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INFORMATION NOTE

From: Legal Service

To: Permanent Representatives Committee (Part 2)

Subject: Case before the General Court of the European Union:

- T-319/24 - Application for annulment of the EDPB's "Opinion 08/2024 on Valid Consent in the Context of Consent or Pay Models Implemented by Large Online Platforms"
- Plea challenging the legality and applicability of Article 64(2) GDPR

REDACTED DOCUMENT ACCESSIBLE TO THE PUBLIC (03.10.2024).
ONLY MARGINAL PERSONAL DATA HAVE BEEN REDACTED.

1. By application notified to the Council on 3 July 2024, the applicant seeks the annulment of the "Opinion 08/2024 on Valid Consent in the Context of Consent or Pay Models Implemented by Large Online Platforms" of the European Data Protection Board (EDPB) adopted on 17 April 2024 as well as compensation for the damages caused by the Contested Opinion.

2. Amongst seven pleas in law in support of its application for annulment, the Applicant raises a plea challenging the legality of Article 64(2) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, “GDPR”)¹. The Applicant contends that Article 64(2) GDPR violates the *Meroni* and *Romano* principles, Articles 41 and 47 of the Charter of Fundamental Rights of the European Union (“Charter”), and Article 6 of the European Convention of Human Rights (“ECHR”) and that, for that reason, it is unlawful and thus invalid.
3. In order to defend the validity of Article 64(2) GDPR, the Council should intervene in this case. To that end, the Director-General of the Council Legal Service has appointed **DELETED** and **DELETED**, legal advisors in the Council Legal Service, as the Council's agents in this case.
4. The agents will present, on behalf of the Council, an application to intervene pursuant to Articles 53 and 40 of the Statute of the Court of Justice and Article 143 of the Rules of Procedure of the General Court. In accordance with the Council's practice, the Council agents will limit their arguments to the defence of the validity of Article 64(2) GDPR and will not intervene on other pleas of law.

¹ OJ L 119, 4.5.2016, p. 1.