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NOTE

From:	Presidency
To:	Delegations
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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

Courtesy translation

The Presidency prepared 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's preparatory bodies and on the state of play of the examination of the proposal.

INTRODUCTION

1. On 22 March 2022, the Commission adopted 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. The proposal was one of the measures foreseen in the EU's Cybersecurity Strategy for the Digital Decade¹, which aims at strengthening the Union's collective resilience against cyber threats. In its conclusions of 22 March 2021 on this strategy², the Council stressed that cyber security 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 European Council had invited the EU institutions, as well as 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, based on Article 298 TFEU, is to improve the level of cybersecurity within the European institutions by establishing a common framework while respecting the autonomy of each institution.
4. The proposal aims above all at:
 - strengthening the mandate and funding of CERT-EU (Cybersecurity Centre for the EU institutions, bodies and agencies);
 - setting up an inter-institutional structure bringing together representatives of all the institutions in order to ensure the proper implementation of the Regulation;
 - introducing an obligation for the EU institutions to share (unclassified) IT information with CERT-EU and to notify significant threats, vulnerabilities and incidents; and
 - promoting coordination and cooperation in the response to significant incidents.

¹ 14133/20.

² 6722/21.

³ EUCO 9/19.

STATE OF PLAY

5. The Horizontal Working Party on Cyber Issues (HWPCI) started the examination of the proposal on 29 March 2022 after 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 at the HWPCI, Member States were invited to submit written comments by 6 May 2022. A total of 16 Member States made use of the opportunity to submit their views in writing.
8. Member States welcomed the proposal as timely and complementary to the future NIS 2 Directive and globally supported its general objectives. However, Member States called for more ambition and raised a number of key issues and concerns that should be reflected upon when negotiating the proposal, including the lack of reciprocity in the exchange of information between institutions and Member States and the excessively voluntary nature of the proposed measures. Member States also expressed their preference for deleting the reference to the Joint Cyber Unit (whose mandate and composition is still 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 has appointed Ms Henna Virkkunen (EPP) as rapporteur for the ITRE Committee, which is the responsible committee for the proposal.
11. The European Data Protection Supervisor delivered its 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 the contributions from Member States and the work of the HWPCI, the Presidency will prepare a compromise text, which will be discussed at the meetings of the HWPCI on 21 and 28 June 2022.
14. Building on the progress made under the French Presidency, the incoming Czech Presidency plans to continue to work on this important file with a view to reaching a general approach.
15. In view of the above, the Permanent Representatives Committee and the Council are invited to take note of the progress made in the examination of the proposed Regulation.
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