



**COUNCIL OF
THE EUROPEAN UNION**

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LIMITE

**DATAPROTECT 65
JAI 396
MI 420
DRS 100
DAPIX 81
FREMP 65
COMIX 304
CODEC 1132**

NOTE

from:	French delegation
to:	delegations
No. prev. doc.:	9398/13 DATAPROTECT 61 JAI 355 MI 383 DRS 96 DAPIX 80 FREMP 53 COMIX 276 CODEC 1033
Subject:	Recitals 25 and 38 of the proposal for a General Data Protection Regulation - Drafting suggestions

At the Coreper meeting of 8 May 2013 on the proposal for a General Data Protection Regulation, the provisions relating to consent were discussed.

The French authorities wish to present in writing the two drafting amendments which were presented as part of this meeting on recitals 25 and 38 of the proposal for a regulation.

As regards recital 25, which states that the data subject's consent, as a basis for processing, can be given for a set of processing activities and purposes, but which was never discussed by the Council working party, we would like an addition to the current drafting proposal so that it states that in the case of grouped consent, the consent should be expressed clearly enough that it can apply to all of the purposes and processing to which the data subject agrees. As such, the following could be added to the recital:

"When the processing has multiple purposes, unambiguous consent should be granted for all of the processing purposes."

As regards recital 38, we would like to add the following clarification to this recital to state that processing carried out as part of direct marketing activities is based on the controller's legitimate interests and not the consent of the data subject. We suggest, for example, that recital 38 be completed by the following phrase:

"The processing of personal data for direct marketing purposes can be regarded as carried out for a legitimate interest."

We nevertheless wish to emphasise that our agreement with Articles 4(8) and 7 is subject to the preservation of the wording of Article 6(1), which supplements, besides the consent of the data subjects, the criteria for the lawfulness of processing.