Official Journal of the European Union

C 340

English edition

Volume 60

11 October 2017

Information and Notices

Contents

EN

NOTICES FROM MEMBER STATES

V *Announcements*

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

European Commission

[1] Text with EEA relevance.

I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN COMMISSION

COMMISSION OPINION

of 3 October 2017

on the Recommendation of the European Central Bank for a Decision of the European Parliament and of the Council amending Article 22 of the Statute of the European System of Central Banks and of the European Central Bank

(2017/C 340/01)

1. INTRODUCTION

1. On 22 June 2017, the European Central Bank (ECB) submitted a Recommendation for a decision of the European Parliament and of the Council amending Article 22 of the Statute of the European System of Central Banks and of the European Central Bank (ECB/2017/18) [1]. On 12 July 2017, the Council consulted the Commission on that Recommendation.

2. The Commission's competence to deliver an opinion is based on Article 129(3) of the Treaty on the Functioning of the European Union (TFEU) and Article 40.1 of the ESCB and ECB Statute.

3. The Commission strongly welcomes the initiative of the ECB to recommend to the legislator an amendment of Article 22 of the ESCB and ECB Statute in order to allow the ECB to regulate 'clearing systems for financial instruments' for monetary policy purposes, as it complements the Commission's legislative proposal of 13 June 2017 to amend Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories [2] by adapting the legal framework applicable to the ECB. This would enable the ECB to perform fully the responsibilities being granted to the central banks of issue under the aforementioned Commission proposal as concerns clearing systems for financial instruments denominated in euro.

2. GENERAL COMMENTS

4. The Commission shares the view of the ECB that central counterparties (CCPs) are of key importance to the Union and concurs with the ECB that central clearing is becoming increasingly cross-border in nature and systemically important. Since the adoption of Regulation (EU) No 648/2012 and as a result of both market-driven and regulatory factors the volume of CCP activity in the Union and globally has grown rapidly in scale and scope. Central clearing contributes to systemic risk reduction through robust counterparty risk management, greater transparency and more efficient use of collateral. Mandatory central clearing of standardised OTC derivatives was a commitment made by G20 leaders already in 2009 and implemented in the European Union and globally. Since then the share of over-the-counter derivatives cleared centrally has increased, and that expansion is set to continue in the coming years with the introduction of additional clearing obligations for other types of instruments and the rise in voluntary clearing by counterparties not subject yet to a clearing obligation. The Commission's legislative proposal of 4 May 2017 to amend Regulation (EU) No 648/2012 in a targeted manner, to improve its effectiveness and proportionality, will create further incentives for CCPs to offer central clearing of derivatives to counterparties and facilitate access to clearing to small financial and non-financial counterparties. Moreover, clearing markets are well integrated across the Union but highly concentrated in certain asset classes and highly interconnected. But inevitably the increased share of central clearing means there is greater risk concentration in CCPs. The Commission agrees that this needs to be properly addressed and has already proposed regulatory measures to that end.

[1] OJ C 212, 1.7.2017, p. 14.
[2] OJ L 201, 27.7.2012, p. 1.

5. The Commission therefore agrees with the ECB that the increasing systemic importance of CCPs could give rise to risks that could affect clearing systems, which may have a negative bearing on the smooth operation of payment systems and the implementation of the single monetary policy, ultimately affecting the primary objective of maintaining price stability.

6. The Commission also agrees with the ECB that the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union, as notified on 29 March 2017, confronts the Union with an additional significant challenge because the requirements of Regulation (EU) No 648/2012 will no longer be applicable to CCPs established there and the amount of financial instruments denominated in currencies of the Member States which are cleared in third countries will substantially increase.

3. SPECIFIC COMMENTS

7. It is recalled that pursuant to Article 127(1) TFEU, the primary objective of the ESCB is to maintain price stability. Article 127(2) TFEU determines that the definition and implementation of monetary policy and the promotion of the smooth operation of payment systems are included among the basic tasks to be carried out through the ESCB. Those basic tasks are also recalled in Article 3(1) of the ESCB and ECB Statute. They serve the primary objective of the ESCB of maintaining price stability; hence their exercise needs to contribute to its achievement.

8. Article 22 of the ESCB and ECB Statute, headed 'Clearing and payment systems' provides that the ECB and national central banks may provide facilities and the ECB may make regulations, to ensure efficient and sound clearing and payment systems within the Union and with third countries. Article 22 is situated in Chapter IV of the ESCB and ECB Statute regarding 'Monetary functions and operations of the ESCB', together with other provisions which enable the ECB to exercise the basic tasks of the ESCB.

9. The Commission understands the ECB's recommended amendment to Article 22 of the ESCB and ECB Statute in the light of the judgment of the General Court in United Kingdom v. ECB, Case T-496/11 of 4 March 2015 [1]. The General Court held that the power to adopt regulations pursuant to Article 22 of the ESCB and ECB Statute is one of the means available to the ECB for performing the task, entrusted to the Eurosystem by Article 127(2) TFEU, of promoting the smooth operation of payment systems. That task itself serves the primary objective set out in Article 127(1) TFEU. In the same judgment the General Court also held that the term 'clearing and payment systems' that is used in Article 22 of the ESCB and ECB Statute must be interpreted in the light of the task of promoting the 'smooth operation of payment systems', hence the ability which the ECB is granted by Article 22 of the Statute to adopt regulations 'to ensure efficient and sound clearing and payment systems' should not be understood as according it such a power in respect of all clearing systems, including those relating to transactions in securities, but must rather be regarded as limited to payment clearing systems alone.

10. With its Recommendation, the ECB seeks an amendment of the scope of Article 22 of the ESCB and ECB Statute to include clearing systems for financial instruments under its regulatory competence. Such a recommended change would thus imply an extension of the ECB's regulatory powers and enable the ECB to adopt regulations regarding clearing systems for financial instruments. It should however be noted that, in accordance with Article 34.1 of the ESCB and ECB Statute, regulations can be made by the ECB only to the extent necessary to implement Article 22 of the ESCB and ECB Statute.

11. With its legislative proposal of 13 June 2017 to amend Regulation (EU) No 648/2012, the Commission seeks to strengthen the responsibilities of the central banks of issue with regard to CCPs authorised or recognised to operate in the Union. The proposal to strengthen the responsibilities of the central banks of issue is due to the potential risks that the malfunctioning of a CCP could pose to the smooth operation of payment systems and the implementation of the single monetary policy, both basic tasks of the ESCB, ultimately affecting the achievement of the primary objective of maintaining price stability. The enhanced role for the central banks of the ESCB under the Commission's legislative proposal is therefore consistent with the primary objective of the ESCB and the carrying out by the ECB of the ESCB's basic tasks.

12. In absence of an explicit reference to clearing systems for financial instruments or CCPs in the Treaty or the ESCB and ECB Statute, for the sake of legal certainty it is of the utmost importance that the ECB is clearly empowered under Article 22 of the ESCB and ECB Statute to adopt the necessary measures regarding clearing systems for financial instruments in order to achieve the objectives of the ESCB and to carry out its basic tasks. Such an empowerment is in particular necessary to enable the ECB to fully carry out the role envisaged for central banks of issue by the Commission's legislative proposal of 13 June 2017 to amend Regulation (EU) No 648/2012.

[1] ECLI: EU:T:2015:133.

13. The Commission notes that the ECB is of the opinion that it should be granted regulatory powers (recital 7 Recommendation ECB/2017/18). In that respect, the Commission recalls that its legislative proposal to amend Regulation (EU) No 648/2012 requires the central banks of issue to participate in taking (binding) decisions on a number of matters in the process of authorising Union CCPs or recognising third country CCPs as well as in the ongoing supervision of CCPs. Moreover, the Commission's legislative proposal of 13 June 2017 also takes as a basis that central banks of issue may be able to impose additional requirements on Union CCPs and systemically important third country CCPs (Tier 2 CCPs) in relation to the carrying out of their monetary policy tasks (see in particular Article 21a(2) for Union CCPs and Article 25(2b)(b); Article 25(b)(1) and (2) for third country CCPs). The latter may be interpreted as going beyond mere oversight by central banks of issue of the infrastructures of securities clearing systems, and may qualify legally as partaking in the regulation of their activity. Within the framework set forth in its legislative proposal, the Commission is therefore of the view that it is appropriate for the ECB to be empowered to take decisions and to make regulations to the extent necessary regarding clearing systems for financial instruments.

14. The new powers of the ECB regarding CCPs under Article 22 of the ESCB and ECB Statute would interact with the powers of other Union institutions, agencies and bodies on the basis of provisions relating to the establishment or functioning of the internal market provided for in Part III TFEU, including acts adopted by the Commission or by the Council pursuant to the powers conferred upon them. In the Commission's view it is paramount to clearly determine and distinguish the scope of (regulatory) powers of the different Union institutions in order to avoid parallel or conflicting rules applying to CCPs.

15. Legal acts of the European Parliament and the Council adopted on the basis of provisions relating to the establishment or functioning of the internal market provided for in Part III TFEU, including acts adopted by the Commission or by the Council pursuant to the powers conferred upon them, should establish the general legal framework for clearing systems of financial instruments and in particular for the authorisation, recognition and supervision of CCPs in Union law. While the ECB's participation in decision-making regarding Union and third country CCPs and the exercise of its regulatory powers to impose requirements on CCPs in relation to its basic tasks would be undertaken independently pursuant to Article 130 TFEU to the extent necessary to achieve the ESCB's primary objective, its newly granted responsibilities should be exercised in a manner which is consistent with the aforementioned general framework for the internal market established by the European Parliament and the Council or by the Commission or by the Council acting on the basis of such empowerments and should, where applicable, respect the institutional responsibilities and procedures set out in that framework.

16. In view of those considerations, the Commission is of the opinion that the ECB's recommended amendment to Article 22 of the ESCB and ECB Statute would benefit from further clarifications and should be rephrased to emphasise that the ECB's regulatory and decision-making powers aim at achieving the objectives of the ESCB and the performance of its basic tasks. Furthermore, the amendment should emphasise that those powers are to be exercised in a manner which is consistent with any acts adopted by the European Parliament and the Council on the basis of provisions relating to the establishment or functioning of the internal market provided for in Part III TFEU, and with delegated acts adopted by the Commission and implementing acts adopted by the Council or the Commission pursuant to the powers conferred upon them.

4. CONCLUSION

The Commission hereby issues a favourable opinion on the ECB's recommendation that Article 22 of the ESCB and ECB Statute be amended, subject to the adjustments set out in points 10-16 of this opinion.

In the annex to this opinion, the amendment proposed by the Commission is provided in a tabular form. That table should be read together with the text of this opinion.

This opinion shall be forwarded to the European Parliament and the Council.

Done at Strasbourg, 3 October 2017.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

DRAFTING PROPOSAL

Text recommended by the ECB	Amendment proposed by the Commission
Amendment	
Article 22	
'Article 22	*'Article 22*
Clearing systems and payment systems	**Payment systems and clearing systems**
The ECB and national central banks may provide facilities, and the ECB may make regulations, to ensure efficient and sound clearing and payment systems, and clearing systems for financial instruments, within the Union and with third countries.'	22.1. The ECB and national central banks may provide facilities, and the ECB may make regulations, to ensure efficient and sound clearing and payment systems within the Union and with third countries. 22.2. To achieve the objectives of the ESCB and to carry out its tasks, the ECB may make regulations regarding clearing systems for financial instruments within the Union and with third countries, consistent with acts adopted by the European Parliament and the Council and with measures adopted under such acts.'

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates [1]

10 October 2017

(2017/C 340/02)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,1797	CAD	Canadian dollar	1,4745
JPY	Japanese yen	132,55	HKD	Hong Kong dollar	9,2067
DKK	Danish krone	7,4428	NZD	New Zealand dollar	1,6688
GBP	Pound sterling	0,89410	SGD	Singapore dollar	1,6001
SEK	Swedish krona	9,5265	KRW	South Korean won	1 336,25
CHF	Swiss franc	1,1522	ZAR	South African rand	16,1484
ISK	Iceland króna		CNY	Chinese yuan renminbi	7,7609
NOK	Norwegian krone	9,3745	HRK	Croatian kuna	7,5035
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	15 912,97
CZK	Czech koruna	25,900	MYR	Malaysian ringgit	4,9783
HUF	Hungarian forint	310,65	PHP	Philippine peso	60,728
PLN	Polish zloty	4,2931	RUB	Russian rouble	68,2832
RON	Romanian leu	4,5753	THB	Thai baht	39,237
TRY	Turkish lira	4,3385	BRL	Brazilian real	3,7378
AUD	Australian dollar	1,5155	MXN	Mexican peso	21,9090
			INR	Indian rupee	76,9720

[1] *Source*: reference exchange rate published by the ECB.

EUROPEAN DATA PROTECTION SUPERVISOR

Summary of the Opinion on the proposal for a Regulation establishing a single digital gateway and the 'once-only' principle

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

(2017/C 340/03)

The Proposal is among the first EU instruments that explicitly refer to and implement the principle of 'once-only', which is aimed at ensuring that citizens and businesses are requested to supply the same information only once to a public administration, which can then re-use the information they already have. The Proposal foresees that the exchange of evidence for specified cross-border procedures (such as, for example, requesting recognition of a diploma) would be initiated by the explicit request of a user and it would take place in a technical system established by the Commission and Member States, with a built-in preview mechanism ensuring transparency towards the user.

The EDPS welcomes the Commission's proposal to modernise administrative services and appreciates their concerns for the impact this Proposal may have on the protection of personal data. The Opinion is issued upon the specific request of both the Commission and of the Parliament. It is also inspired by the priorities of the Estonian Presidency of the Council, which specifically includes 'digital Europe and the free movement of data'.

In addition to providing specific recommendations to further improve the quality of legislation, the EDPS also wishes to seize this opportunity to provide an introductory overview of key issues related to the 'once-only' principle in general, although many such concerns are not necessarily borne out by the Proposal in its present form. These relate, in particular, to the legal basis of the processing, purpose limitation, and data subject rights. The EDPS stresses that in order to ensure successful implementation of EU-wide 'once-only', and enable lawful cross-border exchange of data, 'once-only' must be implemented in line with relevant data protection principles.

With regard to the Proposal itself, the EDPS supports the efforts made to ensure that individuals remain in control of their personal data, including by requiring 'an explicit request of the user' before any transfer of evidence between competent authorities and by offering the possibility for the user to 'preview' the evidence to be exchanged. He also welcomes the amendments to the IMI Regulation that confirm and update the provisions on the coordinated supervision mechanism foreseen for IMI and would also enable the European Data Protection Board ('EDPB') to benefit from the technical possibilities offered by IMI for information exchange in the context of the General Data Protection Regulation (GDPR).

The Opinion provides recommendations on a range of issues, focusing on the legal basis for the cross-border exchange of evidence, purpose limitation, and the scope of the 'once-only principle' as well as practical concerns surrounding user control. Key recommendations include clarifying that the Proposal does not provide a legal basis for using the technical system for exchanging information for purposes other than those provided for in the four directives listed or otherwise foreseen under applicable EU or national law, and that the Proposal does not aim to provide a restriction on the principle of purpose limitation under the GDPR; as well as clarifying a range of issues relating to the practical implementation of user control. With regard to the amendments to the IMI Regulation, the EDPS recommends adding the GDPR to the Annex of the IMI Regulation to allow the potential use of IMI for the purposes of data protection.

1. INTRODUCTION AND BACKGROUND

On 2 May 2017, the European Commission ('Commission') adopted a Proposal for a Regulation of the European Parliament and of the Council on establishing a single digital gateway to provide information, procedures, assistance and problem solving services and amending Regulation (EU) No 1024/2012 ([1]) ('Proposal').

([1]) Proposal for a Regulation of the European Parliament and of the Council on establishing a single digital gateway to provide information, procedures, assistance and problem solving services and amending Regulation (EU) No 1024/2012, COM(2017) 256 final, 2017/0086 (COD) (henceforth, the Proposal).

The aim of the Proposal is to facilitate citizens' and businesses' cross-border activities by offering them user-friendly access, through a single digital gateway, to information, procedures and assistance and problem-solving services they need for exercising their internal market rights. In this respect, this Proposal represents an important initiative in the Commission's journey to develop a deeper and fairer internal market as well as a Digital Single Market ([1]).

Articles 4 to 6 of the Proposal outline the 'gateway services' offered by the single digital gateway. These closely mirror the title of the Proposal itself and include:

— access to information,

— access to procedures and

— access to assistance and problem solving services.

It is also notable that the Proposal, in its Article 36, seeks to amend several provisions of Regulation (EU) No 1024/2012 (the 'IMI Regulation') ([2]), which establishes the legal basis for the operation of the Internal Market Information System ('IMI') ([3]).

The Proposal is among the first EU instruments that explicitly refer to and implement the principle of 'once-only' ([4]). The Proposal refers to the notion of once-only and its benefits by explaining that 'citizens and businesses should not have to supply the same information to public authorities more than once for the cross-border exchange of evidence' ([5]). The Proposal foresees that the exchange of evidence for specified procedures would be initiated by the request of a user and it would take place in the technical system established by the Commission and Member States ([6]) (for further details, see Section 3 below).

This Opinion is in response to a request of the Commission and a subsequent separate request of the European Parliament ('Parliament') to the European Data Protection Supervisor ('EDPS'), as an independent supervisory authority, to provide an opinion on the Proposal. The EDPS welcomes that he has been consulted by both institutions. The Opinion follows an informal consultation by the Commission of the EDPS prior to the adoption of the Proposal.

The EDPS takes note and welcomes the Commission's proposal to modernise administrative services by facilitating the availability, quality and accessibility of information across the European Union. He also highlights, in particular, that the 'once-only' principle could contribute towards these goals, subject to compliance with applicable data protection law and respect for the fundamental rights of individuals.

The EDPS appreciates the Commission's and Parliament's concerns for the impact this Proposal may have on the protection of personal data. He welcomes that many of his informal comments have been taken into account. In particular, he supports:

— the efforts made to ensure that individuals remain in control of their personal data, including by requiring 'an explicit request of the user' before any transfer of evidence between competent authorities (Article 12(4)), and by offering the possibility for the user to 'preview' the evidence to be exchanged (Article 12(2)(e));

— the efforts made to define the material scope of application for the principle of 'once-only' (Article 12(1)); and

— the explicit requirement of using anonymous and/or aggregate data for collection of relevant user feedback and statistics (Articles 21-23);

— moreover, he welcomes the proposed amendment of the IMI Regulation which confirms and updates the provisions on coordinated supervision mechanism foreseen for IMI in order to ensure a consistent and coherent approach (Article 36(6)(b);

([1]) Explanatory memorandum to the Proposal, p. 2.

([2]) Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (the 'IMI Regulation') (OJ L 316, 14.11.2012, p. 1).

([3]) See also EDPS Opinion of 22 November 2011 on the Commission Proposal for a Regulation of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System ('IMI') available at https://edps.europa.eu/sites/edp/files/publication/11-11-22_imi_opinion_en.pdf

([4]) See also Article 14 of the Proposal for a Directive of the European Parliament and Council on the legal and operational framework of the European services e-card introduced by Regulation… [ESC Regulation], COM(2016) 823 final, 2016/0402(COD).

([5]) Recital 28 of the Proposal.

([6]) Article 12(1) and (4) of the Proposal.

— finally, more general provisions showing commitment to ensuring the respect for the fundamental rights of individuals, including the right to protection of personal data, such as those in recitals 43 and 44 and Article 29 are also welcome.

The purpose of this Opinion is to provide specific recommendations to address remaining data protection concerns and thereby further improve the quality of legislation (see Section 3 below). Of the three gateway services listed above, this Opinion will focus on 'access to procedures' (Article 5) and in particular, the provisions relating to the 'cross-border exchange of evidence between competent authorities' under Article 12, as these are most relevant for the protection of personal data. The remainder of the Proposal (including its provisions on access to information and access to assistance and problem-solving services) raises fewer relevant concerns. Further, the EDPS also briefly comments on selected amendments to the IMI Regulation.

In addition, the EDPS wishes to seize this opportunity to provide an introductory overview of key issues related to the 'once-only' principle in general, although many such concerns are not necessarily borne out by the Proposal in its present form (see Section 2 below).

4. **CONCLUSIONS**

The EDPS welcomes the Commission's proposal to modernise administrative services by facilitating the availability, quality and accessibility of information across the European Union and appreciates the Commission's and Parliament's consultation and concerns for the impact this Proposal may have on the protection of personal data.

In addition to providing specific recommendations to further improve the quality of legislation, he also wishes to seize this opportunity to provide an introductory overview of key issues related to the 'once-only' principle in general, although many such concerns are not necessarily borne out by the Proposal in its present form. These relate, in particular to:

— the legal basis for the processing,

— purpose limitation

— and data subject rights.

The EDPS stresses that in order to ensure successful implementation of EU-wide 'once-only', and enable lawful cross-border exchange of data, once-only must be implemented in line with relevant data protection principles.

With regard to the Proposal itself, the EDPS supports:

— the efforts made to ensure that individuals remain in control of their personal data, including by requiring 'an explicit request of the user' before any transfer of evidence between competent authorities (Article 12(4)), and by offering the possibility for the user to 'preview' the evidence to be exchanged (Article 12(2)(e)); and

— the efforts made to define the material scope of application for the principle of 'once-only' (Article 12(1));

— moreover, he welcomes the proposed amendment of the IMI Regulation which confirms and updates the provisions on coordinated supervision mechanism foreseen for IMI in order to ensure a consistent and coherent approach (Article 36(6)(b);

— he also welcomes the inclusion of EU bodies in the definition of IMI actors in the Proposal, which may help enable the European Data Protection Board ('EDPB') to benefit from the technical possibilities offered by IMI for information exchange.

With regard to the legal basis of the processing, the EDPS recommends that one or more recitals be added to clarify that:

— the Proposal itself does not provide a legal basis for exchanging evidence, and that any exchange of evidence under Article 12(1) must have an appropriate legal basis elsewhere, such as in the four directives listed in Article 12(1) or under applicable EU or national law;

— the legal basis for the use of the technical system specified in Article 12 for the exchange of evidence is performance of a task in the public interest under Article 6(1)(e) of the GDPR; and that

— users have the right to object to the processing of their personal data in the technical system pursuant to Article 21(1) of the GDPR.

With regard to purpose limitation, the EDPS recommends that one or more recitals be added to clarify that:

— the Proposal does not provide a legal basis for using the technical system for exchanging information for purposes other than those provided for in the four directives listed or otherwise foreseen under applicable EU or national law;

— and that the Proposal does not in any way aim to provide a restriction on the principle of purpose limitation pursuant to Articles 6(4) and 23(1) of the GDPR.

On the notion of 'explicit request', the EDPS recommends that the Proposal clarify (preferably in a substantive provision):

— what makes the request 'explicit' and how specific the request must be;

— whether the request can be submitted via the technical system referred to in Article 12(1);

— what are the consequences if the user chooses not to make an 'explicit request', and

— whether such request can be withdrawn. (For specific recommendations, see Section 3.3 above).

In relation to the issue of 'preview', the EDPS recommends that:

— the Proposal clarify what are the choices for the user who avails herself of the possibility to 'preview' the data to be exchanged;

— in particular, Article 12(2)(e) should clarify that the user is offered a possibility of preview in a timely manner before the evidence is made accessible to the recipient; and can withdraw the request for the exchange of the evidence (see also our related recommendations on 'explicit requests');

— this can be done, for example, by inserting the words at the end of the sentence in Article 12(2)(e): 'before it is made accessible to the requesting authority, and may withdraw the request at any time').

With regard to the definition of evidence and the range of online procedures covered, the EDPS recommends:

— replacing the reference to Article 2(2)(b) in Article 3(4) by reference to Article 12(1) or providing another legislative solution that would result in a similar effect;

— the EDPS also emphasises that he welcomes the efforts made in the Proposal to limit the information exchange to the online procedures listed in Annex II and the four specifically listed directives;

— therefore, he recommends that the scope of the Proposal remain clearly defined and continue to include Annex II and the references to the four specifically listed directives.

Finally, the EDPS recommends:

— adding the GDPR to the Annex of the IMI Regulation to allow the potential use of IMI for the purposes of data protection; and

— adding data protection supervisory authorities to the list of assistance and problem solving services listed in Annex III.

Done at Brussels, 1 August 2017.

Giovanni BUTTARELLI

European Data Protection Supervisor

NOTICES FROM MEMBER STATES

Communication from the French Government concerning Directive 94/22/EC of the European Parliament and of the Council on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons [1]

Notice concerning a request to extend a concession to extract liquid and gaseous hydrocarbons, designated the 'Nonville concession'

(Text with EEA relevance)

(2017/C 340/04)

In a request dated 16 December 2016, which was concluded on 13 March 2017, the BridgeOIL SAS company (49 rue Arsène et Louis Lambert, 86100 Châtellerault, France) applied for the extension of its concession to extract conventional liquid and gaseous hydrocarbons, designated the 'Nonville concession', located in the territory of the municipalities of Darvault, Nemours, Nonville, and Treuzy-Levelay in the Department of Seine-et-Marne.

The perimeter of the area, with an area of approximately 12,71 km², is demarcated by the straight lines connecting the vertices defined below:

Vertex	NTF meridian, origin Paris		RGF93 meridian, origin Greenwich	
	Longitude East	Latitude North	Longitude East	Latitude North
A	0,450 GR	53,670 GR	2°44′30″	48°18′10″
B	0,470 GR	53,670 GR	2°45′34″	48°18′10″
C	0,470 GR	53,680 GR	2°45′34″	48°18′43″
D	0,510 GR	53,680 GR	2°47′44″	48°18′43″
E	0,510 GR	53,650 GR	2°47′44″	48°17′06″
F	0,500 GR	53,650 GR	2°47′12″	48°17′06″
G	0,500 GR	53,627 GR	2°47′12″	48°15′51″
H	0,485 GR	53,627 GR	2°46′23″	48°15′51″
I	0,485 GR	53,622 GR	2°46′23″	48°15′35″
J	0,470 GR	53,622 GR	2°45′34″	48°15′35″
K	0,470 GR	53,624 GR	2°45′34″	48°15′42″
L	0,466 GR	53,624 GR	2°45′21″	48°15′42″
M	0,466 GR	53,627 GR	2°45′21″	48°15′51″
N	0,429 GR	53,627 GR	2°43′22″	48°15′51″
O	0,429 GR	53,634 GR	2°43′22″	48°16′14″
P	0,421 GR	53,634 GR	2°42′56″	48°16′14″
Q	0,421 GR	53,646 GR	2°42′56″	48°16′53″
R	0,428 GR	53,646 GR	2°43′18″	48°16′53″

[1] OJ L 164, 30.6.1994, p. 3.

Vertex	NTF meridian, origin Paris		RGF93 meridian, origin Greenwich	
	Longitude East	Latitude North	Longitude East	Latitude North
S	0,428 GR	53,649 GR	2°43′18″	48°17′03″
T	0,432 GR	53,649 GR	2°43′31″	48°17′03″
U	0,432 GR	53,653 GR	2°43′31″	48°17′16″
V	0,435 GR	53,653 GR	2°43′41″	48°17′16″
W	0,435 GR	53,655 GR	2°43′41″	48°17′22″
X	0,450 GR	53,655 GR	2°44′30″	48°17′22″

Submission of applications and criteria for awarding rights

The initial applicants and competing applicants must prove that they meet the requirements for obtaining the licence, as specified in Articles 4 and 5 of Decree No 2006-648 of 2 June 2006 concerning mining rights and underground storage rights (*Official Journal of the French Republic*, 3 June 2006).

Interested companies may, within 90 days of the publication of this notice, submit a competing application in accordance with the procedure summarised in the 'Notice regarding the granting of mining rights for hydrocarbons in France', published in the *Official Journal of the European Communities* C 374 of 30 December 1994, page 11, and established by Decree No 2006-648 of 2 June 2006, mentioned above.

Competing applications must be sent to the Ministry for Ecological and Inclusive Transition at the address given below. Decisions on the initial application and competing applications will be taken by 27 January 2020 at the latest.

Conditions and requirements regarding performance of the activity and cessation thereof

Applicants are referred to Articles L161-1 and L161-2 of the French Mining Code, and to Decree No 2006-649 of 2 June 2006 on mining and underground storage operations and the regulations governing mining and underground storage (*Official Journal of the French Republic*, 3 June 2006).

Further information can be obtained from the Office of Subsoil Energy Resources at the Ministry for Ecological and Inclusive Transition (Tour Séquoia, 1 place Carpeaux, 92800 Puteaux, France, tel. +33 140819527).

The abovementioned laws and regulations can be consulted on the Légifrance website: http://www.legifrance.gouv.fr

Communication from the Government of the Republic of Poland concerning Directive 94/22/EC of the European Parliament and of the Council on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons in the 'Lelików' area

(2017/C 340/05)

This procedure concerns the granting of a concession for the prospection or exploration of the 'Lelików' natural gas deposit, located in the municipalities of Cieszków and Milicz, in Dolnośląskie province:

Name	PL-1992 coordinate system	
	X	Y
Lelików	413 340,09	387 890,42
	414 099,85	390 405,72
	412 230,65	391 534,72
	411 773,93	390 022,65
	411 841,09	388 795,82

Applications must cover the above area.

Concession applications must be submitted to the Ministry of the Environment no later than 12:00 noon (CET/CEST) on the last day of the 91-day period commencing on the day following the date of publication of this notice in the *Official Journal of the European Union*.

Applications received will be assessed on the basis of the following criteria:

(a) the technology proposed for the work (40 %);

(b) the applicant's technical and financial capacities (50 %);

(c) the fee proposed for the establishment of mining usufruct rights (10 %).

The minimum fee for the establishment of mining usufruct rights for the 'Lelików' area is:

(1) for prospection of natural gas deposits:

— during the three-year base period: PLN 10 000,00 per year,

— for the fourth and fifth years of validity of the mining usufruct contract: PLN 10 000,00 per year,

— for the sixth and subsequent years of validity of the mining usufruct contract: PLN 10 000,00 per year;

(2) for exploration of natural gas deposits:

— during the three-year base period: PLN 20 000,00 per year,

— for the fourth and fifth years of validity of the mining usufruct contract: PLN 20 000,00 per year,

— for the sixth and subsequent years of validity of the mining usufruct contract: PLN 20 000,00 per year;

(3) for prospection and exploration of natural gas deposits:

— during the five-year base period: PLN 30 000,00 per year,

— for the sixth, seventh and eighth years of validity of the mining usufruct contract: PLN 30 000,00 per year,

— for the ninth and subsequent years of validity of the mining usufruct contract: PLN 30 000,00 per year.

The application evaluation procedure will be completed within a period of six months following the deadline for submitting applications. Applicants will receive written notification of the outcome of this procedure.

Applications must be drawn up in Polish.

The licensing authority will grant the concession for the prospection or exploration of natural gas deposits to the successful applicant after taking account of the opinion of the relevant authorities, and will conclude a mining usufruct contract with that applicant.

In order to be able to carry out activities involving the prospection or exploration of hydrocarbon deposits in Poland, an operator must hold both mining usufruct rights and a concession.

Applications should be sent to the following address:

Ministerstwo Środowiska (Ministry of the Environment)
Departament Geologii i Koncesji Geologicznych (Geology and Geological Concessions Department)
ul. Wawelska 52/54
00-922 Warszawa
POLSKA/POLAND

Information may be obtained from:

— the website of the Ministry of the Environment: www.mos.gov.pl

— the Geology and Geological Concessions Department
Ministry of the Environment
ul. Wawelska 52/54
00-922 Warszawa
POLSKA/POLAND

Tel. +48 223692449
Fax +48 223692460
Email: dgikg@mos.gov.pl

Commission notice pursuant to Article 16(4) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community

Public service obligations in respect of scheduled air services

(Text with EEA relevance)

(2017/C 340/06)

Member State	Spain
Routes concerned	Gran Canaria-Tenerife Sur Gran Canaria-El Hierro Tenerife Norte-La Gomera Gran Canaria-La Gomera
Reopening date of the PSO route to Community air carriers	1 August 2018
Address where the text and any other information or documentation related to the public service obligations can be obtained	Ministerio de Fomento Dirección General de Aviación Civil Subdirección General de Transporte Aéreo Paseo de la Castellana 67 28071 Madrid MADRID ESPAÑA Tel. +34 915977505 Fax +34 915978643 Email: osp.dgac@fomento.es

The routes subject to public service obligations may be operated on the basis of free competition access as from 1 August 2018. In the event that no air carrier submits a program of services compliant with the public service obligations imposed, access will be restricted to a single air carrier through the corresponding public tender procedure, in accordance with Article 16(9) of Regulation (EC) No 1008/2008.

Commission notice pursuant to Article 16(4) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community

Public service obligations in respect of scheduled air services

(Text with EEA relevance)

(2017/C 340/07)

Member State	Spain
Route concerned	Almeria-Seville
Reopening date of the PSO route to Community air carriers	1 August 2018
Address where the text and any other information or documentation related to the public service obligations can be obtained	Ministerio de Fomento Dirección General de Aviación Civil Subdirección General de Transporte Aéreo Paseo de la Castellana 67 28071 Madrid MADRID ESPAÑA Tel. +34 915977505 Fax: +34 915978643 Email: osp.dgac@fomento.es

The route subject to public service obligations may be operated on the basis of free competition access as from 1 August 2018. In the event that no air carrier submits a programme of services compliant with the public service obligations imposed, access will be restricted to a single air carrier through the corresponding public tender procedure, in accordance with Article 16(9) of Regulation (EC) No 1008/2008.

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case M.8627 — GETEC/Briva/JV)

Candidate case for simplified procedure

(Text with EEA relevance)

(2017/C 340/08)

1. On 3 October 2017 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ([1]).

This notification concerns the following undertakings:

— GETEC Wärme und Effizienz AG ('GETEC', Germany), controlled by EQT Fund Management SARL (Luxembourg) and GETEC Energy Holding GmbH (Germany),

— Briva Group B.V. ('Briva', the Netherlands), controlled by the Ten Brinke Group B.V. (the Netherlands),

— Joint Venture ('JV', Germany).

GETEC and Briva acquire within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation joint control over JV.

The concentration is accomplished by way of a purchase of shares and by way of contract of management or any other means in a newly created company constituting a joint venture.

2. The business activities of the undertakings concerned are:

— for GETEC: provision of energy contracting services in Germany,

— for Briva: project development, construction, sale or lease of residential, commercial and industrial real estate to mainly strategic investors in Germany and the Netherlands.

The JV will be active in the conception, development, operation and maintenance of energy generation and distribution systems and the provision of energy contracting services for buildings customised to individual needs of the customers, related measures to increase energy efficiency and development of new business models.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved.

Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the Council Regulation (EC) No 139/2004 ([2]) it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

([1]) OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').
([2]) OJ C 366, 14.12.2013, p. 5.

Observations must reach the Commission not later than 10 days following the date of this publication. The following reference should always be specified:

M.8627 — GETEC/Briva/JV

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu

Fax +32 22964301

Postal address:

European Commission
Directorate-General for Competition
Merger Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office of the European Union
2985 Luxembourg
LUXEMBOURG

EN