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THE IMPACT OF THE DATA GOVERNANCE ACT & DATA ALTRUISM

- European Strategy for Data:
 - European Commission's Communication of 19 February 2020
 - Stakeholders Consultation (until 31 May 2020)
 - series of proposed Regulations:
 - The Data Governance Act (25 November 2020)
 - Regulation 2022/868 of 30 May 2022 (entry into application 24 September 2023)
 - The Digital Services Act (15 December 2020);
 - The Digital Markets Act (15 December 2020);
 - The Artificial Intelligence Act (21 April 2021);
 - The Data Act (23 February 2022).
 - Creation of Common European Data Spaces announced
 - Commission's working document of 23 Feb 2022 announces data spaces for language and cultural heritage data (to be deployed through grants and procurement)
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AN OVERVIEW OF DGA

- Re-use of protected data held by Public Sector Bodies
 - Supervisory framework for the provision of Data Intermediation Services
 - Framework for Data Altruism Organisations
 - Establishment of a European Data Innovation Board
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RE-USE OF PROTECTED DATA HELD BY PUBLIC SECTOR BODIES (I)

- Public Sector Information (PSI) Directive replaced by the Open Data Directive (2019)
 - principle: data held by public sector bodies should be made available for re-use
 - exception: does not apply to personal data or data protected by third-party copyright (eliminates most of language data)
 - DGA: protected data held by public sector bodies should also be made available for re-use
 - exclusions: public broadcasters (TV, radio), cultural and educational establishments (e.g. universities)
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RE-USE OF PROTECTED DATA HELD BY PUBLIC SECTOR BODIES (II)

- Requests for re-use of protected data to be made by a single information point (may be sector-specific), to be answered within two months
 - Conditions for re-use (non-discriminatory, transparent, proportionate and objectively justified wrt. the nature of the data and categories of re-use) should be made publicly available by the concerned bodies
 - Possible requirements:
 - access granted only to anonymised, modified, aggregated or otherwise pre-treated data
 - access only within a secure processing environment (remotely or on the premises)
 - Fees for re-use may be charged (transparent, non-discriminatory, proportionate, objectively justified; possibility to reduce fees e.g. for research, start-ups, SMEs...)
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RE-USE OF PROTECTED DATA HELD BY PUBLIC SECTOR BODIES (III)

- Obligations of the re-user:
 - confidentiality (NDA)
 - prohibition of re-identification (organisational and technical preventive measures)
 - breach notification in case of re-identification
 - information of persons affected by unauthorised re-use
 - limitations on transfers to third countries (non-EEA)
 - Where re-use cannot be allowed, public sector bodies should provide assistance to potential re-users in seeking consent/permission
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RE-USE OF PROTECTED DATA HELD BY PUBLIC SECTOR BODIES (IV)

- each Member State shall designate at least one competent body to assist the public sector bodies in granting or refusing access to protected data
 - competent bodies may be empowered to grant or refuse access to protected data themselves
 - competent bodies provide guidance and support (by-product: development of best practices in data anonymisation/ pseudonymisation, secure processing environments, etc.)
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- Data Intermediation Services (DIS) include:
 - intermediation between data holders and data users, incl. provision of technical means to enable such services (platforms, databases, infrastructures)
 - Providers of DSI shall submit a notification to a competent authority (before starting to provide a service)
 - Competent authorities should monitor compliance with the relevant requirement and have the power to impose fines or require cessation of the DSI service
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- Selected requirements for DSI providers:
 - DSI should be provided through a separate legal person
 - prohibition of re-use of data for own purposes
 - data collected about the users (geolocation, duration of activity etc.) can only be used for the development of the service and detection of fraud
 - DSI provider should facilitate the exchange of the data in the format provided (conversion to another format only to enhance interoperability or at the user's request)
 - continuity plan in case of insolvency
 - Exception: does not apply to not-for-profit entities whose activities consist of seeking data to collect for objectives of general interest, UNLESS they aim to establish commercial relationships between data holders and users.
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- definition in the DGA: voluntary sharing of data on the basis of the consent of data subjects, or permissions of data holders without seeking or receiving a reward (beyond compensation related to the incurred costs), for objectives of general interest (e.g. scientific research)
 - Member States should promote data altruism (e.g. via national policies)
 - In order to be registered as a data altruism organisation (and receive data on the basis of data altruism), an organisation should:
 - be a legal person established to meet objectives of general interest;
 - operate on a not-for-profit bases and be legally independent from commercial entities;
 - carry out data altruism activities through a functionally separate structure;
 - comply with the Rulebook.
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- Obligations of registered organisations:
 - Transparency
 - obligation to keep records of all persons allowed to process the data, date and duration of processing, declared purposes, fees paid (if any)
 - obligation to submit an annual report to the competent authority, including a list of persons allowed to process the data, their purposes and technical means used for it;
 - Prohibition to use data for other purposes than the objectives of general interest specified by the data holder
 - To ensure an appropriate level of data security
 - To provide tools to obtain necessary consent/authorisation, and to withdraw it
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- Competent authorities for registration of data altruism organisations
 - one or more in each Member State
 - cooperation with data protection authorities
 - should monitor and supervise compliance
 - power to: request information, require cessation of infringement, withdraw registered organisation from the register
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- The European Commission shall adopt:
 - a Rulebook for data altruism organisations
 - information to give to data subjects/holders before they consent for data altruism
 - technical and security requirements
 - communication roadmap (taking a multi-disciplinary approach)
 - recommendations for interoperability standards
 - a European Data Altruism Consent Form
 - to enable collection of 'altruism' data across the EU in a uniform format
 - modular approach (customisation possible)
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- Creation of the European Data Innovation Board
 - consists of experts from competent authorities and other experts
 - at least three subgroups:
 - advice on data intermediation services / data altruism organisations / re-use of protected data from public sector bodies
 - technical discussions on standardisation, portability and interoperability
 - stakeholder involvement (academia, industry, common European data spaces)
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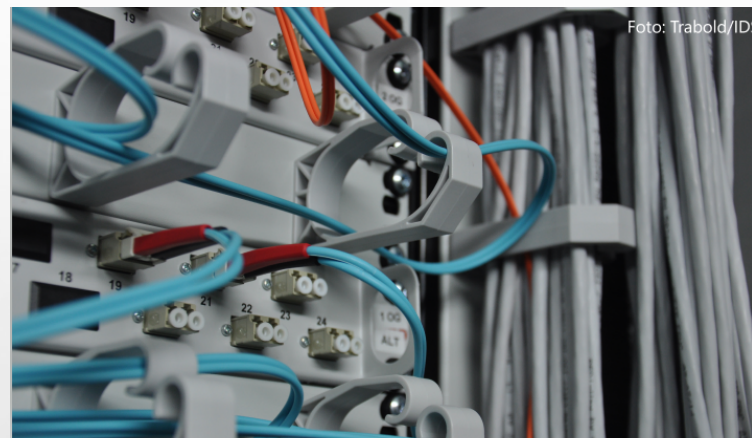


Foto: Trabold/IDS

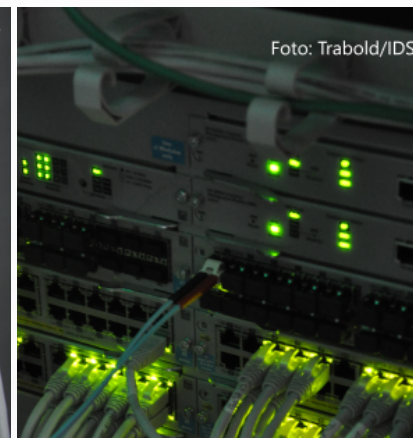


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