



Council of the  
European Union

Brussels, 27 November 2017  
(OR. en)

14976/17

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**Interinstitutional File:**  
**2016/0389 (COD)**

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**AGRI 653**  
**AGRIORG 118**  
**AGRISTR 108**  
**STATIS 86**  
**AGRIFIN 125**

**NOTE**

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From: Presidency  
To: Delegations

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No. prev. doc.: 13336/17  
6043/17

No. Cion doc.: 15485/16+ADD

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND  
OF THE COUNCIL on integrated farm statistics and repealing Regulations  
(EC) No 1166/2008 and (EU) No 1337/2011  
*- Presidency proposal following the EDPS Opinion*

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1. In view of the Opinion of the European Data Protection Supervisor (EDPS) (doc. 14766/17), the Presidency has put together a proposal to modify the Council's text of Recital (16a) and Article 12a of the above mentioned proposal.
2. In order to align the Council's position with the EDPS Opinion while ensuring that the delegations' concerns continue to be covered, the Presidency proposes to delete Article 12a and to replace the text of Recital (16a) with the text set out in the ANNEX. The text of this Recital builds on two useful recommendations by the EDPS:

- "In light of the foregoing, it appears that there is no need for additional derogations from Article 21 of the GDPR [on the right to object], as this right either simply does not apply or another, appropriate derogation has already been set out in the GDPR." (see page 12 of the EDPS Opinion)
  - "In particular, under Article 11, in cases where a controller is able to demonstrate that it is not in a position to identify the data subject (such as when the keys are destroyed and other technical and organisational measures are taken to ensure that the individuals cannot be identified, see above), the rights of the data subjects under Articles 15 to 20 shall not apply." (see page 10 of the EDPS Opinion)
3. In case the above mentioned proposal cannot be supported, delegations need to present convincing justification why Articles 15, 16, 18 and 21 of the GDPR (General Data Protection Regulation (EU) 2016/679) "are likely to render impossible or seriously impair the achievement" (Article 14(5)(b) GDPR) to produce statistics in the meaning of Article 89(2) GDPR.
  4. Delegations are invited to inform the Presidency by 30 November at the latest whether they are in a position to support the proposal set out in point 2 above and in the ANNEX.
  5. Please send your comments to the following email addresses:  
[secretariat.dgb1b@consilium.europa.eu](mailto:secretariat.dgb1b@consilium.europa.eu) and [eu2017@stat.ee](mailto:eu2017@stat.ee)

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**New Recital (16a)****- replacing old Recital (16a) and Article 12a -**

(16a) The framework established by this Regulation for European statistics at the level of agricultural holdings requires Member States' national statistical institutes and/or other national authorities to obtain the relevant data through data sources and methods, including through statistical surveys, in order to meet the quality criteria set out in this Regulation and Article 12 of Regulation (EC) No 223/2009. Where a controller in a Member State processes personal data for the purposes of this Regulation, such processing is necessary for the performance of tasks carried out for reasons of public interest to produce statistics which are necessary for the performance of the activities of the Union in the field of agriculture as laid down in this Regulation and therefore there is no right to object in accordance with Article 21(6) of Regulation (EU) 2016/679.

Moreover, Member States' national statistical institutes and/or other national authorities might process personal data for which they do not or do no longer require the identification of a data subject within the meaning of Article 11 of Regulation (EU) 2016/679. Where a controller in the Member States can demonstrate that it is not in a position to identify the data subject, in particular after data has been dissociated from the data subject and further processed for creating aggregated statistics, Articles 15 to 20 of Regulation (EU) 2016/679 should not apply except where the data subject, for the purpose of exercising his or her rights under those articles, provides additional information enabling his or her identification.