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NOTE

From:	Presidency
To:	Delegations
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on integrated farm statistics and repealing Regulations (EC) No 1166/2008 and (EU) No 1337/2011 - <i>Recital 16a and Article 12a in the Presidency text (data protection)</i>

1. On 15 March 2017, the Council requested the European Data Protection Supervisor (EDPS) to submit as soon as possible an opinion on the above mentioned proposal.
2. Pending the submission of the opinion of the EDPS, the Working Party on Statistics has proceeded with the examination of the proposal, which has resulted in a Presidency text (doc. 12199/17), the finalisation of which is expected to take place on 28 September.
3. The European Parliament is expected to adopt its first-reading amendments in the course of October and the two institutions are planning to enter into trilogue negotiations by November.

4. The Presidency text as it stands has included in Recital 16a and Article 12a new text on data protection (Annex). Delegations are informed that, in addition to the pending EDPS opinion on the Commission's proposal as a whole, the Presidency suggests that the Council also consults the EDPS on the new text in Recital 16a and 12a.
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Proposal for a Regulation of the European Parliament and of the Council on integrated farm statistics and repealing Regulations (EC) No 1166/2008 and (EU) No 1337/2011.

Commission's proposal		Presidency's text	State of play
(16)	Any processing of personal data under this Regulation is subject to Directive 95/46/EC and its national implementing provisions, and/or Regulation 45/2001, as the case may be.	Any processing of personal data under this Regulation is subject to Directive 95/46/EC and its national implementing provisions, and/or Regulation 45/2001, as the case may be.	
		<p>(16a) The production of national and Union statistics requires collection of personal data that are kept in personal form until they are further processed for creating aggregated statistics. In the light of the specific features of the statistical processes leading to the production of statistics in the public interest, the application of the right of access by the data subject, the right to rectification, the right to restriction of processing and the right to object set out in Articles 15, 16, 18 and 21 of Regulation (EU) 2016/679 should be excluded where national statistical institutes process statistical data in public interest in accordance with Article 338 TFEU and Regulation (EC) No 223/2009.</p> <p>The production of Union statistics is necessary for the performance of the activities of the Union and is based on statistical principles, in particular the principle of objectivity, reliability, cost-effectiveness and statistical quality, including timeliness. Application of certain rights set out in Regulation (EU) 2016/679 would render the production of</p>	

		<p>Union statistics impossible or would seriously impair the production of such statistics in line with applicable statistical principles. More particularly, granting an access to personal data in all circumstances would be technically extremely difficult given that personal data relating to a particular data subject are dissociated from the identification of the data subject. As a result, statistical files contain pseudonymised data only and, in most cases, only a limited number of variables. Furthermore, access to statistical files containing personal data is granted only to a limited number of staff of the national statistical institutes, is restricted for the purpose of completing a concrete task in question and the staff concerned is bound by statistical confidentiality rules the violation of which is subject to sanctions. Consequently, the re-linking of data to a particular national identification number would in most cases require a linking of a large number of statistical files into which those data have been previously dissociated. It would also require keeping track of the original format in which data records have been received.</p> <p>Consequently, it is necessary, for the fulfilment of the purpose of producing Union statistics, to provide for a derogation from the application of the right of access as well as to the right to rectification. For the same reasons, it is necessary to provide such derogation from the application of the right to restriction of processing and the right to object as the exercise of such rights would equally necessitate such re-linking of data to a particular data</p>	
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		<p>subject. Moreover, the exercise of the latter rights, especially when exercised by a large number of data subjects, would defeat the purpose of the production of Union statistics, more particularly as regards their representativeness and reliability.</p> <p>The processing of the personal data for the purpose of production of national and, consequently, Union statistics produced in accordance with Article 338 TFEU and Regulation (EC) No 223/2009 should be subject to appropriate safeguards which require that the personal data should only be used for statistical purposes and should not be used for taking measures or decisions regarding any particular data subject, should be subject to pseudonymisation or other appropriate safeguards. Furthermore, the requirement of statistical confidentiality should apply. This requirement is laid down in Article 338(2) TFEU and in Regulation (EC) No 223/2009 and is further elaborated in the European statistics Code of Practice, adopted in accordance with Article 11 of that Regulation, in particular as regards physical, technological and organisational measures to ensure statistical confidentiality.</p>	
		<p><i>Article 12a</i></p> <p>Data protection</p>	Agreed in principle
		<p>1. Where personal data are processed by national statistical institutes and/or other national authorities in the public interest for the statistical purposes falling within the scope of this Regulation and are kept in a form which permits identification of data subjects for no longer than is necessary for the sole purpose of creating</p>	Agreed in principle

		Union statistics, the rights referred to in Articles 15, 16, 18 and 21 of Regulation (EU) 2016/679 shall not apply in accordance with Article 89(2) of Regulation (EU) 2016/679.	
		2. The personal data referred to in paragraph 1 shall only be used for statistical purposes, shall not be used for taking measures or decisions regarding any particular data subject, shall be subject to pseudonymisation or other appropriate safeguards within the meaning of Article 89(1) of Regulation (EU) 2016/679 and shall comply with the requirements of statistical confidentiality laid down in Regulation (EC) No 223/2009.	Agreed in principle
