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European Union

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#### **NOTE**

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From: Presidency  
To: Permanent Representatives Committee

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Subject: Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data

- Preparation of a general approach
- Chapters I, IV, V, VII, IX and X

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#### **I. INTRODUCTION**

1. On 27 January 2012 the Commission presented the proposal for a Directive on the protection of individuals with regards to processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (hereafter referred to as draft Directive).<sup>1</sup>

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<sup>1</sup> 5833/12

2. Since then the draft Directive has been examined in the Council preparatory bodies. The Luxembourg Presidency is continuing this work as one of its main priorities with the aim to reach a general approach on the draft Directive in the Council (JHA) on 9 October 2015. The shared understanding between the EU institutions is that the General Data Protection Regulation<sup>2</sup> and the draft Directive are to be considered a package.
3. The European Parliament adopted its position on the draft Directive at first reading in the context of the ordinary legislative procedure on 12 March 2014.<sup>3</sup>
4. As the draft Regulation - following the adoption of a general approach by the Council in June 2015 - is already dealt with in trilogue negotiations with the EP, the Presidency considers it important to also make progress on the draft Directive. Hence, the different chapters of the draft Directive have been discussed in meetings of the DAPIX working party as well as in meetings of the Friends of the Presidency on 2/3 July, 15/16 July, 22 July, 3/4 September, 9 September and 16 September 2015.

## **II. PRESIDENCY COMPROMISE**

5. With a view to preparing a text for a general approach which obtains the required majority in Council on 8/9 October 2015, the Presidency has prepared new compromise suggestions on the following chapters of the draft Directive as they are set out in document 11972/15.
  - chapter I on general provisions, including the subject matter, objectives and the scope;
  - chapter IV concerning the provisions as regards the controller and the processor of data;
  - chapter V concerning the transfer of personal data to third countries or international organisations;
  - chapter VII on the cooperation between the data protection supervisory authorities of the Member States and the European Data Protection Board;
  - chapter IX on implementing acts by the European Commission, and
  - chapter X on the final provisions.

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<sup>2</sup> 5853/12

<sup>3</sup> 7428/14

6. The text of the other chapters (chapters II, III, VI and VIII) as set out in document 11972/15 is provided to COREPER at this stage for information only and to give an overview of the state of the discussion on these chapters. They are to be agreed upon at a later stage, as they are still under discussion in the Working Party.
7. The Presidency would like to remind delegations that, as was made clear when the General Data Protection Regulation was discussed in Coreper and Council, an approval on a chapter or chapters is based on the understanding that nothing is agreed until everything is agreed and future changes to be made to the text of the provisionally agreed Articles to ensure the overall coherence of the Directive are not excluded. Such partial approvals are without prejudice to any horizontal question.
8. According to the above, COREPER is asked to endorse the Presidency compromise text on chapters I, IV, V, VII, IX and X of the draft Directive as set out in doc. 11972/15 with a view to enabling the Council (JHA) to adopt a general approach on the draft Directive on 9 October 2015.

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