

# 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 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement**

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

(2014/C 417/06)

### **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 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement ('the Proposal')<sup>(1)</sup>. The next day, the Commission sent the Proposal to the EDPS for consultation.
2. We welcome the fact that we were consulted on this Proposal prior to its adoption and that we were given the possibility to provide informal comments to the Commission. The Commission took into account several of these comments. As a result, the data protection safeguards in the proposed Directive have been strengthened. We also welcome the reference in the preamble to the consultation of the EDPS.

#### *1.2. Context, objective and scope of the Proposal*

3. In 2012, the Commission's Action Plan: European company law and corporate governance — a modern legal framework for more engaged shareholders and sustainable companies<sup>(2)</sup> provided the Commission's roadmap in this area, based on the objectives of enhancing transparency and engaging shareholders.
4. The EDPS in his letter of 27 March 2013 to the Commission<sup>(3)</sup> commented on relevant items on the Action Plan. In particular, we provided preliminary guidance with regard to data protection and privacy concerns regarding 'shareholder identification' and 'shareholder oversight of remuneration policy'.
5. The overall objective of the current Proposal, in relevant part, is to amend Directive 2007/36/EC ('Shareholders' rights Directive')<sup>(4)</sup>, which introduced minimum standards to ensure that shareholders have timely access to the relevant information ahead of the general meeting and simple means to vote at a distance and also set a number of other common requirements with regard to the rights of shareholders.

### **3. Conclusions**

34. We welcome the consultation of the EDPS on this Proposal and the fact that the Commission took into account several of our comments. As a result, the data protection safeguards in the proposed Directive have been strengthened.
35. In the present Opinion, we recommend the following further improvements:
  - A general, substantive provision should be added to refer to applicable data protection legislation, including 'national laws implementing Directive 95/46/EC'.
  - Further, the Proposal should specify the purposes of processing and should clearly provide that neither the information regarding the identity of the shareholders, nor the data on the remuneration of individual directors, shall be used for any incompatible purposes.

<sup>(1)</sup> COM(2014) 213 final.

<sup>(2)</sup> COM(2012) 740 final.

<sup>(3)</sup> Available on the EDPS website at [https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Comments/2013/13-03-27\\_Letter\\_Company\\_Law\\_EN.pdf](https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Comments/2013/13-03-27_Letter_Company_Law_EN.pdf)

<sup>(4)</sup> Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007.

- Further, the Proposal should also require companies to ensure that technical and organisational measures are put in place to limit accessibility of the information regarding individuals (such as shareholders or individual directors) after a certain period of time.
- Finally, the Proposal should require that in case the disclosure of the details of an individual director's remuneration package reveal health data or other special categories of data protected under Article 8 of Directive 95/46/EC, then the information should be redacted so as to exclude any reference to such 'more sensitive' information.

Done at Brussels, 28 October 2014.

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