Article 24 of the Proposal an obligation for the European Parliament to ensure that the information published on the Registry's website that includes personal data will only be accessible through Internet search engines if necessary for the purposes of the Proposal;
- to assess whether an annual update of the party's and foundation's members list, as foreseen in Article 6(7) of the Proposal is sufficient to ensure the quality of the personal data;
- to consider whether, at least in the case of members leaving the party or foundation, an immediate notification to the Registry would not benefit the aim of data quality better.

59. The EDPS notes that processing of personal data relating to offences will be subject to prior checking by the EDPS under Article 27(1) and (2)(a) of Regulation (EC) No 45/2001.

Done in Brussels, 13 December 2012

(signed)

Giovanni Buttarelli
Assistant European Data Protection Supervisor