Council of the European Union

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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the transparency and targeting of political advertising - Statements on the general approach

Delegations will find, in the Annex to this note, the joint statement by DE, HR, CY, EL, LU and ES and the statement by FR on the general approach agreed by the Council (General Affairs) at its meeting on 13 December 2022.

ANNEX

Joint statement by Germany, Croatia, Cyprus, Greece, Luxembourg and Spain

Germany together with Croatia, Cyprus, Greece, Luxembourg, and Spain support the aim of the regulation on the transparency and the targeting of political advertising to enhance the resilience of European democracy by inter alia strengthening the protection of personal data in the context of political advertising. In a spirit of compromise and with the objective of these new rules entering into force prior to the upcoming elections for the European Parliament, we support the general approach.

We take note, however, that the Council position falls behind the Digital Services Act (DSA) and we see the need for improvements in this respect. The regulation regarding the use of special categories of personal data (Art. 9 (1) GDPR) should be in line with the provisions of the DSA. As using special categories of personal data is not permissible for commercial advertising, this must apply all the more to political advertising. The integrity of the electoral process is a fundamental pillar of European democracy and therefore lies beyond what can be subject to the individual's choice by giving consent to data processing in such a sensitive context.

We therefore prefer a ban on the use of special categories of personal data (Art. 9 (1) GDPR) in the context of the targeting and amplification of political advertising. Art. 12 (2) and (2a) should be deleted so as to not allow for the use of such data, regardless of consent.

With a view to the forthcoming interinstitutional negotiations with the European Commission and the European Parliament, we trust that these aspects will be given serious and careful consideration and included in the deliberations.

Statement by France

France welcomes the adoption of the general approach on this Regulation and supports the aim of improving the transparency of political advertising. It is important that European citizens have all the information at their disposal to make an informed choice; what is at stake is the democratic life of our Member States and of the European Union. That democratic life is often framed by national rules which form an integral part of it and which stem from our history and respective political cultures. For example, France bans the use of any commercial advertising activity for electoral campaigning purposes (Article L 52-1 of the Electoral Code) in the six months preceding a ballot. It is the state that sends and distributes electoral campaigning material on behalf of all candidates, in order to ensure equality between them. This is an essential component of the French electoral model. France takes note of the fact that this Regulation does not affect this type of national provision, which is not linked to the transparency of political advertising.