Council of the European Union

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SUMMARY RECORD

PERMANENT REPRESENTATIVES COMMITTEE

21, 23 and 26 October 2026

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COREPER (PART 1)

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COREPER (PART 2)

Statements to the "II" items set out in doc. 14633/26

General Affairs

29. Simplification of administrative burdens in environmental legislation (Omnibus VIII): Regulation on authorised representative for extended producer responsibility
Mandate for negotiations with the European Parliament

DELETED

C 14510/26

PUBLIC

General Affairs

30. Omnibus VII: Regulation on simplification of the digital legislative framework (Digital Omnibus) 14532/26
Mandate for negotiations with the European Parliament

Statement by Germany

1. ”Deutschland setzt sich seit Beginn der Verhandlungen zum Digital Omnibus für ambitionierte Anpassungen der europäischen Digitalgesetzgebung ein, um spürbare Verbesserungen und Vereinfachungen zu erreichen, insb. für KMU, SMCs, Start-Ups, Wissenschaft und Forschung, öffentliche Stellen und Ehrenamt – unter Wahrung des Schutzniveaus der KI-VO und der DSGVO. Deutschland unterstützt auch das Ziel, sämtliche Omnibus-Verfahren zügig abzuschließen. Gleichzeitig vertreten wir die Auffassung, dass dies weder zulasten von Qualität noch Ambition gehen darf. Zuletzt hat der Bundeskanzler diese Ambition beim Europäischen Rat am 15.10.2026 unterstrichen. Der von der Ratspräsidentschaft zuletzt vorgelegte Text bleibt vor diesem Hintergrund hinter dem Ambitionsanspruch Deutschlands zurück.
2. Deutschland erkennt an, dass die Ratspräsidentschaft in einigen Bereichen den deutschen Forderungen entgegengekommen ist. Gleichwohl reicht der gegenwärtige Vorschlag aus unserer Sicht nicht aus, die gewünschten Vereinfachungen und Entlastungen zu erreichen, mithin die Wettbewerbsfähigkeit der EU spürbar zu verbessern und bestehende Rechtsunsicherheit zu beseitigen.
3. Deutschland hat in den Ratsverhandlungen wiederholt seine Kernforderungen dargelegt:
   - Trotz der Änderungen im jüngsten, von der Ratspräsidentschaft überarbeiteten Kompromisstext sehen wir weiterhin Handlungsbedarf, um den Schutz von Geschäftsgeheimnissen im Data Act substanziell zu stärken. Bestimmte Geschäftsgeheimnisse stellen strategische Schlüsselwerte der europäischen Industrie dar, insbesondere im Hinblick auf die Aufrechterhaltung von Investitionsanreizen für industrielle KI und datengestützte Innovationen. Vor diesem Hintergrund schlagen wir vor, dass Geschäftsgeheimnisse grundsätzlich nicht offengelegt werden müssen.
   - Für die künftige Wettbewerbsfähigkeit Europas ist es entscheidend, dass europäische Unternehmen KI im Einklang mit der DSGVO entwickeln und betreiben können, ohne dabei die berechtigten Interessen Dritter zu vernachlässigen. Wir begrüßen es, dass die irische Ratspräsidentschaft wieder eine Bestimmung zu KI in Art. 88bis aufgenommen hat. Was wir jedoch fordern, ist eine echte Rechtsgrundlage für die Entwicklung und das Training von KI – wobei vermutet werden soll, dass Training und der Betrieb von KI ein berechtigtes Interesse darstellen – sowie entsprechende Änderungen an Artikel 9. Wir verweisen auf den deutschen Vorschlag, der Ausnahmen im Hinblick auf die berechtigten Interessen Dritter vorsieht und durch einen Erwägungsgrund ergänzt werden müsste.
   - Hinsichtlich ePrivacy/Cookies ist aus unserer Sicht eine Folgenabschätzung erforderlich, die sowohl die Prüfung der „Whitelist“ als auch der nunmehr viermonatigen Wartefrist umfasst. Die Whitelist sollte strikt begrenzt sowie klar, präzise und rechtssicher ausgestaltet sein. Im Bereich der Reichweitenmessung plädieren wir für unseren kombinierten und weniger bürokratischen Vorschlag. Zudem plädieren wir für eine noch stärkere Verkürzung der Frist auf drei Monate bei gleichzeitiger Einführung klarerer Kriterien dafür, wann Anbieter bereits zu einem früheren Zeitpunkt erneut um Zustimmung bitten dürfen. Dies sollte im Regelungstext erfolgen und ist insbesondere für Mediendienste relevant.

- Insgesamt setzen wir uns für einen modernen Datenschutz ein, der mehr Wachstum ermöglicht. Hierzu bedarf es Ausnahmeregelungen von bestimmten Bestimmungen der DSGVO für „Low risk controller“, auf die wir nochmals hinweisen. Des Weiteren fordern wir, dass die nach Art. 97 DSGVO vorgesehene DSGVO-Evaluierung bereits im kommenden Jahr erfolgt; aus dabei ermitteltem Anpassungsbedarf sollten zügig konkrete Maßnahmen zugunsten von KMU und Ehrenamt folgen.
- Bei den Regelungen zum National Entry Point (NEP) muss sichergestellt sein, dass Unternehmen anstelle des NEP auch weiterhin die bestehenden Meldekanäle nutzen können. In vielen Sektoren gibt es bereits etablierte und gut funktionierende Meldewege. In jedem Fall muss der Finanzsektor vom NEP ausgenommen werden. Der NEP würde unnötige zusätzliche Bürokratie aufbauen, ohne dass dadurch ein greifbarer Mehrwert entsteht.

4. Deutschland wird sich deshalb vorbehalten, während der Trilogverhandlungen weiterhin auf seine bisherigen Positionen hinzuweisen und fordert darüber hinaus die Europäische Kommission auf, diese im Rahmen des Digital Fitness Check zu berücksichtigen.”

Courtesy translation

1. ”Since the beginning of the negotiations on the Digital Omnibus, Germany has pursued ambitious adjustments that lead to tangible improvements and simplifications, particularly for SMEs, SMCs, start-ups, science and research, public authorities, and volunteers – while maintaining the level of protection of the AI Act and the GDPR. Germany also supports the goal of concluding all Omnibus packages promptly. At the same time, it is clear to us that this must not come at the expense of quality or ambition. The Federal Chancellor recently emphasized this ambition during the European Council on 15 October. The text most recently presented by the Presidency falls short of the level of ambition sought by Germany.
2. Germany acknowledges that the Presidency has accommodated German demands in some areas. Nevertheless, in our view the current proposal does not go far enough to achieve the desired simplifications and relief, thereby significantly improving the EU's competitiveness and eliminating existing legal uncertainty.
3. In the Council negotiations, Germany has repeatedly set out its core demands:
   - Despite the amendments in the latest compromise text revised by the Presidency, we still see a need for action to substantially strengthen the protection of trade secrets in the Data Act. Certain trade secrets are strategic key assets of the European industry, in particular with regard to maintaining investment incentives in industrial AI and data-driven innovations. Against this background, we propose that, as a general rule, trade secrets should not be disclosed.
   - For future European competitiveness it is crucial that European companies are able to develop and operate AI in compliance with the GDPR, without neglecting the legitimate interests of third parties. We welcome that the Presidency reintroduced a provision on AI in Article 88bis. However, what we need is a genuine legal ground for AI training and operation – in which AI training and operation shall be presumed as a legitimate interest – and corresponding changes to Article 9. We refer to the GER proposal, that includes exceptions with regard to the legitimate interests of third parties and would need to be supplemented by a recital.

- With regard to ePrivacy/Cookies, an impact assessment, which includes the examination of the white-list as well as the now four-month waiting period, is required. The white-list should be strictly limited as well as clear, precise and legally certain. In the area of audience measurement, we advocate for our combined and less bureaucratic proposal. Furthermore, we call for a further reduction of the period to three months while simultaneously defining criteria under which providers may request consent again earlier. This should be enshrined in the legislative text and is particularly relevant for media services.
- Overall, we are committed to modern data protection for greater growth. This requires exemptions from certain GDPR provisions for "low-risk controllers", to which we refer once again. Furthermore, we demand that the GDPR evaluation provided for in Article 97 GDPR take place as early as next year; concrete measures for the benefit of SMEs and volunteers should follow swiftly on the basis of the identified need for adjustment.
- Regarding the rules on the National Entry Point (NEP), it must be ensured that companies can continue to use existing reporting channels instead of the NEP. In many sectors, established and well-functioning reporting channels already exist. In any case, the financial sector must be exempted from the NEP. The NEP would create unnecessary additional bureaucracy without generating any tangible added value.

4. Germany will therefore reserve the right to continue to refer to its previous positions during the trilogue negotiations and furthermore calls on the European Commission to take these into account within the framework of the Digital Fitness Check."

Statement by Estonia

"Estonia reiterates its consistent position that the GDPR should remain technology-neutral. While recognising the need for greater legal clarity regarding the processing of personal data in the development and operation of AI, Estonia considers that the GDPR should be limited to establishing appropriate and specific safeguards applicable to such processing. Those safeguards should include an unconditional right to object to the processing of personal data for the purposes of developing and operating AI, comparable to the existing right to object to the processing of personal data for direct marketing purposes established in Article 21 paragraphs 2-3 of the GDPR.

Regarding the data acquis, Estonia considers it essential to ensure legal clarity on the conditions under which personal data may be made available as open data. The current framework leaves uncertainty regarding the obligations of public sector bodies and data users, particularly where the publication of personal data is not explicitly required by law. Estonia therefore calls for a clear rule that personal data may be made publicly available as open data only where such disclosure is provided for under Union or Member State law or where the data subject has given valid consent. This clarification is necessary to ensure legal certainty, protect personal data and maintain trust in the European data ecosystem.

Estonia maintains that all proposals for legislative amendments, including those submitted as part of omnibus packages, must be accompanied by comprehensive impact assessments prepared in full compliance with the Better Regulation framework. Such assessments should examine all relevant impacts, including the effects on fundamental rights, and should enable Member States to assess the consequences of the proposed amendments."

Statement by Belgium and the Netherlands

”Belgium and the Netherlands welcome simplifying digital legislation through an Omnibus. This aligns with our broader objective to reduce the regulatory burden for our companies and organizations. Belgium and the Netherlands are committed to ensuring that any Omnibus focuses on real simplification whilst keeping the objectives of the legislation intact. We can agree to the proposed Council mandate which greatly improves the Commission proposal by striking a better balance between the different interests.

However, Belgium and the Netherlands observe that during the negotiations elements that go beyond simplification and could undermine the objectives of the legislation have been included in the compromise text. It is important that the achieved balance is safeguarded and that the objectives of the legislation are not compromised during the further negotiations. Belgium and the Netherlands would like to draw special attention to the following specific elements:

Regarding the **legitimate interest basis specifically for AI** (Art. 88 bis GDPR), Belgium and the Netherlands attach great importance to the full application of the existing conditions for assessing whether data processing can be grounded on a legitimate interest. We interpret this article in such a way that the “three-part test” applies without reservation (i.e. pursuit of a legitimate interest, necessity of the data processing, and balancing test), and that the reasonable expectations of the data subjects must be taken into account. The applicability of Art. 6(1)(f) GDPR to processing in the context of AI shall be assessed on a case-by-case basis and shall not be presumed from the mere development or operation of AI.

Regarding the derogation to the prohibition on processing special categories of personal data for **“residual” data when training and using AI**, Belgium and the Netherlands attach great importance to preventing the risk of abuse and safeguarding privacy by design (Art. 25 GDPR). This derogation should be interpreted restrictively and privacy by design remains vital.

Regarding **pseudonymisation** (Art. 25a GDPR), Belgium and the Netherlands are pleased that this article and the corresponding recitals have been clarified with relevant elements of case law and European Data Protection Board opinions. We understand this article in such a way that it is intended to reflect the current law without being selective or incomplete. To that end, we would have preferred to better align Art. 25a(5) with recital 26 GDPR to avoid any legal uncertainty regarding the interpretation of the definition of personal data.

Regarding **cookies**, Belgium and the Netherlands consider it important to effectively address consent fatigue and the use of dark patterns. While progress is being made with the introduction of a single-click principle and subsequent cooldown period, we regret that the provisions on automated signals for cookie preferences have been removed. We consider it a priority to continue to pursue this objective.”

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❶ First reading

Ⓒ Item based on a Commission proposal