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From:	General Secretariat of the Council
To:	Antici Group (Simplification)
Subject:	Omnibus VII (Digital): Explanatory note by the Presidency - AGS meeting on 27 May 2026

In view of the AGS meeting on 27 May 2026, delegations will find enclosed the Presidency explanatory note on the Presidency revised compromise text regarding the Digital Omnibus (GDPR, e-privacy, cookies, P2B, cyber provisions).

Explanatory note
Presidency revised compromise text - AGS 27 May 2026

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The third Presidency compromise text (**ST 9547 2026**) builds upon the discussions held within the Antici Group on Simplification on the 24th of April 2026, discussions and written comments received from delegations. In view of the AGS meeting of the 27th of May 2026, this explanatory note highlights and explains the main changes proposed by the Presidency in its third compromise text on the Digital Omnibus, amending the provision related to P2B, GDPR and cookies, and cyber. The proposed amendments to the EUDPR will be aligned at the later stage based on the compromises reached. Further details on the proposed changes are included in the annexed Explanatory Table. This document is for reference only.

1. P2B

Article 10, Recital 59

The Presidency amended Article 10(1), to ensure that Articles 4 and 11 remain in force without the sunset clause of end 2032. Recital 59 was adapted so that it reflects the changes made to the Article.

→ **The Presidency considers that with this amendment, the compromise text on P2B corresponds to the views expressed by most delegations.**

2. GDPR and cookies

Application of pseudonymisation and identification of a natural person
Article 3(1), Article 3(10) – Proposed Article 29a GDPR, Recital 27a, Recital 27b,

To answer Member States' demands of further clarifying pseudonymisation in the operative part of the GDPR, while at the same time acknowledging the requests of Member States to not alter Article 4(1) GDPR, the Presidency proposed Article 29a, which was initially discussed in the previous AGS meeting.

Considering Member States' comments on the need for further clarification, in the proposed Recital 27a, the Presidency adds that the Board's opinion should also address the issue of processing to be undertaken and other measures to be applied to effectively render personal data anonymous. The Presidency aims to clarify the concept of pseudonymisation and its effective application under relevant recitals. In order to enhance the effective application of pseudonymisation, the Presidency proposes to include reference to a means that already exists under Article 40 GDPR, in particular codes of conduct, which could support controllers and processors in complying with their obligations while taking into account sector-specific elements that underline processing in various industry settings inter alia.

The Presidency reiterates that, in line with the most recent CJEU case law, pseudonymisation does not belong to the definition of personal data. Echoing the large majority of views expressed, the Presidency regards that it would not be appropriate to amend the definition of personal data through an Omnibus process, which aims at facilitating the application of the current framework through targeted amendment and alleviating regulatory burden without undermining the level of protection for individuals. In this same logic, the Presidency considers that unintended additional assessment requirements for controller and provisions risking to open new areas of legal uncertainty in terms of compliance obligations through personal data life cycle in the digital economy should be avoided.

→ **The Presidency considers that the proposed Article 29a, read together with Recital 27 and 27a, constitutes a balanced compromise and an effort to streamline difficulties faced by controllers and processors when applying techniques of pseudonymisation or anonymisation to data. In addition, the Presidency supports that facilitating compliance for controllers can be achieved through the consistent and effective application of pseudonymisation by controllers and processors, with the development of a consistent and opportune interpretative framework that will benefit their processing activities.**

Artificial Intelligence
Article 3(3), Article 3(15), Recitals 30 and 31, Recital 33 – Proposed Recital 33a

The Presidency recognizes Member States' comments on the need for further clarity on the meaning of incidental and residual processing, and therefore proposes to include targeted alterations in Recital 33 to outline the nature of these concepts.

The Presidency notes various concerns expressed by delegations regarding the technologically neutral nature of the GDPR and the risk of focusing only on one specific lawful ground for processing on the operative part of the GDPR. Taking into account already existing means of indicating presence of legitimate interests of a controller under the GDPR, specifically in line with Recital 47, the Presidency similarly proposes a new Recital 33a that outlines that the processing of personal data in the context of the development and deployment of an AI system may be regarded as carried out for a legitimate interest of the controller pursuant to Article 6 GDPR.

→ **The Presidency considers that these amendments, in line with the spirit of the GDPR, can contribute to concrete simplification gains by achieving the clarification objective on whether the development or deployment of an AI system or model can constitute a lawful ground for processing, without a hierarchical differentiation from other grounds, and without compromising the obligation of the controller to choose the most appropriate lawful ground for processing.**

Consistency of Interpretation of GDPR
Proposed Recital 40a

The Presidency takes into consideration Member States' concerns on the previous compromise text in relation to proposed Article 57(1), which outlined that national supervisory authorities shall refrain from adopting guidelines, recommendations and best practices on matters already covered by guidelines, recommendations and best practices issued by the Board and, where necessary, shall update or repeal their national documentation adopted prior to guidelines, recommendations and best practices adopted by the Board, and related issues of independence of national supervisory authorities.

To maintain the goal of simplification through harmonised interpretation and consistent guidance, the Presidency rephrased this idea within the context of a new Recital 40a, which solely aims to highlight the need to ensure consistency of interpretation of the GDPR through the adoption of consistent guidelines by national supervisory authorities with those adopted by the Board, without mandating actions on behalf of national supervisory authorities. In addition, the Presidency suggests highlighting that the need to ensure that matters of consistent application should be duly considered by supervisory authorities, including when such matters are brought to their attention by data controllers.

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→ **The Presidency considers that achieving a harmonised application of the GDPR at both national and EU levels answers the goals of simplification and aids in creating streamlined practices and requirements across the Union.**

Provisions related to the ePrivacy Directive and cookies
Article 3(15), Article 5(2) and (2a), Recitals 43 to 46 – New Recital 46a

The Presidency acknowledges the concerns of Member States of creating a dual legal regime, and the preference to maintain relevant provisions under one legal act. Regarding Article 5(3) ePrivacy Directive, the Presidency aimed to streamline the wording with already existing ePrivacy terminology, and to provide for limited and clearly framed additional exemptions to the requirement of consent for the access to or storing of information in the terminal equipment of a user. In this same logic, and to avoid uncertainty and limit the exemptions included to what has been assessed, "contextual advertising" has been removed from the scope of these exemptions.

When it comes to machine-readable and automated indication of the data subject's choice, the Presidency took note of concerns expressed in relation to the application of such mechanisms. To address the need for a sound and comprehensive assessment, in the new Recital 46a, the Presidency emphasizes the role of standardisation in ensuring the easy and effective declaration of data subjects' consent preferences, and at the same time allowing for granular and informed consent to be provided in line with GDPR's consent requirements. The Presidency recognises the need to provide that standards should be prepared in a manner that considers businesses in the digital environment, the nature of digital economy and the ability to access content and services on the open web. In addition, Recital 46a incorporates a response to concerns raised by Member States around consumer law and competition law requirements being appropriately observed.

→ **The Presidency aims to provide clarity around the proposed consent mechanism through outlining the parameters for consideration in the standardisation process, in order to achieve the effective exercise of individuals' consent through a model that takes into account competition and consumer law concerns alongside issues stemming from the digital environment.**

Cyber related provisions / Single-entry-point
Articles 6 to 9 and Article 11, Recital 49 to 57

Based on the discussion held during the AGS meeting of 8th May and the written contribution received, the Presidency has taken into account in particular the demand to **ensure flexibility for Member States in their establishment of their national entry point**, while at the same time **seizing the simplification opportunity for businesses and entities** having to comply with multiple reporting obligation.

The Presidency recommends updating the four main Articles included in its previous compromise text on the basis of the views expressed, in particular with the following elements.

- A streamlined provision for an 'incident reporting information point' at EU level: the single information point has been renamed to avoid confusion with other information platform already established under the EU acquis. The Article 23a tasking ENISA to set up the incident reporting information point has been rationalised with a focus on the key component for its establishment, while preserving the important provision related to its functioning (provision of information, processing of any incident notification or related data)

- Flexibility for the establishment of the national entry point, while aiming at interoperability: the main change to the Article 23b on the national entry point for incident report 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. An accompanying recital further specifies this provisions. In addition, the Article now include a provision aiming at interoperable national entry points, thus paving the way for cross-border incident notification in the future.

- Fostering the harmonisation of incident notifications: the proposed Article 23c on the harmonisation of incident notifications is maintained with a two-step timetable for ENISA to present the related guidelines (first draft within 12-month, final draft within 18 months) allowing to take into account the input resulting from the consultation process.

- Facilitating cross-border notifications: the Presidency consider that the design of national entry point with a view to achieve interoperability, now included in Article 23b, could also facilitate the functioning of cross-border notifications referred to and further detailed under Article 23d.

The Presidency also highlights that, considering the update proposed under Article 23d and related actions to be undertaken at national level, the final provisions of the legislative proposal have also been updated so that the deadline for the obligation to report via the national entry point to enter into application is extended from 24 to 30 months.

Finally, with a view to address the issue of costs related to the establishment of the national entry points, a new recital is proposed, pointing at the importance of financial support through relevant Union funding instruments.

→ **The Presidency considers that, as a package, the compromise text sets a realistic trajectory towards a simplified and efficient mechanism for incident reporting, responding to Member States concerns related to the Commission's initial proposal and reaffirming the need for flexibility in the establishment of national entry points.**

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Annex - Explanatory Table

The purpose of this explanatory table is to provide delegations with additional information, clarifications and reasoning for the amendments proposed by the Presidency. The explanatory table follows the order of the relevant provisions.

Recitals	
GDPR	
Recital 27	No changes compared to previous compromise text.
Recital 27a	Minor wording adjustments have been made to the recital. Further clarifications have been added concerning elements to be addressed by the Board in its opinion, in particular relating to anonymisation with the following sentence: "*The opinion should also address the processing to be undertaken and other measures to be applied in order to effectively render personal data anonymous*".
Recital 27b	This new recital brings further clarity and accompanying elements to Article 29a, emphasising the possibility to apply pseudonymisation as a security measure in an effective manner, as well as the relevant of codes of conduct to promote and facilitate the application of pseudonymisation.
Recital 28	The recital has been restructured and updated to reflect the slight rewording change in the definition. In addition, the following sentence has been added: *"This does not exclude that the outcome of scientific research activities may also aim to further commercial or private interests."*
Recital 29	No changes compared to previous version of the compromise text.
Recital 30	Deleted. No changes compared to previous version of the compromise text.
Recital 31	Deleted. No changes compared to previous version of the compromise text.
Recital 32	Minor restructuring, to reflect the order of lawful grounds for processing under Article 6 GDPR.
Recital 33	Minor adjustments, reflecting the changes in the corresponding article (replacement of "delete"/ "deletion" with "erase"/ "erasure"). Further clarifications on the notion of "incidental" processing, referring to situations where *"the controller did not initially envisage the processing of such personal data".*
Recital 33a	New recital indicating that legitimate interest may be relied upon as a legal basis for the processing in the context of the development and deployment of AI systems or models, while highlighting that controllers remain under the obligation to choose the most appropriate lawful ground for processing pursuant to Article 6 GDPR.
Recital 34	Recital updated to reflect the changes in the corresponding article, together with minor wording adjustments.
Recital 35	Recital updated to further clarify, by analogy and in line with CJEU case-law developments, that "*repeated requests are not automatically excessive in nature but may indicate an abusive intent on the part of the data subject*". An additional example has been added in reference to situation where a request is submitted with a deliberate intention to adversely affect and burden public authorities.
Recital 35a	No changes compared to previous version of the compromise text. Editorial corrections.

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Recital 36	No changes compared to previous version of the compromise text. Editorial corrections.
Recital 37	No changes compared to previous version of the compromise text.
Recital 38	No changes compared to previous version of the compromise text. Editorial corrections.
Recital 39	No changes compared to previous version of the compromise text.
Recital 39a	New recital accompanying the proposed amendment to Article 25 GDPR on data protection by design and by default.
Recital 40	No changes compared to previous version of the compromise text.
Recital 40a	New recital, replacing the amendment to Article 57 GDPR in the previous compromise text. Recital highlights the need to ensure consistency between guidelines adopted at national level and the ones adopted by the Board, and, the importance for supervisory authorities to duly consider matters of consistency, including when such matters are identified and brought to their attention by data controllers or other relevant stakeholders.
Recital 41	No changes compared to previous version of the compromise text.
Recital 42	No changes compared to previous version of the compromise text.
Recital 43	Deleted. No changes compared to previous version of the compromise text.
Recital 43a	No changes compared to previous version of the compromise text.
Recital 44	The recital has been updated with slight wording adjustments, to align with ePrivacy Directive terminology. In addition, the paragraph relating to "contextual advertising" has been deleted in line with the proposed change in Article 5(3) ePrivacy.
Recital 45	No changes compared to previous version of the compromise text.
Recital 46	No changes compared to previous version of the compromise text.
Recital 46a	New recital. Accompanying the proposed changes to Article 8a on machine readable and automated indications of data subjects' choices. The Recital emphasises that the standardisation process should ensure compliance with GDPR and that standards are developed in manner that considers operation of businesses in a digital environment, ensures information is promoted in the digital economy and supports access to content and services on the open web.
Recital 47	Deleted. No changes compared to previous version of the compromise text.
Recital 48	No changes compared to previous version of the compromise text.
Cyber / Single-entry-point	
Recital 49	No changes compared to previous version of the compromise text.
Recital 49a	No changes compared to previous version of the compromise text.
Recital 50	The recital has been update to align with the amended version of Article 23b and include a reference to interoperability.
Recital 50a	New recital to further clarify and develop the elements of flexibility in the establishment of national entry points.
Recital 50b	New recital referring to the costs entails by the development of national entry points and the importance of financial support through relevant Union funding instruments.
Recital 51	The recital has been updated, removing the reference to interoperability, now moved under recital 50.
Recital 52	Deleted. No changes compared to previous version of the compromise text.

Recital 53	Deleted. No changes compared to previous version of the compromise text.
Recital 54	Deleted. No changes compared to previous version of the compromise text.
Recital 55	No changes compared to previous version of the compromise text.
Recital 56	No changes compared to previous version of the compromise text.
Recital 57	No changes compared to previous version of the compromise text.
P2B	
Recital 59	The recital is amended to align it with Presidency proposal in Article 10(1) and (2), referring to the Articles which would remain in force.
Articles	
GDPR	
Article 3(1)(a)	Deleted. No changes compared to previous version of the compromise text.
Article 3(1)(b)	Definition of scientific research: - Wording update replacing the reference to "*concurring to the public interest and wellbeing*" by "*contributing to the growth of society's general knowledge and wellbeing*". - Reference to standards has been altered to "*ethical standards applied in the specific area while conducting the of research".*
Article 3(2)	No changes compared to previous version of the compromise text.
Article 3(3)(a)	Derogation from the prohibition of the processing of special categories of personal data: - Artificial intelligence: no changes compared to the previous version of the compromise text. The clarification of the notion of "incidental processing" has been introduced in the corresponding recital. Paragraph 5 has been amended to replace "delete" by "erase" and to include a reference to the documentation by the controller. - Biometric verification: wording adjustments, with a cross reference to Article 9(4) GDPR concerning Union or Member States law, where applicable.
Article 3(4)	No changes compared to previous version of the compromise text.
Article 3(5)	No changes compared to previous version of the compromise text.
Article 3(6)	No changes compared to previous version of the compromise text.
Article 3(7)	The proposed amendment now includes the full text of Article 22 GDPR, to address inconsistency risks and ensure correct reference to now paragraph 1 (previously paragraph 2 in Article 22 GDPR), in the corresponding paragraphs and in Article 70(1)(f) GDPR). The text of paragraph of paragraph 2 and 3 of the amended Article is identical to the text of the original paragraph 3 and 4 of Article 22 GDPR.
Article 3(7a)	Proposed amendment to Article 25 GDPR: No changes compared to previous version of the compromise text. A corresponding recital has been added.
Article 3(8)	No changes compared to previous version of the compromise text.
Article 3(9)	No changes compared to previous version of the compromise text.
Article 3(9a)	No changes compared to previous version of the compromise text.
Article 3(10)	Proposed new Article 29a has been amended with the following main changes:

	- Update of title referring to the "Application of pseudonymisation and identification of natural person". - For clarity and legal certainty purposes, split of paragraph is introduced to, firstly, highlight the value of pseudonymisation in complying with GDPR obligations (in paragraph 1), and secondly, phrase out the main rules in determining identifiability of a natural person (in paragraph 1a). The Presidency stresses that both the text of paragraphs 1 and 1a are identical to the corresponding references in recitals 26 and 28 GDPR.
Article 3(11)	Deletion of the provision related to the consistency between the adoption of guidelines by national supervisory authority and by the Board, now address in the new recital 40a. No changes to the proposed amendment to Article 57(4) GDPR.
Article 3(12)	No changes compared to previous version of the compromise text.
Article 3(12a)	Technical amendment to Article 70(1)(f) GDPR, in line with the drafting changes to Article 22 GDPR.
Article 3(13)	No changes compared to previous version of the compromise text.
Article 3(14)	No changes compared to previous version of the compromise text.
Article 3(15)	The new Article 8a on automated and machine-readable indication of data subject's choice has been amended with the following main changes: - An additional subparagraph to paragraph 1 (subparagraph ba) introducing the withdrawal of consent - Paragraph 4 has been amended to mandate consultation as part of the standardisation process in accordance with Article 10 of Regulation (EU) 1025/2012. In addition, a new accompanying recital has been introduced. The deletion of the proposed new 88c is maintained, but a new recital has been introduced to highlight that processing in the context of the development of AI system may be regarded as a legitimate interest pursued by the controller.
Article 4	The Presidency informs that all provisions amending Regulation 2018/1725 (EUDPR) will be fully aligned with the compromise text of GDPR related provisions.
Article 5(1)	No changes compared to previous version of the compromise text.
Article 5(2)	Article 5(3) ePrivacy has been amended with the following main changes: - Wording: Alignment with ePrivacy terminology and definitions ("subscriber or user"). - Structure: distinction between the carrying out of a transmission of an electronic communication (a) and the provision of a service (b). - Audience measurement: clarification of the role of third party ("together with or on behalf") and addition of a reference to the performance of audience measurement in accordance with Article 24 of Regulation (EU) 2024/1083 (EMFA). - Clarification regarding the consent exemption for security purposes. - Deletion of the consent exemption for 'contextual advertising" measures. - Designation of data protection authorities (competent supervisory authority under the GDPR).

Article 5(2a)	The transposition deadline has been extended from 18 to 24 months.
Cyber / Single-entry-point	
Article 6(1)1.	The article establishing the single information point (23a) has been updated with the following main changes: - In order to avoid any confusion with the "single information point" already existing under the EU data acquis, the proposed single information point at EU level has been renamed as "incident reporting information point". - The article has been streamlined in order to focus on the key constitutive elements of the incident reporting information point, and the main features and functionality to be developed by ENISA.
Article 6(1)2.	The article establishing the national entry point for incident reporting (23b) has been updated with the following main changes: - Paragraph 2 clarifies that tain flexibility to configure their national entry point in accordance with their existing competent authority structures and the allocation of competences among authorities. - Paragraph 3 provides that Member States shall design their national entry point with a view to make the national entry points interoperable with the national entry points of the other Member States. - Paragraph 4 has been updated to add the reference to interoperability, with a view to support Member States in the establishment of their national entry point. The Presidency clarifies that guidelines are, by nature, legally non-binding.
Article 6(1)3.	The article on the harmonisation of incident reporting framework (23c) has been updated with the following main changes: - The reference to interoperability has been removed since it has now been included under Article 23b. - The timeframe for the presentation of ENISA's guidelines has been updated: by 12 months after the entry into force of the Regulation, and a final version within 18 months, and shall update them regularly thereafter.
Article 6(1)4.	The article on cross-border incident notification (23d) has been slightly updated, in particular its paragraph 1 which now solely focuses on the overall aim of facilitating cross-border notifications to multiple national reporting structures.
Article 6(2)	No changes compared to previous version of the compromise text.
Article 6(3)	Paragraph 1 has been slightly updated to refer to the national entry point under Article 23b/
Article 7	No changes compared to previous version of the compromise text.
Article 8	No changes compared to previous version of the compromise text.
Article 9	No changes compared to previous version of the compromise text.
Article 11	The deadline for the obligation to report via the national entry point to enter into application has been extended from 24 to 30 months.
P2B	
Article 10(1)	Point (b) was deleted. This would entail that Articles 4 and 11 of the P2B would remain in force.