

Executive summary of the Opinion of the European Data Protection Supervisor on the Communication from the Commission on 'The Digital Agenda for Europe — Driving European growth digitally'

(The full text of this Opinion can be found in English, French and German on the EDPS website <http://www.edps.europa.eu>)

(2013/C 358/10)

I. Introduction

1.1. Consultation of the EDPS

1. On 18 December 2012, the Commission adopted a Communication on 'The Digital Agenda for Europe — Driving European growth digitally' (hereafter 'the Communication') ⁽¹⁾.

2. Before the adoption of the Communication, the EDPS was given the possibility to provide informal comments to the Commission. He welcomes that some of his comments have been taken into account in the Communication.

3. In the light of the importance of the subject, the EDPS has decided to adopt this Opinion on his own initiative.

1.2. Objectives and scope of the Communication and aim of the EDPS Opinion

4. The Communication is put forward by the Commission as part of the Europe 2020 Strategy. It complements the Digital Agenda adopted on 19 May 2010 ⁽²⁾. The objective of this new Communication on the Digital Agenda is to further strengthen European digital leadership and to help complete the Digital Single Market by 2015.

5. The Communication identifies seven key policy areas where the Commission will be deploying particular efforts to enable and stimulate the development of the digital economy:

- A European borderless economy — the Digital Single Market
- Speeding up public sector innovation
- Very fast internet supply and demand
- Cloud computing
- Trust and security
- Entrepreneurship and digital jobs and skills
- Beyond R&D&I ⁽³⁾: An industrial agenda for key enabling technologies

6. The EDPS welcomes the proposed policy actions aimed to stimulate the use of new technologies by businesses and individuals. The EDPS however underlines that these measures must be accompanied by appropriate activities to ensure the respect of data protection and privacy.

⁽¹⁾ COM(2012) 784 final.

⁽²⁾ COM(2010) 245 final.

⁽³⁾ Stands for 'Research, Development and Innovation'.

7. Some of the main data protection challenges raised in the context of the EU policy actions in the field of the Digital Agenda have already been underlined and analysed by the EDPS in his Opinion of 18 March 2010 in relation to the 2010 Communication on the Digital Agenda ⁽¹⁾. The EDPS particularly emphasised the need to embed privacy by design and privacy by default in the design of new ICT. In this Opinion, the EDPS will therefore focus on providing comments on the areas for further action identified in the Communication.

III. Conclusions

26. The EDPS welcomes that some attention has been given to privacy and data protection in the Communication. However, the EDPS underlines that data protection requirements should receive appropriate consideration from industry, Member States and the Commission when implementing initiatives foreseen in the Digital Agenda. In particular he:

- regrets that the Communication did not put any prominent emphasis in its introduction on the importance of the respect of privacy and data protection in the deployment of the actions foreseen therein. He therefore draws the attention of data controllers on the necessity to respect privacy and data protection rules in the design and deployment of new ICT for the digital environment;
- regrets that the Communication did not refer to the current data protection legal framework set forth under Directive 95/46/EC and Directive 2002/58/EC, and to the proposal for a general Data Protection Regulation, which contain the relevant rules and principles to be taken into account for the deployment of ICT in the digital environment;
- regrets that the principle of 'privacy by design', which would become a legal obligation under Article 23 of the proposed Data Protection Regulation, has not been emphasised in the Communication. He therefore reminds controllers and ICT designers of the necessity to embed privacy by design in the development of new ICT for the digital environment;
- recommends that R&D instruments are used to increase Europe's capacity to apply the principle of privacy by design in all relevant disciplines and that work programmes and calls for proposals take this objective into account;
- underlines that the interoperability of national databases should only be practiced in full respect of data protection principles, in particular purpose limitation. He furthermore reminds the Commission that there should be an appropriate legal basis for the use of interoperability as a means to facilitate data sharing, together with appropriate data protection safeguards;
- recommends consulting the EDPS before the adoption by the Commission of a Recommendation on safeguarding the open internet for consumers;
- reminds controllers and users that, while cloud computing presents specific challenges in terms of data protection, extensive guidance has been provided by data protection authorities on the application of current data protection law and by the EDPS on the impact of the proposed Data Protection Regulation on those challenges. This guidance should be relied upon in order to foster trust from individuals and from customers, which in turn will ensure the successful deployment of these new technological means.

Done at Brussels, 10 April 2013.

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European Data Protection Supervisor

⁽¹⁾ See EDPS Opinion on 'Promoting Trust in the Information Society by Fostering Data Protection and Privacy', 18 March 2010, available on EDPS website at <http://www.edps.europa.eu>