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European Union

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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the transparency and targeting of political advertising - Statements on the general approach

Delegations will find, in the Annex to this note, the joint statement by DE, HR, CY, EL, LU and ES and the statement by FR on the general approach agreed by the Council (General Affairs) at its meeting on 13 December 2022.

Joint statement by Germany, Croatia, Cyprus, Greece, Luxembourg and Spain

Germany together with Croatia, Cyprus, Greece, Luxembourg, and Spain support the aim of the regulation on the transparency and the targeting of political advertising to enhance the resilience of European democracy by inter alia strengthening the protection of personal data in the context of political advertising. In a spirit of compromise and with the objective of these new rules entering into force prior to the upcoming elections for the European Parliament, we support the general approach.

We take note, however, that the Council position falls behind the Digital Services Act (DSA) and we see the need for improvements in this respect. The regulation regarding the use of special categories of personal data (Art. 9 (1) GDPR) should be in line with the provisions of the DSA. As using special categories of personal data is not permissible for commercial advertising, this must apply all the more to political advertising. The integrity of the electoral process is a fundamental pillar of European democracy and therefore lies beyond what can be subject to the individual's choice by giving consent to data processing in such a sensitive context.

We therefore prefer a ban on the use of special categories of personal data (Art. 9 (1) GDPR) in the context of the targeting and amplification of political advertising. Art. 12 (2) and (2a) should be deleted so as to not allow for the use of such data, regardless of consent.

With a view to the forthcoming interinstitutional negotiations with the European Commission and the European Parliament, we trust that these aspects will be given serious and careful consideration and included in the deliberations.

Statement by France

La France salue l'adoption de l'orientation générale de ce règlement, dont elle partage l'objectif d'amélioration de la transparence de la publicité politique. Il est important que les citoyens européens aient toutes les informations à leur disposition pour faire un choix éclairé ; il en va de la vie démocratique de nos Etats membres et de l'Union européenne. Cette vie démocratique est souvent encadrée par des règles nationales qui en sont indissociables, issues de l'histoire et de nos cultures politiques respectives. La France interdit par exemple l'utilisation à des fins de propagande électorale de tout procédé de publicité commerciale (art. L. 52-1 du Code électoral) dans les six mois précédant un scrutin. C'est l'Etat qui assure l'envoi et la distribution de la propagande électorale au bénéfice de tous les candidats, afin de garantir l'égalité entre ces derniers. Ce dispositif est une composante essentielle du modèle électoral français. La France prend note du fait que ce règlement n'affecte pas ce type de disposition nationale, qui est sans lien avec la transparence des publicités politiques.