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'I/A' ITEM NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
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Subject:	Proposal for a Regulation of the European Parliament and of the Council laying down measures for a high common level of cybersecurity at the institutions, bodies, offices and agencies of the Union - Progress report

The Presidency has drawn up a progress report on the proposal for a Regulation of the European Parliament and of the Council laying down measures for a high common level of cybersecurity at the institutions, bodies, offices and agencies of the Union, in order to report on the work carried out so far by the Council preparatory bodies and on the state of play in the examination of the proposal.

This report was presented by the Presidency to the Horizontal Working Party on Cyber Issues (HWPCI) at its meeting on 10 June 2022.

INTRODUCTION

1. On 22 March 2022, the Commission adopted the proposal for a Regulation laying down measures for a high common level of cybersecurity at the institutions, bodies, offices and agencies of the Union. The proposal was one of the measures provided for in the EU's Cybersecurity Strategy for the Digital Decade¹, which aims to strengthen the Union's collective resilience against cyber threats. In its conclusions of 22 March 2021 on this strategy², the Council stressed that cybersecurity is vital for the functioning of public administration and institutions at both national and EU level and for our society and the economy as a whole.
2. In its conclusions of 20 June 2019³, the Council had invited the EU institutions, together with the Member States, to work on measures to enhance the resilience and improve the security culture of the EU against cyber and hybrid threats from outside the EU, and to better protect the EU's information and communication networks, and its decision-making processes, from malicious activities of all kinds.
3. The main objective of the proposal, which is based on Article 298 TFEU, is to improve the level of cybersecurity at the European institutions by establishing a common framework with due regard for each institution's autonomy.

¹ 14133/20.

² 6722/21.

³ EUCO 9/19.

4. In particular, the proposal aims:
- to strengthen the mandate and funding of CERT-EU (Cybersecurity Centre for the Union institutions, bodies and agencies);
 - to set up an interinstitutional structure bringing together representatives of all the institutions in order to ensure the proper implementation of the Regulation;
 - to introduce the obligation for European institutions to share (non-classified) IT information with CERT-EU and to report significant threats, vulnerabilities and incidents; and
 - to promote coordination and cooperation in response to significant incidents.

STATE OF PLAY

5. The Horizontal Working Party on Cyber Issues (HWPCI) began to discuss the proposal on 29 March 2022, with a general presentation by the Commission.
6. The HWPCI discussed the text of the proposed Regulation at its meetings on 19 and 26 April 2022.
7. Following the discussions in the HWPCI, Member States were invited to submit written comments by 6 May 2022. A total of 16 Member States took the opportunity to submit their position in writing.

8. Member States welcomed the proposal as appropriate and complementary to the future NIS 2 Directive and generally supported its overall objectives. However, Member States called for more ambition and raised a number of key issues and concerns which should be reflected upon during the negotiation of the proposal, notably the lack of reciprocity in the exchange of information between the institutions and the Member States and the excessively voluntary nature of the proposed measures. Member States also called for the deletion of the reference to the joint Cyber Unit (whose mandate and composition have yet to be defined). Finally, they stressed the need to reflect certain provisions of the future NIS 2 Directive in the proposal.
9. Several Member States asked the Council Legal Service to examine the appropriateness of the legal basis and to consider possible alternatives.
10. The European Parliament appointed Ms Henna Virkkunen (EPP) as rapporteur of the ITRE Committee, which is the committee responsible for the subject matter.
11. The European Data Protection Supervisor delivered his opinion on 17 May 2022⁴.
12. On 23 May 2022, the Presidency requested the formal opinion of the Council Security Committee on the information security aspects of the proposal.

⁴ 9252/22.

13. On the basis of contributions from Member States and the work of the HWPCI, the Presidency will draw up a compromise text, which will be discussed at the meetings of the HWPCI on 21 and 28 June 2022.
14. On the basis of the progress made under the French Presidency, the incoming Czech Presidency plans to continue the work on this important file with a view to reaching a general approach.
15. In the light of the above, the Permanent Representatives Committee and the Council are invited to take note of the progress made on the examination of the proposal for a Regulation.
