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From:	General Secretariat of the Council
To:	Antici Group (Simplification)
Subject:	Omnibus VII (Digital): Steering and Explanatory Note by the Presidency - AGS meeting on 11 September 2026

In view of the AGS meeting on 11 September 2026, delegations will find enclosed the Presidency Steering and Explanatory Note, together with its Explanatory Table.

The document explains the changes made in the Presidency revised compromise text (ST 12535/26) on the Digital Omnibus.

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Antici Group on Simplification
11 September 2026
Omnibus VII (Digital) – Steering and Explanatory Note

The Presidency revised compromise text (ST 12535/26) builds upon the extensive discussions to date held within the Antici Group on Simplification (AGS) most recently on 16 July 2026, and written comments received from delegations.

The changes made in the compromise text concern primarily GDPR, as well as certain provisions of the Data Act and ePrivacy Directive. Further details on the proposed changes are included in the annexed Explanatory Table. Changes compared to the previous compromise text (ST 10677/2026) appear as underlined.

The Presidency has examined the comments received in detail. The compromise text seeks to strike a balance recognising that some delegations continue to express their view that the level of ambition needs to be increased to deliver concrete simplification benefits for businesses while other delegations highlight the need to balance simplification measures and the level of protection for both individuals and organisations. In cybersecurity, the Presidency has noted general support for the approach proposed in the compromise text ST 10729/26 issued on 22 June 2026, prior to Coreper scheduled on 26 June 2026, and as such has not proposed substantive changes other than to align with that text.

This note is intended to support discussions at the AGS meeting of 11 September 2026, at which the Presidency will invite delegations to express their views on the changes set out in the compromise text. The following order of discussions on the text is proposed:

- Round 1: Application of pseudonymisation and identification of a natural person (new Article 25a GDPR and corresponding recitals)
- Round 2: Processing in the context of the development and operation of Artificial Intelligence (new Article 88bis GDPR and corresponding recital)
- Round 3: Other GDPR provisions
- Round 4: ePrivacy Directive
- Round 5: Data Act

The Presidency invites delegations to submit written comments by 15 September.

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1. Application of pseudonymisation and identification of a natural person (Article 25A, previously 29A)

In the AGS meeting of 16 July and in written comments, the Presidency noted calls to improve the legal clarity of the provisions on the application of pseudonymisation and the identification of a natural person, and to more effectively codify CJEU case law. The Presidency noted that some delegations sought to only reflect the case law while others sought to provide for additional legal certainty by legislating for matters not directly or explicitly addressed by the Courts to date such as the application to processors.

There was support from many delegations to address pseudonymisation and identification of a natural person in the operative part of the GDPR, whilst not reopening the definition of personal data in Article 4(1). Certain delegations expressed concerns as to the placement of the provisions in Article 29a.

The Presidency has revised the text based on these considerations with the view to providing clarity and legal certainty, and delivering concrete simplification for organisations applying pseudonymisation techniques. The updated text seeks to further reflect the relative approach to identification. It provides additional legal clarity that pseudonymised data shall not be considered personal data for a person if that person is unable to identify the natural person to whom the data relates (paragraphs 2-3). It responds to calls from delegations to better clarify the application to processors and when the transmission of the data to third parties and the subsequent processing of the data by this third party is considered processing of personal data. Paragraph 4 makes clear that information shall be considered personal data for the processor, and the processor continues to be subject to the obligations applicable under this Regulation. Paragraph 5 seeks to provide for circumstances where pseudonymised data is disclosed to a third party.

The Presidency has placed the provisions in a new Article 25a. The Presidency proposes that, while Chapter IV remains the appropriate chapter for such a provision, the new Article is better placed after Article 25 (Data protection by design and by default) which already specifically refers to pseudonymisation and appropriate technical and organisational measures).

- ***Delegations are invited to express their views on the proposed Article 25a GDPR on the application of pseudonymisation and the identification of a natural person.***

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2. **Processing in the context of the development and operation of artificial intelligence (Article 88bis, previously 88c)**

In the AGS meeting of 16 July and in written comments, delegations expressed diverging views on the processing of personal data in the context of the development and deployment of an AI system or of an AI model. Some Member States supported the previous approach which sought to address this matter in recital 33a. However, a number of other delegations called for the reinstatement of the proposed Article 88c.

As the previous approach did not receive the necessary support from delegations, the Presidency has reinstated an operative provision in a new Article 88bis and adjusted the text to ensure greater legal clarity, whilst seeking to mitigate the concerns expressed by some delegations in relation to the previous drafting of Article 88c. The text makes explicit that the provisions of the article do not affect the obligation of the controller to choose an appropriate lawful ground of processing under Article 6, and that regardless of which lawful grounds apply under Article 6, processing in the context of the development and operation of AI shall be subject to appropriate technical and organisational measures and safeguards to protect the rights and freedoms of the data subject. While anchoring in the operative part of the text the fact that processing in the context of the development and operation of AI may be carried out in accordance with Article 6(1)(f), the Presidency proposal does not affect any other obligation, safeguard or requirement applicable under the GDPR when processing relies on this lawful ground.

- ***Delegations are invited to express their views on the proposed Article 88bis GDPR on the processing of personal data in the context of the development and deployment of an AI system or of an AI model.***

3. **Other GDPR Provisions (Article 12, 13, 33, 35, recital 34 and 40b)**

In response to comments from Member States, the Presidency compromise has sought to provide further clarifications in respect of the GDPR provisions. These include:

- Amendments to Article 12 (5) to clarify the burden of proof in respect of requests that are manifestly unfounded, excessive or submitted with an abusive intention, setting out that the controller shall bear the burden of demonstrating that there are reasonable grounds to believe that, in the light of all the relevant circumstances of the case, the request is manifestly unfounded, excessive or submitted with an abusive intention.

- New Article 13(5) provides that paragraphs 1 to 3 shall not apply where there are reasonable grounds to assume that the data subject already has the information or the provision would prove impossible, or where it would involve a disproportionate effort and the processing is likely to result in a low risk to the rights and freedoms of data subjects. The exemption would not apply where the processing involves complex processing operations, the processing of large amounts of personal data [or any processing of Article 9 or 10 data].
- Articles 33 and 35 are updated to differentiate the approach in respect of lists and templates. It proposes that the Board have responsibility for establishing and making public the lists. With regard to templates, the Board shall prepare and transmit to the Commission a proposal for a template, and the Commission is empowered to adopt the template by way of implementing act. It is to be reviewed every three years and the Commission is also empowered to adopt any updates by implementing act.
- Clarification of recital 34 on processing of biometric data. This deletes "and how" to address concerns with practical application.
- Responding to requests from delegations for discussion on transfers in the context of international cooperation in the field of taxation, the new recital 40b recalls that Article 49(1)(d) allows for transfers of personal data which are necessary for important reasons of public interest, even where those transfers are repetitive or systematic, if that is necessary to achieve the public interest at issue. This approach aims to address the points raised by delegates without substantive amendment to Article 49 which could have adverse consequences.

- ***Delegations are invited to express their positions on the above or any other GDPR elements updated by the compromise text.***

4. ePrivacy Directive

The Presidency has adjusted the white list in two main respects.

Firstly, responding to calls from several delegations to introduce an exemption on contextual advertising, the Presidency has sought to carefully circumscribe and limit its applicability only to measurement carried out by the provider of an online service, including jointly with others, or by a third party on behalf of that provider, and where no profiling, tracking or data retention occurs.

Second, the Presidency has clarified the text on audience measurement, in view of comments from several delegations to clarify the interaction with Article 24 of EMFA. The Presidency has split the provisions in two, with paragraph (d) clarifying specifically

audience measurement in compliance with Article 24 of Regulation (EU) 2024/1083, and paragraph (c) covering other situations. In cases under paragraph (c), data collected for the purpose of aggregating the information is not to be shared with third parties nor combined with data from third parties, whereas under paragraph (d), personal data must be pseudonymised immediately after collection and anonymised before being shared with third parties.

- ***Delegations are invited to express their overall position on all provisions related to cookies and the ePrivacy Directive, with a particular focus on contextual advertising and audience measurement.***

5. Data Act

The Presidency has made certain modifications to the Data Act in view of achieving a balance that can achieve the necessary support from delegations. Technical amendments were added to align the wording of the text with the Data Governance Act. Article 37(3) on the role of supervisory authorities in monitoring the application of the Regulation is now modified rather than deleted. The drafting of Article 32.1a is also amended, in response to concerns from some delegations. The application date of Chapter VIIc in Article 32i was extended to 24 months to provide sufficient time for Member States to adapt national legislation, designate authorities and establish secure processing environment. Amendments have been made to resolve technical issues pertaining to the integration of the Open Data Directive into the Data Act. To address Member State concerns, recital 22a recalls that references to intellectual property rights in the DGA should be understood to include industrial property rights.

- ***Delegations are invited to express their overall position on provisions related to the Data Act.***

Annex - Explanation of Changes

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Recitals	
Data acquis	
Recital (15)	The first addition is a clarification to underline that definition of public emergency implies that that it is limited in time. The addition in the middle of the recital is also a clarification as Art. 15(1)(b) will be deleted. The amendment in the last part addresses the ambiguity around whether the last sentence constitutes a separate ground to request data. This sentence clarifies that the sentence is about the production of statistics where it is necessary to address a public emergency. The wording mirrors article 15a(2) as it is referred to here.
Recital (17)	The replacement of terminology 'custom-built' to 'adapted' aims to make the terminology clearer, avoiding confusion when the Omnibus translated into other languages than English.
Recital (22)	The first addition is a clerical amendment as the rules are not consolidated in the Omnibus but in the Data Act. The sentence in the second change was in the text already but has been moved here for better fluidity. The last sentence added clarifies the flexibility for Member States to apply policies and rules that exceed the minimum standards.
Recital (23)	The DGA does not contain the differentiation in Recital 54 of Directive (EU) 2019/1024 with regards to "intellectual property" and "industrial property". The wording has been amended to explicitly cover "industrial property".
GDPR	
Recital (27a)	Previous Recital (27b), as part of a reordering and restructuring of recitals related to the application of pseudonymisation. Additional clarifications on the legal effect of pseudonymisation and the flexibility left to controllers in using equally effective measures.
Recital (27b)	Part of previous Recital (27a), as part of a reordering and restructuring of recitals related to the application of pseudonymisation. Additional clarifications regarding the further disclosure, means reasonably likely to be used and related factors.
Recital (27c)	Part of previous Recital (27a), as part of a reordering and restructuring of recitals related to the application of pseudonymisation. Removal of reference to controllers and processors, replaced by a more general reference to organisations.

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Recital (33)	Alignment with Presidency proposal on Article 9(2)(k) GDPR: "unintendedly" is replaced by "unintentionally" and deletion of "manifestly".
Recital (33a)	Minor wording adjustment to align with the Presidency proposal on Article 88bis GDPR.
Recital (34)	Clarification on the applicability of safeguards laid down in Union or national law: "and, where appropriate safeguards are laid down (…), subject to those safeguards". Deletion of "and how" in relation to the sole control of the data subject.
Recital (35)	Deletion of the reference to judicial procedure and addition of a reference to the use of AI agents for malicious automated requests.
Recital (36)	Alignment with the Presidency proposal on Article 13(5) GDPR, with the reference to direct and clearly circumscribed relationship now referred to as an example.
Recital (39)	Alignment with the Presidency proposal on Article 33 GDPR
Recital (40)	Alignment with the Presidency proposal on Article 35 GDPR
Recital (40a)	Additional sentence stressing the contribution of the consistent application of the GDPR to innovation and competitiveness in the Union.
Recital (40b)	New recital addressing derogations for specific situations of transfer to third countries, clarifying that transfers of personal data to a third country or an international organisation are not required to be non-repetitive in order to fulfil one of the derogations of Article 49(1), points (a) to (g), of the GDPR.
ePrivacy	
Recital (44b), (44c), (44d), (44e) and (44f)	Splitting of previous Recital (44b) and restructuring, in order to dedicate one recital for each derogation to the consent requirement. Recital (44d) now distinguishes and clarifies the conditions for the general derogation on audience measurement and the derogation on audience measurement in accordance with Regulation (EU) 2024/1083 (EMFA). Recital (44f) has been introduced in order to clarify the conditions for the contextual advertising derogation.
Recital (45)	Wording adjustment to align with ePrivacy Directive wording ("subscribers or users").
Cyber	
Recital (49)	The recital has been updated to align with the proposed wording of Article 23b (reverting to the wording proposed in ST 10729/26, initially foreseen for COREPER).
Recital (54)	The recital has been updated to add a reference to the recently adopted reporting templates developed under the NIS2 Directive.

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Articles	
Data acquis	
Article 1(2) *Article 2(e)(53)*	Several Member States have requested to limit DGA section to data only, therefore to delete 'documents'. This amendment triggers a number of further amendments the text, such as in Article 32(a)1.
Article 1(7) *(Article 15a.3)*	This addition ensures legal clarity concerning requesting data for 'responding to' an emergency.
Article 1(12) *(Article 20.4)*	Without the added reference, small and micro-enterprises could claim compensation for statistical data despite this may not be allowed by national law.
Article 1 (16) *(Article 32(a)2)*	The reference to 'documents' is deleted as a result of the change in Article 1.2(e)(53), similarly to paragraphs (a)2., (b)3., (c) 4 and 5 and further. The last sentence is adapted to differentiate more clearly between national law protecting security interests and criminal law.
Article 1(18)2(c)	The addition provides consistency with the digital euro legislation.
Article 1(18) *(Article 32i(3)(d))*	The DGA and does not contain the differentiation in Recital 54 of Directive (EU) 2019/1024 with regards to "intellectual property" and "industrial property". The wording has been amended to explicitly cover "industrial property". See also Recital (23).
Article 1(18) *(Article 32i(10))*	The application date should provide sufficient time for Member States to adapt national legislation, designate authorities and establish secure processing environments.
Article 1(18) *(Article 32la)*	Amendments to this Article take into consideration several comments from Member States referring to distinguish more clearly licencing from DGA-protected data and to set up a clear and reasonable time limit for processing requests. In paragraph 4f, the term 'applicant' has been changed and clarified as 'any natural and legal person'.
GDPR	
Article 3(1)(b) *(Article 4)*	Amendment to the definition of scientific research, moving the reference to "autonomous and independent manner" to the end of the definition.
Article 3(3)(a) *(Article 9(2)(k) and Article 9(2)(l))*	The derogation in the context of the development of AI has been amended, replacing the term "unintended" by "unintentional". The derogation for the purpose of biometric verification has been amended, deleting the term "strictly" and clarifying that, where applicable, appropriate safeguards include those laid down in Union or Member State law.

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Article 3(3)(b) *(Article 9(5))*	In line with the amendment made to Article 9(2)(K), the term "unintendedly" has been replaced by "unintentionally". A clarification has been introduced with regards to the development phases of the AI system or model, and the term "manifestly" has been deleted.
Article 3(4) *Article 12(5)*	The last paragraph has been amended, clarifying the burden of proof that is on the controller.
Article 3(5) *Article 13(5)*	The derogation to the information obligations has been further simplified, exempting the application of paragraphs 1, 2 and 3 of Article 13(5) in cases where there are reasonable grounds to assume that the data subject already has the information referred to in points (a) and (c) of paragraph 1 [or where the provision of the information would prove impossible – *for delegations' further consideration*], or cases where the provision of information would involve a disproportionate effort and the processing is likely to result in a low risk to the rights and freedoms of data subjects. The derogation would not apply where the processing requires complex processing operations, the processing of large amounts of personal data, [or of personal data referred to in Articles 9 and 10 - *for delegations' further consideration*].
Article 3(8)(a) *Article 33(1)*	The wording has been adjusted to align with the Presidency proposal on the national entry point under Article 6.
Article 3(8)(c) *Article 33(6) to (9)*	Paragraphs (6) to (9) have been amended, distinguishing between the adoption of the lists of the circumstances in which a data breach is likely to result in a high risk and of the circumstances in which it is not likely to result in such a high risk, which remain the sole competence of the EDPB, and the establishment of the template for notifications, to be adopted by the Commission by means of an implementing act on the basis of a proposal by the EDPB.
Article 3(9) *Article 35(4) to (6c)*	Paragraphs (4) to (6c) have been amended, distinguishing between the adoption of the lists of the kind of processing operations which are subject to the requirement for a DPIA and the kind of processing operations which are not subject to such a requirement, which remains the sole competence of the EDPB, and the establishment of the template and methodology, to be adopted by the Commission by means of an implementing act on the basis of a proposal by the EDPB.
Article 3(9a) *Article 37*	Deletion of the amendment to Article 37 on the notification of the contact details of the DPO to the supervisory authority

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Article 3(10) *Article 25a*	Previous Article 29a has now been moved as Article 25a – See steering note for further details and rationale on substance.
Article 3(14) *Article 70(1)*	Amendments to align and reorder the task, in accordance with the Presidency proposal on Articles 33 and 35.
Article 3(15) *Article 88bis*	(re)Introduction of an Article 88bis on the Processing in the context of the development and operation of AI - See steering note for further details and rationale on substance.
EUDPR	
Article 4	The changes and amendments made to the GDPR have been aligned in the corresponding provisions of the EUDPR
ePrivacy	
Article 5(2) *Article 5(3)*	The derogations to consent requirement (white list) has been restructured and amended, distinguishing and clarifying the conditions for the general derogation on audience measurement and the derogation on audience measurement in accordance with Regulation (EU) 2024/1083 (EMFA), and introducing an additional derogation for the purpose of measuring the display and performance of contextual advertising.
Article 5(2a) *Article 15a*	Technical amendment: the provision on the competence of supervisory authority under Regulation (EU) 2016/679 has been moved under Article 15a of the ePrivacy Directive.
Cyber	
Article 6(1a) *Article 23b*	Article 23b has been amended, clarifying that MS shall establish and maintain a national entry point "supporting and facilitating" the reporting of incidents and related events under the Union legal acts where those Union legal acts provide so (reverting to the wording proposed in ST 10729/26, initially foreseen for COREPER).
Article 6(1b) *Article 23c*	Article 23c has been amended to refer to "further harmonisation efforts" on incident reporting under the Union legal acts, instead of "introducing the unified approach".
Article 7	Wording adjustment to align with the proposed changes in Article 23b
Article 8	Wording adjustment to align with the proposed changes in Article 23b
Article 9	Wording adjustment to align with the proposed changes in Article 23b