

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

(2013/C 253/06)

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) ⁽¹⁾. 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) No 45/2001 and that a reference to the EDPS consultation has been included in the preamble of the Proposal.

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) ⁽²⁾. The recognition as a European political party or foundation is a precondition under the Proposal for eligibility for funding from the EU budget ⁽³⁾.

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) ⁽⁴⁾.

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 founded ⁽⁵⁾. Only those European political parties and foundations that have been recognised as such will be eligible for funding from the general budget of the EU ⁽⁶⁾.

⁽¹⁾ COM(2012) 499 final.

⁽²⁾ See OJ L 297, 15.11.2003, p. 1 and OJ L 343, 27.12.2007, p. 5.

⁽³⁾ 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.

⁽⁴⁾ 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.

⁽⁵⁾ See recitals 10 and 11 of the Proposal and p. 6 of the Explanatory Memorandum to the Proposal.

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

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 ⁽¹⁾. The transparency foreseen by the proposal includes the compulsory publication of certain personal data.

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.

58. However, he recommends the following improvements:

- to clarify in recitals 22 and 23 of the Proposal in which case Regulation (EC) No 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 1 000 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 1 000 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) No 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 lists, 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.

⁽¹⁾ See p. 6 of the Explanatory Memorandum to the Proposal.

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 at Brussels, 13 December 2012.

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