



Council of the European Union
General Secretariat

Brussels, 05 July 2022

WK 9492/2022 INIT

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Security Committee
N° Cion doc.:	7670/22
Subject:	Proposal for a Regulation of the European Parliament and of the Council on information security in the institutions, bodies, offices and agencies of the Union: follow-up to the Coreper mandate

Delegations will find attached a document outlining the proposed way forward in view of the Security Committees' examination of a proposal for a Regulation of the European Parliament and of the Council on information security in the institutions, bodies, offices and agencies.

This working paper will be presented by the Council Secretariat at the meeting of the Council Security Committee on 7 July, under the agenda item 4.

Proposal for a Regulation of the European Parliament and of the Council on information security in the institutions, bodies, offices and agencies of the Union: follow-up to the Coreper mandate

1. On 15 June 2022, the Permanent Representatives Committee (Coreper) gave a mandate to the Council Security Committee (CSC)¹ to continue its work on the proposal for a Regulation on information security in the institutions, bodies, offices and agencies of the Union. The CSC was invited to examine the proposal in detail and address 8 areas of concern as identified in the CSC opinion related to the protection of classified information (see doc. 10091/22) by proposing detailed amendments to the text.

Ordinary Legislative Procedure

2. The legal basis of the proposal is Article 298 TFEU which empowers the European Parliament (EP) and the Council to adopt regulations in accordance with the ordinary legislative procedure. The ordinary legislative procedure, which is defined in Article 294 TFEU, entails that the Council and the EP will act as co-legislators and adopt the future regulation jointly.
3. In the first stage of this procedure, after receiving the Commission proposal, each of the two institutions start examining the proposal in parallel at a working party level. In the Council, pursuant to the mandate endorsed by the Coreper, the CSC has been tasked to examine the proposal in detail and to suggest concrete textual modifications. Regarding the EP, the main committee responsible for this file is the LIBE Committee (Civil Liberties, Justice and Home Affairs). On 15 June 2022, Vladimir Bilcik (EPP-SK) was appointed as rapporteur. He will be leading the examination of the proposal in the LIBE committee and later on behalf of the EP.

¹ doc. 10231/22 (courtesy translation in English in WK 8619/22).

4. The examination of the proposal at the working party levels starts with the presentation by the Commission and its accompanying impact assessment if any. The Commission presented its proposal on 26 April. The Commission did not perform an impact assessment for this proposal as it considered that "there were no clearly identifiable or significant impacts on citizens and businesses", given the fact that "the initiative is exclusively addressed to the Union institutions and bodies and has a limited impact on Member States and individuals"². On the other hand, the Commission produced an impact analysis report (see doc. 7670/22 ADD 8, ADD 7 contains an executive summary of the impact analysis report) that the CSC might want to examine and discuss.
5. The examination in the working party is usually done by chapters or groups of articles, with at first general discussions then redrafting of detailed provisions (paragraphs and sentences). Delegations express their comments both in writing and orally, and suggest concrete modifications of the wording of the proposed text, they may also ask for clarifications to the Commission.
6. When the agreement is found at the working party level, or when there are issues that cannot be solved at that level, the file is brought to Coreper. Coreper examines the outstanding issues and either finds an agreement, or sends the file back to the working party for further examination with some guidance.
7. Once there is sufficient support among Member States for the negotiated text, such text will serve as the negotiating mandate for the Presidency in its negotiations with the EP. The Presidency can obtain the negotiating mandate either from the Council, which reaches a then so called "general approach", or from Coreper. The EP follows a similar procedure where the Committee prepares a negotiating mandate that is adopted by the EP plenary. Once both institutions have their negotiating mandate, they enter into interinstitutional negotiations, so-called informal trilogues, together with the Commission, which acts as a mediator and facilitates the discussions.

² doc. 7672/22, pg. 6

Procedure in the CSC

8. The CSC is in charge of examining the Commission's proposal in detail and to suggest specific and concrete amendments to the text addressing in particular the areas of concern identified in the CSC opinion, related to the protection of classified information.
9. During the first stage of the procedure, the focus will be put on the detailed analysis of the text with a view to identify which are the parts on which Member States could agree and which are the issues where there is no yet an agreement.
10. Pursuant to the mandate issued by Coreper, the examination of the Proposal may take into account the work currently under way to revise the Council Security Rules as well as the results achieved so far. In practice, the CSC could start examining the chapters that were already finalised under the review process: physical security, exchange of classified information with third States and international organisations, and management of classified information (to be closed very soon). They would be followed by the chapter on industrial security, where the preparatory work was done, personnel security and CIS. Concerning the latter, it should be noted that the CSC(IA) is currently working on the CIS chapter of the Council Security Rules.