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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act) **(first reading)** - Adoption of the legislative act = Statements

Statement by Austria

In a spirit of overall compromise, Austria endorses the Interoperable Europe Act.

However, we would note that the text, which has emerged as the outcome a political compromise, has not dispelled Austria's significant concerns regarding data protection. These concerns relate in particular to the following points:

- Article 12(6) provides for a blanket, indiscriminate and horizontal authorisation for the processing of any personal data in regulatory sandboxes. From a data protection perspective, this provision is too vague and therefore cannot constitute a legal basis for data processing. The re-use of personal data collected for a specific purpose for purposes that have no substantive or formal connection with the initial purpose is in no way foreseeable for the data subject. To the extent that the provision is intended to be a form of re-use that is 'compatible' within the meaning of Article 6(4) GDPR, it should be noted that Article 12(6) does not constitute a necessary and proportionate measure in a democratic society to safeguard the objectives referred to in Article 23(1) pursuant to Article 6(4) GDPR. Moreover, the provision does not distinguish between special categories of personal data pursuant to Article 9(1) GDPR and other personal data. In Austria's view, the processing of special categories of personal data is not permissible on the basis of Article 6(4) GDPR and runs counter to the risk assessment underlying the GDPR.
- Furthermore, Article 12(6) completely disregards the data protection principle of data minimisation pursuant to Article 5(1), point (c), GDPR, because neither the scope nor the categories of personal data potentially processed in regulatory sandboxes are limited in any way.
- Contrary to Article 5(1), point (e), GDPR, the text does not provide for a maximum retention period for personal data in regulatory sandboxes. Moreover, since no maximum authorisation period is stipulated for regulatory sandboxes, the personal data contained therein are permanently accessible and can be processed permanently for an unlimited period of time.