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NOTE

From:	the Dutch delegation
To:	Delegations
Subject:	Draft Report of the Expert Group on Official Announcements

Delegations will find in the Annex the draft Report of the Expert group on Official announcements, which will be discussed in the meeting of the Expert group on Official announcements on 17 October 2017.

Draft

Report of the Expert Group on Official Announcements of the EU Working Party
on e-Law (e-Law/e-Justice)

I. Introduction

1. The mandate for the Expert Group on Official Announcements (hereinafter also referred to as 'EGOFA') was decided upon by the Working Party on e-Law (e-Law) on 24 June 2016 (document 9663/16), following the proposal of the Working Party on e-Law (e-Justice) of 4 May 2016 (document 8195/16). The substantive paragraphs (6 & 7) of the mandate read:
[6] Regarding these [official] announcements the expert group should focus on:
 - a. the legal framework concerning these announcements, with a specific focus on the protection of personal data. Both the EU legal framework as well as national legal frameworks should be considered;
 - b. the way in which legal rules on data protection are enforced by technical means and organisational safeguards.
 - c. the availability and accessibility of national electronic websites where official announcements are published, with the aim of publishing such information and links of the national systems in the e-Justice portal.
[7] The expert group should:
 - a. do desk research;
 - b. draft a questionnaire to be sent out to the Member States and the Publications Office;
 - c. process this questionnaire and draft a report;
 - d. draft guidelines, preferably in the form of Council Conclusions;
 - e. disseminate the results of the study.
2. A first meeting of EGOFA was organised on 12 December 2016; at this meeting the questionnaire was discussed.

3. The questionnaire was distributed to Member States and answered by 39 organisations from 18 jurisdictions (17 Member States as well as the EU).
4. In a second meeting, on 15 May 2017, EGOFA discussed the draft report which synthesized the answers to the questionnaire.
5. EGOFA decided not to send the full report to the Working Party, because not all Member States answered to the questionnaire and because the substantive complexity and variety at national level make it practically impossible to present a reliable and useful document.

II. General Conclusions from the Report

6. Nevertheless some general conclusions from the report can be shared.
7. All (or nearly all) respondents have digitized official announcements; some respondents have still a paper version available as well.
8. In most jurisdictions the electronic version has legal effect, not the paper version.
9. In general, access to official announcements is free of charge.
10. ‘Access’ is the most often mentioned goal of on-line publication of official announcements, followed by notifications, although this only concerns a minority. Data services are mentioned by only a few.
11. Most respondents do have a legal framework requiring the electronic publication of official announcements, but most respondents do not have a legal or policy framework for the anonymisation/pseudonymisation of official announcements. No respondent has defined formally which personal data have to be anonymised/pseudonymised in case such anonymisation/pseudonymisation is necessary.
12. Most respondents have indicated the general data protection framework to be applicable.

13. Most respondents indicate they never anonymise or pseudonymise official announcements once they are published, or only in exceptional cases. Whether or not official announcements have an ending date does not seem to be of relevance for the anonymisation/pseudonymisation strategy.
14. Some respondents indicated they do use a robots exclusion protocol for third party search engines, or exclude full-texts searches in their own search engines (sometimes after a certain period) to limit the searchability of the official announcements for data protection reasons. Some Member States limit text searches by converting official announcements into PDF/A-1b (images).

III. Drafting of Guidelines

15. Given the variety of types of announcements and differing national/sectoral legal frameworks and practices, EGOFA is of the opinion that it is not possible to draft general guidelines on data protection issues surrounding the publication of official announcements. Also, many Member States are of the opinion that it is not within the competence of the EU Council to draft such recommendations.
16. It was also within the mandate of EGOFA to draft guidelines on: “[T]he way in which legal rules on data protection are enforced by technical means and organisational safeguards.” It should be noted that technical means are always a means to an end; hence, if there are no guidelines on the legal framework, guidelines on technical issues cannot be drafted either.
17. Nevertheless, as a general recommendation, Member States are advised to be aware of the possible implications of the General Data Protection Regulation and related instruments for the on-line publication of official announcements and they are advised to reflect on its ramifications.

IV. Gathering Information for the e-Justice Portal

18. Within its mandate, EGOFA also had the task to focus on “[T]he availability and accessibility of national electronic websites where official announcements are published, with the aim of publishing such information and links of the national systems in the e-Justice portal,” since this is one of the actions defined in the Multiannual European e-Justice Action Plan 2014-2018.

19. EGOFA has developed a template to be filled out by the Member States, which is displayed hereunder.

1	On which website(s) are official announcements published? If official announcements are also published on paper, please supply relevant information.
Please answer for every website:	
2	Supply the URL
3	Which types of announcements are published?
4	From which organisation(s) are announcements published?
5	Is access to the official announcements free of charge? (If not, please describe when a fee is charged)
6	What types of searches can be made? E.g. by using standardised keywords, names of person, personal identification code/registry code, type of announcement, free text a.s.o.)
7	As of which date are the official announcements available in electronic format?
8	Is there a notification service (by which users can receive announcements that meet previously defined criteria)?
9	Are the official announcements available as Open Data?

20. EGOFA invites the Working Party on e-Law (e-Law) to discuss this report in its next meeting and to ask to Working Party on e-Law (e-Justice) to endorse the template in par. 19, with the goal to have it distributed by the Commission with a view to incorporate this information on the e-Justice portal.
