MFA INSIGHT | DATA PROTECTION

MFA Legal & Tech

Digital Omnibus

Its possible impacts on the GDPR

Four aspects of the Council's negotiating mandate businesses should monitor

Council mandate agreed on 21 October 2026

LEGISLATIVE PROPOSAL · NOT IN FORCE

Four aspects of the Council's mandate to monitor

On 21 October 2026, the Council agreed its negotiating mandate on the Digital Omnibus. Its position on the GDPR departs from the Commission's proposal in several respects.

1 Personal data

Article 4(1) definition unchanged; a new Article 25a on pseudonymisation.

Explore topic →

2 Artificial intelligence

Legitimate interests may support AI development and operation, with safeguards.

Explore topic →

3 Data breaches

96 hours to notify, and only for breaches likely to result in high risk.

Explore topic →

4 Processors

Privacy by design and by default extended expressly to processors.

Explore topic →

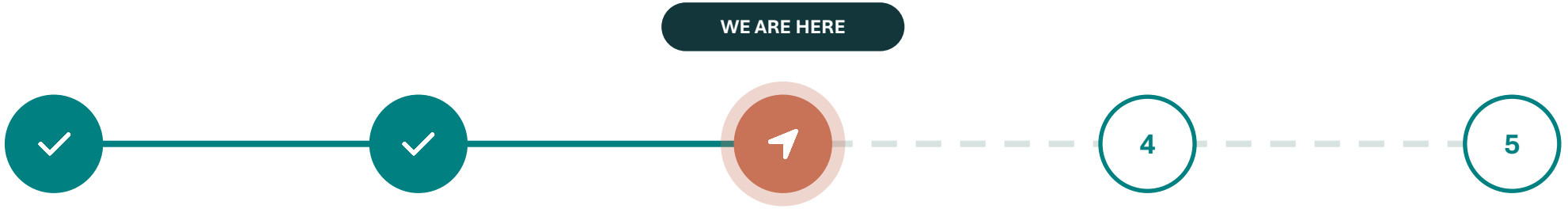
LEGISLATIVE PROPOSAL · NOT IN FORCE

These are proposals under negotiation — not amendments currently in force.

Tip: in slideshow mode, click any card or use the tabs at the top to move between topics.

A proposal midway through the legislative process

The Council's mandate is its starting position for negotiations with the European Parliament. The final text may still differ.



Commission proposal

COM(2025) 837 final

EDPB–EDPS opinion

Joint Opinion 2/2026

Council mandate

Agreed 21 October 2026

Trilogues

Negotiations between Council, Parliament and Commission

Adoption

Formal adoption and publication in the Official Journal

IN THE MEANTIME

Until a final text is adopted and published, the current GDPR rules continue to apply in full.

The definition stays. The debate continues.

The Council withdraws the Commission's proposed change to the definition of personal data, but addresses identifiability in a new provision.

THE COUNCIL REMOVES

Amendment to Article 4(1)

The proposed amendment to the general definition of personal data in Article 4(1) GDPR.

The current general definition is retained.

→

BUT PROPOSES

A new Article 25a

A new provision addressing pseudonymisation and identifiability for third parties.

Identifiability is assessed by reference to the recipient's means.

WHY IT MATTERS

Pseudonymised data may not qualify as personal data for third parties without reasonable means to identify the individuals concerned.

Article 3 of the mandate · Article 4(1) (withdrawn) and proposed Article 25a

Legitimate interests: not a blanket authorisation

The Council's draft expressly recognises that legitimate interests may support certain processing for the development and operation of AI systems and models, subject to Article 6(1)(f) GDPR.

1 Appropriate legal basis

Where legitimate interests are relied upon as the legal basis for processing, the conditions set out in Article 6(1)(f) GDPR must be met.

2 Balancing of interests

The controller's interests are weighed against data subjects' rights and freedoms.

3 Data subject safeguards

Appropriate safeguards must protect the rights of the individuals concerned.

COMMISSION vs COUNCIL

The Council removes the unconditional right to object proposed by the Commission, retaining the GDPR's general right to object.

Article 3 of the mandate · proposed Article 88 bis

Notification: a new deadline, a new risk threshold

Under the Council's draft, both the deadline and the threshold for notifying the supervisory authority would change.

TODAY · GDPR

72 hours

Notification unless the breach is unlikely to result in a risk

COUNCIL DRAFT

96 hours

HIGH RISK

Notification only where the breach is likely to result in a high risk

STILL REQUIRED

All breaches must still be documented, whether or not they are notified.

These changes were already included in the Commission's proposal · Article 3 of the mandate · Article 33

‹ Back to overview

Privacy by design: the Council proposes an express extension

ADDED BY THE COUNCIL

TODAY

Controllers

Article 25 GDPR imposes data protection by design and by default obligations on controllers.

→

COUNCIL MANDATE

Controllers + processors

The obligations would extend expressly to processors, insofar as applicable to their role, including technology and cloud providers.

WHY IT MATTERS

Technology providers may face additional express obligations when designing and configuring their services.

Article 3 of the mandate · Article 25(1) and (2)

What should businesses keep an eye on?

Click a topic to revisit the detail.

01	**Pseudonymised data**	Data classification and reidentification risks.	View topic →
02	**Artificial intelligence**	Lawful bases and safeguards for processing.	View topic →
03	**Personal data breaches**	Risk thresholds, deadlines and reporting processes.	View topic →
04	**Processors**	Allocation of privacy-by-design obligations.	View topic →

LOOKING AHEAD

The Council's position signals potential directions for the GDPR; implementation depends on the next stages of the EU legislative process.

Source: Council of the European Union · ST 14756/26 (22 October 2026)

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