

EUROPEAN DATA PROTECTION SUPERVISOR

Executive Summary of the Opinion of the European Data Protection Supervisor on the Commission Proposal for a Directive of the European Parliament and of the Council on single-member private limited liability companies

(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 390/02)

1. Introduction

1.1. Consultation of the EDPS

1. On 9 April 2014, the Commission adopted a proposal for a Directive of the European Parliament and of the Council on single-member private limited liability companies ('the Proposal')⁽¹⁾. On the same day, the Commission sent the Proposal to the EDPS for consultation.

1.2. Objective and scope of the Proposal

2. The overall objective of the Proposal is to 'make it easier for any potential company founder, and in particular for SMEs, to set up companies abroad'. To this end, the Proposal aims to 'harmonise the conditions of setting-up and operation of single-member limited liability companies'. The Proposal provides for 'the possibility of online registration, with the standard template for the articles of association, a minimum capital requirement of EUR 1, accompanied by a balance sheet test and a solvency statement.' To help ensure transparency, it also requires disclosure of certain information about the single-member company in a register accessible to the public⁽²⁾.

3. Conclusions

- We welcome the consultation of the EDPS on this Proposal and the fact that the Proposal limits the collection of data on disqualifications currently in effect, and that it specifies that information exchanges could be carried out under the IMI system.
- In the present Opinion we recommend the following further improvements:
 - A substantive provision, or at least a recital, should be added to refer to applicable data protection legislation, including 'national law implementing Directive 95/46/EC'.
 - The preamble should refer to the fact that the EDPS has been consulted.
 - The Proposal should be more explicit on what personal data may be exchanged via IMI, including whether additional information can be collected with regard to disqualifications.
 - The Proposal, in a substantive provision, should more clearly specify the documents to be made available publicly, subject to a careful assessment of proportionality, and should also specify that any publication will be made subject to data protection safeguards under national law.
 - Further, the Proposal should specify that the personal data made publicly available under the Proposal may be used for purposes of transparency and accountability and shall not be used for any incompatible purposes.

⁽¹⁾ COM(2014) 212 final.

⁽²⁾ Explanatory Memorandum, Sections 1, 2 and 3.

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- Finally, the Proposal should also require the registers/companies to ensure that technical and organisational measures are put in place to limit accessibility of the information regarding individuals (such as single-members or company representatives) after a certain period of time.

Done in Brussels, 23 July 2014.

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