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REV 1

LIMITE

SIMPL 119
ANTICI 122
DATAPROTECT 173
CYBER 252
TELECOM 268
PROCIV 110
COMPET 632
MI 542
CODEC 1024

Interinstitutional File:
2025/0360 (COD)

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a Regulation amending Regulations (EU) 2016/1679, (EU) 2018/1724, (EU) 2018/1725, (EU) 2023/2854, (EU) 2024/1689 and Directives 2002/58/EC, (EU) 2022/2555 and (EU) 2022/2557 as regards the simplification of the digital legislative framework, and repealing Regulations (EU) 2018/1807, (EU) 2019/1150, (EU) 2022/868, and Directive (EU) 2019/1024 (Digital Omnibus) - Guidance for further work

I. BACKGROUND

1. On 20 November 2025, the Commission transmitted a Proposal for a Council Regulation on Proposal amending Regulations (EU) 2016/679, (EU) 2018/1724, (EU) 2018/1725, (EU) 2023/2854 and Directives 2002/58/EC, (EU) 2022/2555 and (EU) 2022/2557 as regards the simplification of the digital legislative framework, and repealing Regulations (EU) 2018/1807, (EU) 2019/1150, (EU) 2022/868, and Directive (EU) 2019/1024 (Digital Omnibus) (“the Proposal”)¹.

¹ ST 15698/25

2. The objectives of the Proposal, as presented by the Commission, are a first step to facilitate the application of the digital rulebook, with a view to simplify, streamline, and optimise its implementation in order to improve EU competitiveness while preserving existing policy goals and protections.
3. The Commission Proposal introduces amendments to the General Data Protection Regulation (“GDPR”) including the modernisation of cookies rules laid down in the ePrivacy Directive (“ePrivacy Directive”), repeals provisions of the Platform to Business Regulation (“P2B Regulation”), consolidates single-market rules on data (“Data Acquis”), and introduces a mechanism for a single reporting point for cyber security and data incidents.
4. The broader strategic objective is a continuous review of the EU digital rulebook to assess whether rules collectively support competitiveness and whether further reforms are needed. The Commission’s objective is to simplify and consolidate EU digital regulation so that it creates lower compliance costs and fewer procedural burdens, while still maintaining the EU’s existing regulatory standards and policy goals, especially in data protection, AI, and cybersecurity.
5. The Commission explicitly stated that the Proposal is not intended to weaken protections neither to amend underlying objectives, but to preserve the same standards for fundamental rights protection.
6. The Proposal is based on Articles 114 and 16 of the Treaty on the Functioning of the European Union, reflecting the legal basis of the amended acts.
7. The European Data Protection Supervisor and European Data Protection Board have adopted a Joint Opinion on the Digital Omnibus Regulation Proposal on 11 February 2026².
8. In its Conclusions of 19 March 2026, the European Council urgently called on the co-legislator to keep up the momentum to simplify and reduce burdens arising from existing legislation, notably by agreeing, before the end of 2026, all pending Omnibus packages, including an ambitious AI Omnibus by July 2026.

² WK 2859/2026

II. STATE OF PLAY

9. The Antici sub-group on simplification (“AGS”) began discussing the Proposal in November 2025. Since then, the Danish and Cyprus Presidencies have dedicated nine AGS meetings to the Proposal.
10. In the course of these AGS meetings, delegations have been invited to submit specific questions to the Commission. Since January 2026, the Presidency has also launched three calls for written contributions. In addition, technical workshops were organised on cyber-related provisions and on cookies rules.
11. Building on previous discussions and written suggestions from delegations, the Presidency issued a third compromise text on 21 May 2026³. The Presidency considers that substantive progress and convergence have been achieved on most of the provisions relating to the GDPR and ePrivacy Directive, the provisions related to cyber and data incidents reporting provision, and the P2B Regulation. While the drafting process required allocation of more time, important progress has also been achieved when it comes to rules related to the Data Acquis.

III. OPEN ISSUES

Data Acquis

12. Concerning the consolidation of single market rules on data, the Presidency issued a first compromise proposal covering the data part of the Digital Omnibus on 15 April 2026. During the discussions in the AGS and in the written comments from delegations, an important issue emerged in relation to Article 4(8) of the Data Act, for the resolution of which the Presidency is seeking guidance from the Permanent Representatives Committee.

³ ST 9547/26

13. Article 4(8) of the Data Act on the protection of trade secrets provides an exception to the obligation for data holders to disclose certain data to users, or third parties of a user's choice. In exceptional circumstances, a data holder is allowed, on a case-by-case basis, to refuse a request for specific data if it is able to demonstrate that, despite all possible measures to be taken by the user, or third parties of a user's choice, a serious economic damage is highly likely to result from the disclosure of the data constituting a trade secret. In such cases, the data holder must notify the competent national authority of its refusal. The provision is further explained in Recital (23) of the same Act.
14. In the Digital Omnibus Proposal, the Commission has not changed this provision in substance. However, some delegations now argue that the protection of trade secrets, that are of strategic value for the industry and in business-to-business relations, has to be reinforced. Hence, they wish to see the paragraph amended to expand the possibilities for rejecting the disclosure of data. Moreover, considering the required demonstration of the potential damages overly bureaucratic and burdensome for the data holder, they would like to introduce a provision to the effect that the competent authorities would no longer have to be automatically notified of such rejections.
15. During the discussions that led to the adoption of the Data Act in 2023, a delicate balance was reached between the delegations on the protection of trade secrets on the one hand, and the need to provide a sufficient amount of good quality data for AI, research and innovation on the other hand. Against this backdrop, the Presidency is seeking guidance from delegations whether the current compromise text preserves that balance.

Question 1: The Permanent Representatives Committee is invited to indicate whether the current compromise text reaches the balance between the protection of trade secrets and the provision of sufficient data for AI, research and innovation, with Article 4(8) of the Data Act in mind, or whether additional provisions on the protection of trade secrets should be included, and if so, in what form.

ePrivacy and Cookies rules

16. The updated Presidency compromise text on GDPR and cookies under ePrivacy, was presented and discussed during the AGS meeting of 27 May 2026 and took into account previous discussions and written contributions received from delegations, as well as input gathered during the technical workshop held on 5 May 2026. Together with other provisions related to the GDPR, this is the third compromise text presented by the Presidency and is creating gradual convergence.
17. In its Proposal, the Commission proposes to transfer current rules applicable to cookies from the current ePrivacy Directive to the GDPR, introducing two new Articles to this Regulation; Article 88a extending the list of exemptions on the consent requirement for accessing or storing data on users' terminal equipment, and, Article 88b mandating the consent through the application of automated and machine-readable indications of data subject's choices. Article 88b provides users with the opportunity to provide consent in an online interface with regard to cookies through a centralised consent mechanism and for a certain period of time.
18. Concerning the proposed Article 88a on the additional exceptions to the consent requirement for the placing of cookies on users' devices, the Presidency compromise text opposes the transfer of these provisions under the GDPR, and instead amends the current rules under the ePrivacy Directive, ensuring that such rules remain under a single and specific legal framework. On this basis, the compromise text focuses on clarifying the exceptions proposed by the Commission, to be integrated within the ePrivacy framework, while adding the necessary clarifications, including with regard to independent audience measurement.
19. Concerning the proposed Article 88b on the automated indication of users' choices, now proposed under a new Article 8a, the Presidency suggests maintaining the revised provision within the GDPR framework, as proposed by the Commission, while placing greater emphasis and requirements on the standardisation process in order to ensure that all possible implementation impacts of automated and machine-readable indications of data subject's choices are adequately addressed.

20. The Presidency has taken note of the concerns expressed regarding the potential consequences and impact of implementing a centralised and automated consent mechanism for the placing of cookies on users' devices, in particular in the absence of an impact assessment. At the same time, the Presidency notes that this provision constitutes the sole element of the Commission Proposal which aims to deliver concrete simplification gains for users.
21. Following the discussion in the AGS meeting on 27 May 2026, the Presidency is seeking confirmation by delegations on the desirability of maintaining a provision laying down rules for the automated and machine-readable indications of data subject's choices within the Proposal.
22. It should be noted that the absence of an impact assessment supporting the Proposal was raised numerous times by a large number of delegations throughout the examination of the entire Proposal, and in particular concerning provisions relating to the GDPR, which could affect fundamental rights protection.

Question 2: The Permanent Representatives Committee is invited to indicate whether the current Presidency compromise text regarding automated and machine-readable indications of data subject's choices (now under Article 8a) can be considered as the basis for compromise, or if such a mechanism should be addressed outside the scope of the current Digital Omnibus negotiations and remain subject to further discussions and prior impact assessment.

Cyber Incident Reporting

23. The Commission Proposal also introduces a single-entry point at EU level, to be established by the EU cybersecurity agency (ENISA), through which entities could simultaneously fulfil their incident reporting obligations under multiple legal acts, with a view to fostering a "report once, share many" principle and thus reducing administrative burden for entities.
24. During the discussions within the AGS, the Presidency took note of the reservations and opposition from several delegations regarding the possible establishment of a single-entry point for incident reporting at EU level, citing concerns in terms of further complexity for incident response and notification, as well as possible risks to the security of information systems and national security.

25. The updated Presidency compromise text, as presented during the AGS meeting of 27 May 2026, diverges from the Commission's initial Proposal, mandating ENISA to set up an incident reporting information point, while requiring Member States to establish a national entry point for incident reporting. The Presidency compromise clarifies that Member States shall retain flexibility to configure their national entry point in accordance with their existing competent authority structures and the allocation of competences among authorities, while including a provision aiming at interoperable national entry points, thus paving the way for the facilitation of cross-border incident notification in the future.
26. The Presidency wishes to hear from delegations whether its current compromise proposal strikes the right balance between flexibility in the establishment of a single point at national level for the reporting of incidents and the overall objective of reducing administrative burden for entities through a single reporting point.

Question 3: The Permanent Representatives Committee is invited to indicate whether the current Presidency proposal for the establishment of a single national entry point for incident reporting (now under Article 23b) can be considered as the basis for compromise, or if further flexibility or multiple reporting points at national level should be considered.

IV. CONCLUSION

27. The Permanent Representatives Committee is invited to provide guidance on the above-mentioned open issues (**Questions 1 to 3**) with a view to further facilitating convergence among delegations on the remainder of the Omnibus VII package.