

Executive Summary of the Opinion of the European Data Protection Supervisor on the Commission Proposal for a Directive of the European Parliament and the Council on electronic invoicing in public procurement

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

(2014/C 38/05)

1. Introduction

1. On 26 June 2013, the Commission adopted a proposal for a Directive of the European Parliament and of the Council on electronic invoicing in public procurement ('the Proposal')⁽¹⁾. On 8 July 2013, the Proposal was sent to the EDPS for consultation.

2. The objective of the Proposal is to 'diminish market access barriers in cross-border public procurement, generated by insufficient interoperability of e-invoicing standards'⁽²⁾. To achieve this, a 'new, common European standard would be developed and made available for use by all market operators. Acceptance by all contracting authorities of e-invoices compliant with this standard would be required in public procurement, without replacing existing technical solutions'⁽³⁾.

3. Conclusions

28. The EDPS appreciates that certain data protection issues have been taken into account in the Proposal. In this Opinion he gives recommendations on how the Proposal could be further improved from a data protection perspective.

29. In particular, the EDPS recommends:

- including a substantive provision to clarify that the Proposal is not meant to provide for general derogations from data protection principles and that relevant personal data protection legislation (i.e. national rules implementing Directive 95/46/EC) remain fully applicable in the context of e-invoicing;
- amending Article 3(2) of the Proposal to ensure that the European standards to be adopted will follow a 'privacy by design' approach and ensure that data protection requirements are taken into account, and that the standards will respect, in particular, the principles of proportionality, data minimisation and purpose limitation;
- should it be the intention of the legislator to provide for the publication of personal data for purposes of transparency and accountability, including explicit substantive provisions that would specify what kind of personal data may be made public and for what purpose(s); alternatively, including a reference to EU or national law, which should, in turn, provide appropriate safeguards.

Done at Brussels, 11 November 2013.

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⁽¹⁾ COM(2013) 449 final.

⁽²⁾ Executive Summary of the Impact Assessment (SWD(2013) 223 final), Section 3.1, page 4.

⁽³⁾ Idem, Section 5.3.4, page 7.