

Insolvency proceedings. Recast

2012/0360(COD) - 27/03/2013 - Document attached to the procedure

Opinion of the European Data Protection Supervisor on the Commission proposal for a Regulation amending Council Regulation (EC) No 1346/2000 on insolvency proceedings.

The proposed Regulation amends the Insolvency Regulation in order to cope with weaknesses revealed in its practical application.

Amongst the measures proposed that will impact data protection, the Proposal provides for a mandatory publication of the decisions opening or closing a proceeding and encourages and organises cross-boarder exchanges of information between stakeholders. Information thus published and/or exchanged may identify (either directly or indirectly) debtors, creditors, and liquidators involved in the proceeding. Therefore, EU data protection legislation applies.

The EDPS recommends that:

- concrete and effective data protection safeguards are put in place for any situation in which personal data processing is envisaged;
- the necessity and the proportionality of the proposed system for the Internet publication of decisions opening and closing insolvency proceedings is assessed. Subject to the outcome of this proportionality test, the publication obligation should in any event be supported by adequate safeguards to ensure full respect of the rights of the persons concerned, the security/accuracy of the data and their deletion after an adequate period of time;
- the modalities of the functioning of national databases and the EU database with regard to data protection issues are clarified by introducing more detailed provisions in the proposed Regulations, in compliance with Directive 95/46/EC and Regulation (EC) No 45/2001;
- it is specified whether any data will be stored in the e-Justice portal. If this is the case, specific safeguards should be added.