



2020/0340(COD)

11.5.2021

DRAFT OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council
Proposal for a regulation of the European Parliament and of the Council on
European data governance (Data Governance Act)
(COM(2020)0767 – C9-0377/2020 – 2020/0340(COD))

Rapporteur for opinion: Sergey Lagodinsky

(*) Associated committee – Rule 57 of the Rules of Procedure

PA_Legam

SHORT JUSTIFICATION

1. Background

The proposed Data Governance Act (DGA) presented in November 2020 follows the Commission's Communication "A European Strategy for Data", from February of the same year. According to the announcements, the DGA is the first of what is to become a number of legislative proposals to govern access and use of data in the European Union.

The DGA combines several instruments. First, it complements the Open Data Directive (EU) 2019/1024 by a regime, which allows public sector bodies to make data available for re-use covered by third party rights, including personal data. Second, it establishes rules for data sharing service providers, with the purpose of enabling data sharing among businesses with and without remuneration, and encourages the creation of cooperatives that would strengthen individual data subjects' and small non-personal data holders' position. Finally, it encourages "data altruism" by individuals by creating a standardized consent form for data subjects to make their personal data available for purposes serving the general interest, and by establishing organisations to pool these data and make them attractive for data users. It also creates a structure of competent authorities to enforce its provisions, and an expert group to support its goals.

In its impact assessment, the Commission estimates the economic value of the combined measures to amount to 3.87% to 3.95% growth of the GDP.

2. The Rapporteur's Position

In its opinion the rapporteur focuses on a number of improvements, most importantly the following:

A. Emphasizing the centrality of GDPR

The rapporteur deems legal clarity and certainty about the DGA's relationship vis-a-vis the General Data Protection Regulation (GDPR) a central element of the regulation, considering that the legislator is bound by Article 8 of the Charter and Article 16 of the Treaty on the Functioning of the European Union. Thus, the LIBE opinion draft proposes one central provision stating the primary role of the GDPR. This clarification will secure the fundamental right of protection of personal data. This solution also follows the joint opinion of the EDPB and the EDPS¹.

B. Effective differentiation between personal and non-personal data.

One of the main premises of the data protection law is that the data subjects' rights are very different from rights exercised by holders of non-personal data. Thus, the rapporteur decided to re-draft the provisions applying to data subjects and data holders respectively to emphasize the differences between the two categories.

This also applies to data sharing service providers who must treat the two categories differently.

¹ https://edps.europa.eu/press-publications/press-news/press-releases/2021/edpb-edps-adopt-joint-opinion-data-governance-act_en

In case of non-personal data, they can offer pooling and sharing, as well as additional treatment of data as a service. Regarding personal data, those providers cannot and should not substitute data subjects who must continue to comprehensively exercise their rights in their own name. As a result, the providers' function with respect to personal data must be distinctly different, and focus on facilitating between data subjects and potential data users. Only then, will they be able to remain neutral and not process personal data themselves.

C. No disincentive for public sector bodies to make data available under the Open Data Directive

While the Open Data Directive's provisions exclude non-personal data protected on grounds of commercial and statistical confidentiality, of intellectual property rights of third parties, as well as personal data, the Data Governance Act applies explicitly to those.

This should not create any disincentive for public sector bodies to publishing Open Data. Where techniques such as anonymization, aggregation, or others can effectively be applied and thus derive data that does fall under the re-use regime mandated by the Open Data Directive, the latter should take precedence.

D. Data altruism must lead to data use in the general interest

Where individuals are incentivised to make their data available voluntarily for the benefit of general interest, their trust should not be abused. Therefore, it is important to clarify that the organisations that make such data available, as well as the potential data users, use the data with the same objective of contributing to the general interest.

Consequently, the rapporteur has opted to change the name of the organisations pooling and sharing altruism data, to "General Interest Data Hubs".

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) It is necessary to improve the conditions for data sharing in the internal market, by creating a harmonised framework for data exchanges. Sector-specific legislation can develop, adapt and propose new and complementary elements, depending on the specificities of the sector,

Amendment

(3) It is necessary to improve the conditions for data sharing in the internal market, by creating a harmonised framework for data exchanges. Sector-specific legislation can develop, adapt and propose new and complementary elements, depending on the specificities of the sector,

such as the envisaged legislation on the European health data space²⁵ and on access to vehicle data. Moreover, certain sectors of the economy are already regulated by sector-specific Union law that include rules relating to cross-border or Union wide sharing or access to data²⁶. This Regulation is therefore without prejudice to **Regulation (EU) 2016/679 of the European Parliament and of the Council (27), and in particular the implementation of this Regulation shall not prevent cross border transfers of data in accordance with Chapter V of Regulation (EU) 2016/679 from taking place, Directive (EU) 2016/680 of the European Parliament and of the Council (28), Directive (EU) 2016/943 of the European Parliament and of the Council (29), Regulation (EU) 2018/1807 of the European Parliament and of the Council (30), Regulation (EC) No 223/2009 of the European Parliament and of the Council (31), Directive 2000/31/EC of the European Parliament and of the Council (32), Directive 2001/29/EC of the European Parliament and of the Council (33), Directive (EU) 2019/790 of the European Parliament and of the Council (34), Directive 2004/48/EC of the European Parliament and of the Council (35), Directive (EU) 2019/1024 of the European Parliament and of the Council (36), as well as Regulation 2018/858/EU of the European Parliament and of the Council (37), Directive 2010/40/EU of the European Parliament and of the Council (38) and Delegated Regulations adopted on its basis, and any other sector-specific Union legislation that organises the access to and re-use of data. This Regulation should be without prejudice to the access and use of data for the purpose of international cooperation in the context of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. A horizontal regime for the re-use of certain categories of protected data held by public sector bodies, the**

such as the envisaged legislation on the European health data space²⁵ and on access to vehicle data. Moreover, certain sectors of the economy are already regulated by sector-specific Union law that include rules relating to cross-border or Union wide sharing or access to data²⁶. This Regulation is therefore without prejudice to Directive (EU) 2016/943 of the European Parliament and of the Council (29), Regulation (EU) 2018/1807 of the European Parliament and of the Council (30), Regulation (EC) No 223/2009 of the European Parliament and of the Council (31), Directive 2000/31/EC of the European Parliament and of the Council (32), Directive 2001/29/EC of the European Parliament and of the Council (33), Directive (EU) 2019/790 of the European Parliament and of the Council (34), Directive 2004/48/EC of the European Parliament and of the Council (35), Directive (EU) 2019/1024 of the European Parliament and of the Council (36), as well as Regulation 2018/858/EU of the European Parliament and of the Council (37), Directive 2010/40/EU of the European Parliament and of the Council (38) and Delegated Regulations adopted on its basis, and any other sector-specific Union legislation that organises the access to and re-use of data. This Regulation should be without prejudice to **Union law on the access and use of data for the purpose of international cooperation in the context of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. A horizontal regime for the re-use of certain categories of protected data held by public sector bodies, the provision of data sharing services and of services based on data altruism in the Union should be established. Specific characteristics of different sectors may require the design of sectoral data-based systems, while building on the requirements of this Regulation. Where a sector-specific Union legal act requires public sector bodies, providers of**

provision of data sharing services and of services based on data altruism in the Union should be established. Specific characteristics of different sectors may require the design of sectoral data-based systems, while building on the requirements of this Regulation. Where a sector-specific Union legal act requires public sector bodies, providers of data sharing services or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act should also apply.

data sharing services or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act should also apply.

²⁵ See: Annexes to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Commission Work Programme 2021 (COM(2020) 690 final).

²⁵ See: Annexes to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Commission Work Programme 2021 (COM(2020) 690 final).

²⁶ For example, Directive 2011/24/EU in the context of the European Health Data Space, and relevant transport legislation such as Directive 2010/40/EU, Regulation 2019/1239 and Regulation (EU) 2020/1056, in the context of the European Mobility Data Space.

²⁶ For example, Directive 2011/24/EU in the context of the European Health Data Space, and relevant transport legislation such as Directive 2010/40/EU, Regulation 2019/1239 and Regulation (EU) 2020/1056, in the context of the European Mobility Data Space.

²⁷ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5.2016, p.1)

²⁸ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of

criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA. (OJ L 119, 4.5.2016, p.89)

²⁹ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. (OJ L 157, 15.6.2016, p.1)

³⁰ Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union. (OJ L 303, 28.11.2018, p. 59)

³¹ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities. (OJ L 87, 31.03.2009, p. 164)

³² Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce). (OJ L 178, 17.07.2000, p. 1)

³³ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society. (OJ L 167, 22.6.2001, p. 10)

²⁹ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. (OJ L 157, 15.6.2016, p.1)

³⁰ Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union. (OJ L 303, 28.11.2018, p. 59)

³¹ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities. (OJ L 87, 31.03.2009, p. 164)

³² Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce). (OJ L 178, 17.07.2000, p. 1)

³³ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society. (OJ L 167, 22.6.2001, p. 10)

³⁴ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC. (OJ L 130, 17.5.2019, p. 92)

³⁵ Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights. (OJ L 157, 30.4.2004).

³⁶ Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information. (OJ L 172, 26.6.2019, p. 56).

³⁷ Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018).

³⁸ Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport. (OJ L 207, 6.8.2010, p. 1)

³⁴ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC. (OJ L 130, 17.5.2019, p. 92)

³⁵ Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights. (OJ L 157, 30.4.2004).

³⁶ Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information. (OJ L 172, 26.6.2019, p. 56).

³⁷ Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018).

³⁸ Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport. (OJ L 207, 6.8.2010, p. 1)

Or. en

(References to Regulation (EU) 2016/679, Directive (EU) 2016/680, Directive 2002/58/EC moved into new Recital 3a)

Amendment 2

Proposal for a regulation Recital 3 a (new)

(3a) This Regulation is without prejudice to Regulation (EU) 2016/679^{1a} of the European Parliament and of the Council and to Directives 2002/58/EC^{1b} and (EU) 2016/680^{1c} of the European Parliament and of the Council. This Regulation should in particular not be read as creating a new legal basis for the processing of personal data for any of the regulated activities. In the event of conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter should prevail. It should be possible to consider data protection authorities competent authorities for the purpose of this Regulation. Where other entities act as competent authorities under this Regulation, it should be without prejudice to the supervisory powers of data protection authorities under Regulation (EU) 2016/679.

^{1a} Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5.2016, p.1).

^{1b} Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

^{1c} Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent

authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA. (OJ L 119, 4.5.2016, p.89).

Or. en

Amendment 3

Proposal for a regulation Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) In the case of a data set composed of both personal and non-personal data, where these data are inextricably linked, the data set should be considered personal data.

Or. en

Justification

This clarification is useful for practitioners, adapted from the Free Flow of Data Regulation, Article 2(2). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1807>.

Amendment 4

Proposal for a regulation Recital 4

Text proposed by the Commission

Amendment

(4) Action at Union level is necessary in order to address the barriers to a well-functioning data-driven economy and to create a Union-wide governance framework for data access and use, in particular regarding the re-use of certain types of data held by the public sector, the provision of services by data sharing

(4) Action at Union level is necessary in order to address the barriers to a well-functioning data-driven economy ***and to increase awareness and trust regarding the sharing of data, in particular by establishing proper mechanisms for data subjects to know and meaningfully exercise their rights, as well as data***

providers to business users and to data subjects, as well as the collection and processing of data made available for altruistic purposes by natural and legal persons.

holders to exercise control over data, and to create a Union-wide governance framework for data access and use, in particular regarding the re-use of certain types of data held by the public sector, the provision of services by data sharing providers to business users and to data subjects, as well as the collection and processing of data made available for altruistic purposes by natural and legal persons.

Or. en

Amendment 5

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) The idea that data that has been generated at the expense of public budgets should benefit society has been part of Union policy for a long time. Directive (EU) 2019/1024 as well as sector-specific legislation ensure that the public sector makes more of the data it produces easily available for use and re-use. However, certain categories of data (commercially confidential data, data subject to statistical confidentiality, data protected by intellectual property rights of third parties, including trade secrets and personal data not accessible on the basis of specific national or Union legislation, such as Regulation (EU) 2016/679 and Directive (EU) 2016/680) in public databases is often not made available, not even for research or innovative activities. Due to the sensitivity of this data, certain technical and legal procedural requirements must be met before they are made available, in order to ensure the respect of rights others have over such data. ***Such*** requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of

Amendment

(5) The idea that data that has been generated at the expense of public budgets should benefit society has been part of Union policy for a long time. Directive (EU) 2019/1024 as well as sector-specific legislation ensure that the public sector makes more of the data it produces easily available for use and re-use. However, certain categories of data (commercially confidential data, data subject to statistical confidentiality, data protected by intellectual property rights of third parties, including trade secrets and personal data not accessible on the basis of specific national or Union legislation, such as Regulation (EU) 2016/679 and Directive (EU) 2016/680) in public databases is often not made available, not even for research or innovative activities. Due to the sensitivity of this data, certain technical and legal procedural requirements must be met before they are made available, in order to ensure the respect of rights others have over such data, ***or limit negative impact on fundamental rights, the principle of non-discrimination and data***

such data. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union.

protection. Such technical and legal procedural requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data ***and a lack of public trust, transparency and legal clarity***. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union.

Or. en

Amendment 6

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) There are techniques enabling ***privacy-friendly*** analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression and randomisation.

Application of these ***privacy-enhancing*** technologies, together with comprehensive data protection ***approaches should ensure the safe*** re-use of personal data and commercially confidential business data for research, innovation and statistical purposes. In many cases this implies that the data use and re-use in this context can only be done in a secure processing environment set in place and supervised by the public sector. There is experience at Union level with such secure processing environments that are used for research on statistical microdata on the basis of Commission Regulation (EU) 557/2013 ⁽³⁹⁾. In general, insofar as personal data are concerned, the processing of personal data should rely upon one or more of the grounds for processing provided in Article 6 of Regulation (EU) 2016/679.

Amendment

(6) There are techniques enabling analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression, and randomisation ***that could contribute to a more privacy-friendly processing of data***. Application of these technologies, together with comprehensive data protection ***impact assessments and other approaches, can contribute to more safety in the use and*** re-use of personal data and commercially confidential business data for research, innovation and statistical purposes. In many cases this implies that the data use and re-use in this context can only be done in a secure processing environment set in place and supervised by the public sector. There is experience at Union level with such secure processing environments that are used for research on statistical microdata on the basis of Commission Regulation (EU) 557/2013 ⁽³⁹⁾. In general, insofar as personal data are concerned, the processing of personal data should rely upon one or more of the grounds for processing provided in Article 6 ***and 9*** of

Regulation (EU) 2016/679.

³⁹ Commission Regulation (EU) 557/2013 of 17 June 2013 implementing Regulation (EC) No 223/2009 of the European Parliament and of the Council on European Statistics as regards access to confidential data for scientific purposes and repealing Commission Regulation (EC) No 831/2002 (OJ L 164, 18.6.2013, p. 16).

³⁹ Commission Regulation (EU) 557/2013 of 17 June 2013 implementing Regulation (EC) No 223/2009 of the European Parliament and of the Council on European Statistics as regards access to confidential data for scientific purposes and repealing Commission Regulation (EC) No 831/2002 (OJ L 164, 18.6.2013, p. 16).

Or. en

Amendment 7

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) In order to facilitate the protection of personal data or confidential data, and to speed up the process of making such data available for re-use under this Regulation, Member States should encourage public authorities to create and procure data in formats and structures that allow for swift anonymisation, similar to the principle ‘open by design and by default’ as referenced in Recital (16) of Directive (EU) 2019/1024 (Open Data Directive).

Or. en

Justification

The Open Data Directive encourages public authorities to design new datasets "with publication in mind", for example by proactively pointing out which parts of a data structure will contain personal data, to make anonymisation easier. The same encouragement should apply to data under the DGA.

Amendment 8

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) The categories of data held by public sector bodies which should be subject to re-use under this Regulation fall outside the scope of Directive (EU) 2019/1024 that excludes data which is not accessible due to commercial and statistical confidentiality and data for which third parties have intellectual property rights. Personal data fall outside the scope of Directive (EU) 2019/1024 insofar as the access regime excludes or restricts access to such data for reasons of data protection, privacy and the integrity of the individual, in particular in accordance with data protection rules. The re-use of data, which may contain trade secrets, should take place without prejudice to Directive (EU) 2016/943⁴⁰, which sets the framework for the lawful acquisition, use or disclosure of trade secrets. This Regulation is without prejudice and complementary to more specific obligations on public sector bodies to allow re-use of data laid down in sector-specific Union or national law.

⁴⁰ OJ L 157, 15.6.2016, p. 1–18

Amendment

(7) The categories of data held by public sector bodies which should be subject to re-use under this Regulation fall outside the scope of Directive (EU) 2019/1024 that excludes data which is not accessible due to commercial and statistical confidentiality and data for which third parties have intellectual property rights. ***This Regulation should apply to*** personal data ***that*** fall outside the scope of Directive (EU) 2019/1024 insofar as the access regime excludes or restricts access to such data for reasons of data protection, privacy and the integrity of the individual, in particular in accordance with data protection rules. The re-use of data, which may contain trade secrets, should take place without prejudice to Directive (EU) 2016/943⁴⁰, which sets the framework for the lawful acquisition, use or disclosure of trade secrets. This Regulation is without prejudice and complementary to more specific obligations on public sector bodies to allow re-use of data laid down in sector-specific Union or national law. ***This Regulation should not create an obligation to allow re-use of personal data held by public sector bodies.***

⁴⁰ OJ L 157, 15.6.2016, p. 1–18

Or. en

Amendment 9

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Conditions for re-use of protected data that apply to public sector bodies

Amendment

(11) Conditions for re-use of protected data that apply to public sector bodies

competent under national law to allow re-use, and which should be without prejudice to rights or obligations concerning access to such data, should be laid down. Those conditions should be non-discriminatory, proportionate and objectively justified, while not restricting competition. ***In particular***, public sector bodies allowing re-use should have in place the technical means necessary to ensure the protection of rights and interests of third parties. Conditions attached to the re-use of data should be limited to what is necessary to preserve the rights and interests of others in the data and the integrity of the information technology and communication systems of the public sector bodies. Public sector bodies should apply conditions which best serve the interests of the re-user without leading to a disproportionate ***effort*** for the public sector. ***Depending on the case at hand***, before its transmission, personal data should be fully anonymised, so as to definitively not allow the identification of the data subjects, or data containing commercially confidential information modified in such a way that no confidential information is disclosed. Where ***provision of anonymised or modified data would not respond to the needs of the re-user***, on-premise or remote re-use of the data within a secure processing environment could be permitted. Data analyses in such secure processing environments should be supervised by the public sector body, so as to protect the rights and interests of others. In particular, personal data should only be transmitted for re-use to a third party where a legal basis allows such transmission. ***The public sector body could make the use of such secure processing environment conditional on the signature by the re-user of a confidentiality agreement that prohibits the disclosure of any information that jeopardises the rights and interests of third parties that the re-user may have acquired despite the safeguards put in place.*** The public sector bodies, where relevant, should facilitate the

competent under national law to allow re-use, and which should be without prejudice to rights or obligations concerning access to such data, should be laid down. Those conditions should be non-discriminatory, proportionate and objectively justified, while not restricting competition. Public sector bodies allowing re-use should have in place the technical means necessary to ensure the protection of rights and interests of third parties. Conditions attached to the re-use of data should be limited to what is necessary to preserve the rights and interests of others in the data and the integrity of the information technology and communication systems of the public sector bodies. Public sector bodies should apply conditions which best serve the interests of the re-user without leading to a disproportionate ***burden*** for the public sector. ***Conditions should be designed to ensure effective safeguards with regard to the protection of personal data.*** Before its transmission, personal data should be fully anonymised, so as to definitively not allow the identification of the data subjects, or data containing commercially confidential information modified in such a way that no confidential information is disclosed. Where ***the impact on the protection of personal data has been carefully assessed and the risks for the rights and interests of data subjects are minimal***, on-premise or remote re-use of the data within a secure processing environment could be permitted. Data analyses in such secure processing environments should be supervised by the public sector body, so as to protect the rights and interests of others. In particular, personal data should only be transmitted for re-use to a third party where a legal basis allows such transmission. ***In a context of growing availability and sharing of data, even the re-use of non-personal data could have an impact on the protection of personal data, especially where such data are the result of anonymisation and other techniques, as an increase in available data can lead to***

re-use of data on the basis of consent of data subjects or permissions of legal persons on the re-use of data pertaining to them through adequate technical means. In this respect, the public sector body **should** support potential re-users in seeking such consent by establishing technical mechanisms that permit transmitting requests for consent from re-users, where practically feasible. No contact information should be given that allows re-users to contact data subjects or companies directly.

an increase in the chance of re-identification of data subjects, as also pointed out in the AEPD-EDPS joint paper on 10 misunderstandings related to anonymisation, published on 27 April 2021^{1a}. The public sector bodies, where relevant, should facilitate the re-use of ***personal*** data on the basis of consent of data subjects or, ***in case of non-personal data, on the basis of*** permissions of legal persons on the re-use of data pertaining to them through adequate technical means. In this respect, ***it should be possible for*** the public sector body ***to*** support potential re-users in seeking such consent by establishing technical mechanisms that permit transmitting requests for consent from re-users, where ***permitted and*** practically feasible. No contact information should be given that allows re-users to contact data subjects or companies directly. ***When transmitting the request to consent to data subjects that have previously agreed to being contacted, the public sector body should ensure that the data subjects are thoroughly informed of their rights, in particular of the right to refuse such a request. The responsibility for demonstrating that valid consent has been obtained should lie with the re-users.***

^{1a} https://edps.europa.eu/data-protection/our-work/publications/papers/aepd-edps-joint-paper-10-misunderstandings-related_en
AEPD-EDPS joint paper on 10 misunderstandings related to anonymisation, published on 27 April 2021

Or. en

Justification

Regarding the deletion of contractual obligations, see prohibition of identification in Article 5(5c).

Amendment 10

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) Companies and data subjects should be able to trust that the re-use of certain categories of protected data, which are held by the public sector, will take place in a manner that respects their rights and interests. Additional safeguards should thus be put in place for situations in which the re-use of such public sector data is taking place on the basis of a processing of the data outside the public sector. Such an additional safeguard could be found in the requirement that public sector bodies should **take fully into account** the rights and interests of natural and legal persons (in particular the protection of personal data, commercially sensitive data and the protection of intellectual property rights) in case such data is transferred to third countries.

Amendment

(14) Companies and data subjects should be able to trust that the re-use of certain categories of protected data, which are held by the public sector, will take place in a manner that respects their rights and interests. Additional safeguards should thus be put in place for situations in which the re-use of such public sector data is taking place on the basis of a processing of the data outside the public sector. Such an additional safeguard could be found in the requirement that public sector bodies should fully **respect** the rights and interests of natural and legal persons (in particular the protection of personal data, commercially sensitive data and the protection of intellectual property rights) in case such data is transferred to third countries.

Or. en

Amendment 11

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Furthermore, it is important to protect **commercially sensitive** data of non-personal nature, notably trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that may lead to IP theft or industrial espionage. In order to ensure the protection of fundamental rights or interests of data holders, non-personal data which is to be protected from unlawful or unauthorised access under Union or

Amendment

(15) Furthermore, it is important to protect data of non-personal nature, notably trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that may lead to IP theft or industrial espionage. In order to ensure the protection of fundamental rights or interests of **data subjects and** data holders, non-personal data which is to be protected from unlawful or unauthorised access

national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as regards the protection of trade secrets and the protection of intellectual property rights. To that end, the Commission may adopt implementing acts that declare that a third country provides a level of protection that is essentially equivalent to those provided by Union or national law. The assessment of the level of protection afforded in such third-country should, in particular, take into consideration the relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law concerning the access to and protection of non-personal data, any access by the public authorities of that third country to the data transferred, the existence and effective functioning of one or more independent supervisory authorities in the third country with responsibility for ensuring and enforcing compliance with the legal regime ensuring access to such data, or the third countries' international commitments regarding the protection of data the third country concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems. The existence of effective legal remedies for data holders, public sector bodies or data sharing providers in the third country concerned is of particular importance in the context of the transfer of non-personal data to that third country. Such safeguards should therefore include the availability of enforceable rights and of effective legal

under Union or national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as regards the protection of trade secrets and the protection of intellectual property rights. To that end, the Commission may adopt implementing acts that declare that a third country provides a level of protection that is essentially equivalent to those provided by Union or national law. The assessment of the level of protection afforded in such third-country should, in particular, take into consideration the relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law concerning the access to and protection of non-personal data, any access by the public authorities of that third country to the data transferred, the existence and effective functioning of one or more independent supervisory authorities in the third country with responsibility for ensuring and enforcing compliance with the legal regime ensuring access to such data, or the third countries' international commitments regarding the protection of data the third country concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems. The existence of effective legal remedies for data *subjects and data* holders, public sector bodies or data sharing providers in the third country concerned is of particular importance in the context of the transfer of non-personal data to that third country. Such safeguards should therefore include the availability of enforceable rights and of effective legal

remedies.

remedies.

(The amendment to distinguish data subjects for personal data and data holders for non-personal data applies throughout the text.)

Or. en

Amendment 12

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) In order to prevent unlawful access to non-personal data, public sector bodies, natural or legal persons to which the right to re-use data was granted, data sharing providers and entities entered in the register of ***recognised data altruism organisations*** should take all reasonable measures to prevent access to the systems where non-personal data is stored, including encryption of data or corporate policies.

Amendment

(18) In order to prevent unlawful access to non-personal data, public sector bodies, natural or legal persons to which the right to re-use data was granted, data sharing providers and entities entered in the register of ***General Interest Data Hubs*** should take all reasonable measures to prevent access to the systems where non-personal data is stored, including encryption of data or corporate policies.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

Amendment 13

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Public sector bodies should be able to charge fees for the re-use of data but should also be able to decide to ***make the data available*** at lower or no cost, for

Amendment

(20) Public sector bodies should be able to charge fees for the re-use of data but should also be able to decide to ***allow re-use*** at lower or no cost, for example for

example for certain categories of re-uses such as non-commercial re-use, or re-use by small and medium-sized enterprises, so as to incentivise such re-use in order to stimulate research and innovation and support companies that are an important source of innovation and typically find it more difficult to collect relevant data themselves, in line with State aid rules. Such fees should be reasonable, transparent, published online and non-discriminatory.

certain categories of re-uses such as non-commercial re-use, *re-use for scientific research purposes*, or re-use by small and medium-sized enterprises, so as to incentivise such re-use in order to stimulate research and innovation and support companies that are an important source of innovation and typically find it more difficult to collect relevant data themselves, in line with State aid rules. Such fees should be reasonable, transparent, published online and non-discriminatory.

Or. en

Amendment 14

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) In order to incentivise the re-use of these categories of data, Member States should establish a single information point to act as the primary interface for re-users that seek to re-use such data held by the public sector bodies. It should have a cross-sector remit, and should complement, if necessary, arrangements at the sectoral level. In addition, Member States should designate, establish or facilitate the establishment of competent bodies to support the activities of public sector bodies allowing re-use of certain categories of protected data. Their tasks may include granting access to data, where mandated in sectoral Union or Member States legislation. Those competent bodies should provide support to public sector bodies with state-of-the-art techniques, including secure data processing environments, which allow data analysis in a manner that preserves the privacy of the information. Such support structure could support the data holders with management of *the*

Amendment

(21) In order to incentivise the re-use of these categories of data, Member States should establish a single information point to act as the primary interface for re-users that seek to re-use such data held by the public sector bodies. It should have a cross-sector remit, and should complement, if necessary, arrangements at the sectoral level. In addition, Member States should designate, establish or facilitate the establishment of competent bodies to support the activities of public sector bodies allowing re-use of certain categories of protected data. Their tasks may include granting access to data, where mandated in sectoral Union or Member States legislation. Those competent bodies should provide support to public sector bodies with state-of-the-art techniques, including secure data processing environments, which allow data analysis in a manner that preserves the privacy of the information. Such support structure could support the data *subjects and data* holders with

consent, including consent **to** certain areas of scientific research when in keeping with recognised ethical standards for scientific research. Data processing should be performed under the responsibility of the public sector body responsible for the register containing the data, who remains a data controller in the sense of Regulation (EU) 2016/679 insofar as personal data are concerned. Member States may have in place one or several competent bodies, which could act in different sectors.

management of **consents and permissions**, including consent **or permission to re-use for** certain areas of scientific research when in keeping with recognised ethical standards for scientific research. **The competent bodies should not have a supervisory function, which is reserved for supervisory authorities under Regulation (EU) 2016/679. Without prejudice to the supervisory powers of data protection authorities**, data processing should be performed under the responsibility of the public sector body responsible for the register containing the data, who remains a data controller in the sense of Regulation (EU) 2016/679 insofar as personal data are concerned. Member States may have in place one or several competent bodies, which could act in different sectors.

Or. en

Amendment 15

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) Providers of data sharing services (data intermediaries) are expected to play a key role in the data economy, **as** a tool to facilitate the aggregation and exchange of substantial amounts of relevant data. Data intermediaries offering services that connect the different actors have the potential to contribute to the efficient pooling of data as well as to the facilitation of bilateral data sharing. Specialised data intermediaries that are independent from both data holders and data users can have a facilitating role in the emergence of new data-driven ecosystems independent from any player with a significant degree of market power. This Regulation should only cover providers of data sharing services

Amendment

(22) Providers of data sharing services (data intermediaries) are expected to play a key role in the data economy. **They could become** a tool to facilitate the aggregation and exchange of substantial amounts of relevant data. Data intermediaries offering services that connect the different actors have the potential to contribute to the efficient pooling of data as well as to the facilitation of bilateral data sharing. Specialised data intermediaries that are independent from both data **subjects and data** holders and **from** data users can have a facilitating role in the emergence of new data-driven ecosystems independent from any player with a significant degree of market power. This Regulation should only

that have as a main objective the establishment of a business, a legal and ***potentially also*** technical relation between data ***holders, including data*** subjects, on the one hand, and potential users on the other hand, and assist both parties in a transaction of data assets between the two. It should only cover services aiming at intermediating between an ***indefinite*** number of data holders and data users, excluding data sharing services that are meant to be used by a closed group of data holders and users. Providers of cloud services should be excluded, as well as service providers that obtain data from data holders, aggregate, enrich or transform the data and licence the use of the resulting data to data users, without establishing a direct relationship between data holders and data users, for example advertisement or data brokers, data consultancies, providers of data products resulting from value added to the data by the service provider. At the same time, data sharing service providers should be allowed to make adaptations to the data exchanged, to the extent that this improves the usability of the data by the data user, where the data user desires this, such as to convert it into specific formats. In addition, services that focus on the intermediation of content, in particular on copyright-protected content, should not be covered by this Regulation. Data exchange platforms that are exclusively used by one data holder in order to enable the use of data they hold as well as platforms developed in the context of objects and devices connected to the Internet-of-Things that have as their main objective to ensure functionalities of the connected object or device and allow value added services, should not be covered by this Regulation. ‘Consolidated tape providers’ in the sense of Article 4 (1) point 53 of Directive 2014/65/EU of the European Parliament and of the Council⁴² as well as ‘account information service providers’ in the sense of Article 4 point 19 of Directive (EU) 2015/2366 of the

cover providers of data sharing services that have as a main objective the establishment of a business, a legal and technical relation between data subjects ***and data holders***, on the one hand, and potential users on the other hand, and assist both parties in a transaction of data assets between the two. It should only cover services aiming at intermediating between an ***undefined*** number of data ***subjects and data*** holders, ***on the one hand***, and data users, ***on the other hand***, excluding data sharing services that are meant to be used by a closed group of data ***subjects and data*** holders, and users. Providers of cloud services should be excluded, as well as service providers that obtain data from ***data subjects and*** data holders, aggregate, enrich or transform the data and licence the use of the resulting data to data users, without establishing a direct relationship between data ***subjects and data*** holders, ***on the one hand***, and data users, ***on the other hand***, for example advertisement or data brokers, data consultancies, providers of data products resulting from value added to the data by the service provider. At the same time, data sharing service providers should be allowed to make adaptations to the data exchanged, to the extent that this improves the usability of the data by the data user, where the data user desires this, such as to convert it into specific formats. In addition, services that focus on the intermediation of content, in particular on copyright-protected content, should not be covered by this Regulation. Data exchange platforms that are exclusively used by one data holder in order to enable the use of data they hold as well as platforms developed in the context of objects and devices connected to the Internet-of-Things that have as their main objective to ensure functionalities of the connected object or device and allow value added services, should not be covered by this Regulation. ‘Consolidated tape providers’ in the sense of Article 4 (1) point 53 of Directive 2014/65/EU of the European Parliament

European Parliament and of the Council⁴³ should not be considered as data sharing service providers for the purposes of this Regulation. Entities which restrict their activities to facilitating use of data made available on the basis of data altruism and that operate on a not-for-profit basis should not be covered by Chapter III of this Regulation, as this activity serves objectives of general interest by increasing the volume of data available for such purposes.

and of the Council⁴² as well as ‘account information service providers’ in the sense of Article 4 point 19 of Directive (EU) 2015/2366 of the European Parliament and of the Council⁴³ should not be considered as data sharing service providers for the purposes of this Regulation. Entities which restrict their activities to facilitating use of data made available on the basis of data altruism and that operate on a not-for-profit basis should not be covered by Chapter III of this Regulation, as this activity serves objectives of general interest by increasing the volume of data available for such purposes.

⁴² Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173/349.

⁴³ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

⁴² Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173/349.

⁴³ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

Or. en

Amendment 16

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) A specific category of data intermediaries includes providers of data sharing services that offer their services to data subjects in the sense of Regulation (EU) 2016/679. Such providers ***focus exclusively on personal data and*** seek to enhance individual agency and the

Amendment

(23) A specific category of data intermediaries includes providers of data sharing services that offer their services to data subjects in the sense of Regulation (EU) 2016/679. Such providers seek to enhance individual agency and ***in particular*** the individuals’ control over the

individuals' control over the data *pertaining* to them. They would assist individuals in exercising their rights under Regulation (EU) 2016/679, in particular managing their consent to data processing, the right of access to their own data, the right to the rectification of inaccurate personal data, the right of erasure or right 'to be forgotten', the right to restrict processing and the data portability right, which allows data subjects to move their personal data from one controller to the other. In this context, it is important that their business model ensures that there are no misaligned incentives that encourage individuals to make more data available for processing than what is in the individuals' own interest. This could include advising individuals on uses of their data they could allow and making due diligence checks on data users before allowing them to contact data subjects, in order to avoid fraudulent practices. In certain situations, it could be desirable to collate actual data within a personal data storage space, or 'personal data space' so that processing can happen within that space without personal data being transmitted to third parties in order to maximise the protection of personal data and privacy.

data *relating* to them. They would assist individuals in exercising their rights under Regulation (EU) 2016/679, in particular managing their consent to data processing, the right of access to their own data, the right to the rectification of inaccurate personal data, the right of erasure or right 'to be forgotten', the right to restrict processing and the data portability right, which allows data subjects to move their personal data from one controller to the other. In this context, it is important that their business model ensures that there are no misaligned incentives that encourage individuals to make more data available for processing than what is in the individuals' own interest. This could include advising individuals on uses of their data they could allow and making due diligence checks on data users before allowing them to contact data subjects, in order to avoid fraudulent practices. In certain situations, it could be desirable to collate actual data within a personal data storage space, or 'personal data space' so that processing can happen within that space without personal data being transmitted to third parties in order to maximise the protection of personal data and privacy.

Or. en

Amendment 17

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) In order to increase trust in such data sharing services, in particular related to the use of data and the compliance with the conditions imposed by data holders, it is necessary to create a Union-level regulatory framework, which would set out highly harmonised requirements related to

Amendment

(25) In order to increase trust in such data sharing services, in particular related to the use of data and the compliance with the conditions imposed by *data subjects and* data holders, it is necessary to create a Union-level regulatory framework, which would set out highly harmonised

the trustworthy provision of such data sharing services. This will contribute to ensuring that data holders *and* data users have better control over the access to and use of their data, in accordance with Union law. Both in situations where data sharing occurs in a business-to-business context and where it occurs in a business-to-consumer context, data sharing providers should offer a novel, ‘European’ way of data governance, by providing a separation in the data economy between data provision, intermediation and use. Providers of data sharing services may also make available specific technical infrastructure for the interconnection of data holders *and* data users.

requirements related to the trustworthy provision of such data sharing services. This will contribute to ensuring that data *subjects and data* holders, *as well as* data users, have better control over the access to and use of their data, in accordance with Union law. Both in situations where data sharing occurs in a business-to-business context and where it occurs in a business-to-consumer context, data sharing providers should offer a novel, ‘European’ way of data governance, by providing a separation in the data economy between data provision, intermediation and use. Providers of data sharing services may also make available specific technical infrastructure for the interconnection of data *subjects and data* holders *with* data users.

Or. en

Amendment 18

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) A key element to bring trust and more control for data *holder and* data users in data sharing services is the neutrality of data sharing service providers as regards the data exchanged between data holders and data users. It is therefore necessary that data sharing service providers act only as intermediaries in the transactions, and do not use the data exchanged for any other purpose. This will also require structural separation between the data sharing service and any other services provided, so as to avoid issues of conflict of interest. This means that the data sharing service should be provided through a legal entity that is separate from the other activities of that data sharing provider. Data sharing providers that intermediate the exchange of

Amendment

(26) A key element to bring trust and more control for data *subjects and data holders, as well as* data users, in data sharing services is the neutrality of data sharing service providers as regards the data exchanged between data *subjects and data* holders, *on the one hand*, and data users, *on the other hand*. It is therefore necessary that data sharing service providers act only as intermediaries in the transactions, and do not use the data exchanged for any other purpose, *with the exception of where it is used strictly to improve their services*. This will also require structural separation between the data sharing service and any other services provided, so as to avoid issues of conflict of interest. This means that the data sharing

data between individuals as data *holders* and legal persons should, in addition, bear fiduciary duty towards the individuals, to ensure that they act in the best interest of the data *holders*.

service should be provided through a legal entity that is separate from the other activities of that data sharing provider. Data sharing providers that intermediate the exchange of data between individuals as data *subjects* and legal persons *as data users* should, in addition, bear fiduciary duty towards the individuals, to ensure that they act in the best interest of the data *subjects*.

Or. en

Amendment 19

Proposal for a regulation Recital 28

Text proposed by the Commission

(28) This Regulation should be without prejudice to the obligation of providers of data sharing services to comply with Regulation (EU) 2016/679 and the responsibility of supervisory authorities to ensure compliance with that Regulation. Where the data sharing service providers are data controllers or processors in the sense of Regulation (EU) 2016/679 they are bound by the rules of that Regulation. This Regulation should be also without prejudice to the application of competition law.

Amendment

(28) This Regulation should be without prejudice to the obligation of providers of data sharing services to comply with Regulation (EU) 2016/679 and the responsibility of supervisory authorities to ensure compliance with that Regulation. ***When providers of data sharing services process personal data, this Regulation should not affect the protection of personal data.*** Where the data sharing service providers are data controllers or processors in the sense of Regulation (EU) 2016/679 they are bound by the rules of that Regulation. This Regulation should be also without prejudice to the application of competition law.

Or. en

Amendment 20

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) There is a strong potential in the use of data made available voluntarily by data subjects based on their consent or, where it concerns non-personal data, made available by legal persons, for purposes of general interest. Such purposes would include healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics or improving the provision of public services. Support to scientific research, including for example technological development and demonstration, fundamental research, applied research and privately funded research, ***should be considered as well*** purposes of general interest. This Regulation aims at contributing to the emergence of pools of data made available on the basis of data altruism that have a sufficient size in order to enable data analytics and machine learning, including across borders in the Union.

Amendment

(35) There is a strong potential in the use of data made available voluntarily by data subjects based on their consent or, where it concerns non-personal data, made available by legal persons, for purposes of general interest. Such purposes would include healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics or improving the provision of public services. Support to scientific research, including for example technological development and demonstration, fundamental research, applied research and privately funded research, ***can also fulfil*** purposes of general interest. This Regulation aims at contributing to the emergence of pools of data made available on the basis of data altruism that have a sufficient size in order to enable data analytics and machine learning, including across borders in the Union.

Or. en

Amendment 21

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) Legal entities that seek to support purposes of general interest by making available relevant data based on data altruism at scale and meet certain requirements, should be able to ***register as ‘Data Altruism Organisations recognised in the Union’***. This could lead to the establishment of data repositories. As registration in a Member State would be valid across the Union, and this should facilitate cross-border data use within the Union and the emergence of data pools covering several Member States. ***Data***

Amendment

(36) Legal entities that seek to support purposes of general interest by making available relevant data based on data altruism at scale and meet certain requirements, should be able to ***apply for registration as ‘General Interest Data Hub’***. This could lead to the establishment of data repositories. As registration in a Member State would be valid across the Union, and this should facilitate cross-border data use within the Union and the emergence of data pools covering several Member States. Legal persons could give

subjects in this respect would consent to specific purposes of data processing, but could also consent to data processing in certain areas of research or parts of research projects as it is often not possible to fully identify the purpose of personal data processing for scientific research purposes at the time of data collection.

Legal persons could give permission to the processing of their non-personal data for a range of purposes not defined at the moment of giving the permission. The ***voluntary*** compliance of such registered entities with a set of requirements should bring trust that the data made available on altruistic purposes is serving a general interest purpose. Such trust should result in particular from a place of establishment within the Union, as well as from the requirement that registered entities have a not-for-profit character, from transparency requirements and from specific safeguards in place to protect rights and interests of data subjects and companies. Further safeguards should include making it possible to process relevant data within a secure processing environment operated by the registered entity, oversight mechanisms such as ethics councils or boards to ensure that the data controller maintains high standards of scientific ethics, effective technical means to withdraw or modify consent at any moment, based on the information obligations of data processors under Regulation (EU) 2016/679 as well as means for data subjects to stay informed about the use of data they made available.

permission to the processing of their non-personal data for a range of purposes not defined at the moment of giving the permission. The compliance of such registered entities with a set of requirements should bring trust that the data made available on altruistic purposes is serving a general interest purpose. Such trust should result in particular from a place of establishment ***or a legal representative*** within the Union, as well as from the requirement that registered entities have a not-for-profit character, from transparency requirements and from specific safeguards in place to protect rights and interests of data subjects and companies. Further safeguards should include making it possible to process relevant data within a secure processing environment operated by the registered entity, oversight mechanisms such as ethics councils or boards to ensure that the data controller maintains high standards of scientific ethics, effective technical means to withdraw or modify consent at any moment, based on the information obligations of data processors under Regulation (EU) 2016/679 as well as means for data subjects to stay informed about the use of data they made available.

Or. en

Amendment 22

Proposal for a regulation Recital 37

Text proposed by the Commission

Amendment

(37) This Regulation is without prejudice to the establishment, organisation and functioning of entities that seek to engage in data altruism pursuant to national law. It builds on national law requirements to operate lawfully in a Member State as a not-for-profit organisation. Entities which meet the requirements in this Regulation should be able to use the title of '**Data Altruism Organisations recognised in the Union**'.

(37) This Regulation is without prejudice to the establishment, organisation and functioning of entities that seek to engage in data altruism pursuant to national law. It builds on national law requirements to operate lawfully in a Member State as a not-for-profit organisation. Entities which meet the requirements in this Regulation should be able to use the title of '**General Interest Data Hub**'.

Or. en

Amendment 23

Proposal for a regulation Recital 38

Text proposed by the Commission

(38) **Data Altruism Organisations recognised in the Union** should be able to collect relevant data directly from natural and legal persons or to process data collected by others. Typically, data altruism would rely on consent of data subjects in the sense of Article 6(1)(a) and 9(2)(a) and in compliance with requirements for lawful consent in accordance with Article 7 of Regulation (EU) 2016/679. In accordance with Regulation (EU) 2016/679, scientific research purposes can be supported by consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research or only to certain areas of research or parts of research projects. Article 5(1)(b) of Regulation (EU) 2016/679 specifies that further processing for scientific or historical research purposes or statistical purposes should, in accordance with Article 89(1) of Regulation (EU) 2016/679, not be considered to be incompatible with the initial purposes.

Amendment

(38) **General Interest Data Hubs** should be able to collect relevant data directly from natural and legal persons or to process data collected by others. **Where they are data controllers or processors in the meaning of Regulation (EU) 2016/679, they are bound by the rules of that Regulation.** Typically, data altruism would rely on consent of data subjects in the sense of Article 6(1)(a) and 9(2)(a) and in compliance with requirements for lawful consent in accordance with Article 7 of Regulation (EU) 2016/679. In accordance with Regulation (EU) 2016/679, scientific research purposes can be supported by consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research or only to certain areas of research or parts of research projects. Article 5(1)(b) of Regulation (EU) 2016/679 specifies that further processing for scientific or historical research purposes or statistical purposes should, in accordance with Article 89(1) of Regulation (EU) 2016/679, not be considered to be incompatible with

the initial purposes. *For non-personal data, the usage limitations should be found in the permission given by the data holder.*

Or. en

Amendment 24

Proposal for a regulation

Recital 40

Text proposed by the Commission

(40) In order to successfully implement the data governance framework, a European Data Innovation Board should be established, in the form of an expert group. The Board should consist of representatives of the Member States, the Commission and representatives of relevant data spaces and specific sectors (such as health, agriculture, transport and statistics). The European Data Protection Board should be invited to appoint a representative to the European Data Innovation Board.

Amendment

(40) In order to successfully implement the data governance framework, a European Data Innovation Board should be established, in the form of an expert group. The Board should consist of representatives of the Member States, the Commission and representatives of relevant data spaces and specific sectors (such as health, agriculture, transport and statistics), *as well as representatives from civil society, academia, research and standard setting organisations, as relevant.* The European Data Protection Board should be invited to appoint a representative to the European Data Innovation Board.

Or. en

Amendment 25

Proposal for a regulation

Recital 45

Text proposed by the Commission

(45) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European

Amendment

(45) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European

Parliament and of the Council ⁽⁴⁷⁾ and delivered an opinion on [...].

Parliament and of the Council ⁽⁴⁷⁾ and delivered an opinion on **10 March 2021**.

⁴⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁴⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Or. en

Amendment 26

Proposal for a regulation Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) Union law on the protection of personal data shall apply to any personal data processed in connection with this Regulation. In particular, this Regulation shall be without prejudice to Regulation (EU) 2016/679, Directive 2002/58/EC, and Regulation (EU) 2018/1725. In the event of conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter shall prevail. This Regulation does not create a legal basis for the processing of personal data.

Or. en

Amendment 27

Proposal for a regulation Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) 'personal data' means personal data as defined in point (1) of Article 4 of Regulation (EU) 2016/679;

Or. en

Amendment 28

Proposal for a regulation

Article 2 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3a) 'consent' means consent as defined in point (11) of Article 4 of Regulation (EU) 2016/679;

Or. en

Amendment 29

Proposal for a regulation

Article 2 – paragraph 1 – point 3 b (new)

Text proposed by the Commission

Amendment

(3b) 'data subject' means data subject as defined in point (1) of Article 4 of Regulation (EU) 2016/679;

Or. en

Amendment 30

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Text proposed by the Commission

Amendment

(4) 'metadata' means data collected on any activity of a natural or legal person for the purposes of the provision of ~~deleted~~

*a data sharing service, including the date ,
time and geolocation data, duration of
activity, connections to other natural or
legal persons established by the person
who uses the service;*

Or. en

Justification

Defining metadata is not necessary here, see deletion in Art 9(2).

Amendment 31

**Proposal for a regulation
Article 2 – paragraph 1 – point 5**

Text proposed by the Commission

(5) ‘data holder’ means a legal person **or data subject who**, in accordance with applicable Union or national law, has the right to grant access to or to share certain **personal or** non-personal data under its control;

Amendment

(5) ‘data holder’ means a **natural or** legal person **that**, in accordance with applicable Union or national law, has the right to grant access to or to share certain non-personal data under its control;

Or. en

Amendment 32

**Proposal for a regulation
Article 2 – paragraph 1 – point 6**

Text proposed by the Commission

(6) ‘data user’ means a natural or legal person who has lawful access to certain personal or non-personal data and **is authorised** to use that data for commercial or non-commercial purposes;

Amendment

(6) ‘data user’ means a natural or legal person who has lawful access to certain personal or non-personal data and **has the right, including under Regulation (EU) 2016/679 in the case of personal data,** to use that data for commercial or non-commercial purposes;

Or. en

Amendment 33

Proposal for a regulation

Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6a) 'data re-user' means a natural or legal person who re-uses data;

Or. en

Amendment 34

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Text proposed by the Commission

Amendment

(7) 'data sharing' means the provision by a data holder **of data** to a data user for the purpose of joint or individual use of **the shared** data, based on voluntary agreements, directly or through an intermediary;

(7) 'data sharing' means the provision **of data** by a data holder to a data user for the purpose of joint or individual use of **that** data, based on voluntary agreements **or Union law, as well as the provision of data by a data subject to a data user based on consent**, directly or through an intermediary;

Or. en

Amendment 35

Proposal for a regulation

Article 2 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) 'data sharing service provider' means a provider of a commercial service, that, through the provision of technical, legal or other services establishes relationships between an undefined number of data subjects and data holders, on the one hand, and data users, on the

other hand, for the exchange, pooling or trade of data;

Or. en

Amendment 36

Proposal for a regulation

Article 2 – paragraph 1 – point 7 b (new)

Text proposed by the Commission

Amendment

(7b) ‘processing’ means processing as defined in point (2) of Article 4 of Regulation (EU) 2016/679;

Or. en

Amendment 37

Proposal for a regulation

Article 2 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(8) ‘access’ means ***processing by a data user of data that has been provided by a data holder***, in accordance with specific technical, legal, or organisational requirements, without necessarily implying the transmission or downloading of such data;

(8) ‘access’ means ***data use***, in accordance with specific technical, legal, or organisational requirements, without necessarily implying the transmission or downloading of such data;

Or. en

Amendment 38

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Text proposed by the Commission

Amendment

(10) ‘data altruism’ means ***the consent by data subjects to process personal data***

(10) ‘data altruism’ means ***voluntary data sharing by data holders, or the***

pertaining to them, or permissions of other data holders to allow the use of their non-personal data without seeking a reward, for purposes of general interest, such as scientific research purposes *or improving public services*;

consent to data sharing by a data subject, without seeking or receiving a reward, for purposes of general interest, such as healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics, improving public services, or scientific research purposes in the general interest;

Or. en

Amendment 39

Proposal for a regulation

Article 2 – paragraph 1 – point 10 a (new)

Text proposed by the Commission

Amendment

(10a) ‘General Interest Data Hub’ means an entity controlling, facilitating the processing, or processing itself, data pursuant to paragraph 10 for objectives of general interest such as healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics, improving public services, or scientific research purposes in the general interest;

Or. en

Amendment 40

Proposal for a regulation

Article 2 – paragraph 1 – point 14

Text proposed by the Commission

Amendment

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to provide the opportunity to re-use data in a manner **that allows for the operator of** the secure processing environment to determine and supervise all data processing actions,

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to provide the opportunity to re-use data in a manner **that preserves data subjects’ rights under Regulation (EU) 2016/679 and commercial and statistical confidentiality,**

including *to* display, storage, download, export of the data and calculation of derivative data *through computational algorithms*.

ensuring compliance with applicable legislation, or that allows the entity providing the secure processing environment to determine and supervise all data processing actions, including *the* display, storage, download, export of the data, and calculation of derivative data.

Or. en

Amendment 41

Proposal for a regulation Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) Where anonymisation, aggregation, or other techniques can be applied so that the protections under paragraph 1 no longer apply, public sector bodies shall make available the data for re-use as mandated by the Open Data Directive, without prejudice to the provisions of Article 5.

Or. en

Amendment 42

Proposal for a regulation Article 5 – paragraph 3

Text proposed by the Commission

Amendment

(3) Public sector bodies may impose an obligation to re-use only pre-processed data where such pre-processing aims to anonymize or pseudonymise personal data or delete commercially confidential information, including trade secrets.

deleted

Or. en

(The paragraph has been combined with paragraph 4.)

Amendment 43

Proposal for a regulation

Article 5 – paragraph 4 – introductory part

Text proposed by the Commission

(4) Public sector bodies *may* impose *obligations*

Amendment

(4) Public sector bodies ***shall, in accordance with Union law, impose conditions necessary to preserve protection on the grounds listed in Article 3(1) to enable re-use. Such conditions may consist of the following requirements for re-users:***

Or. en

(The original paragraph 3 has been combined with this paragraph.)

Amendment 44

Proposal for a regulation

Article 5 – paragraph 4 – point -a (new)

Text proposed by the Commission

Amendment

(-a) in the case of personal data, only allow access to pre-processed data that has been anonymized, or in the case of commercially confidential information, including trade secrets, and confidential statistical data, or content protected by intellectual property rights, that has been modified, aggregated, or treated by any other method to prevent unwanted disclosure;

Or. en

(The wording of original paragraph 3 has been amended here.)

Amendment 45

Proposal for a regulation

Article 5 – paragraph 4 – point a

Text proposed by the Commission

(a) to access and re-use the data within a secure processing environment provided and controlled by the public sector ;

Amendment

(a) to access and re-use the data ***remotely*** within a secure processing environment provided and controlled by the public sector; ***or***

Or. en

Amendment 46

Proposal for a regulation

Article 5 – paragraph 5

Text proposed by the Commission

(5) The public sector bodies shall impose conditions that preserve the integrity of the functioning of the technical systems of the secure processing environment used. The public sector body shall ***be able*** to verify any results of processing of data undertaken by the re-user and reserve the right to prohibit the use of results that contain information jeopardising the rights and interests of third parties.

Amendment

(5) ***In the case that re-use has been allowed according to paragraph 4, points (a) and (b),*** the public sector bodies shall impose conditions that preserve the integrity of the functioning of the technical systems of the secure processing environment used. The public sector body shall ***reserve the right*** to verify ***the process, the means, and*** any results of processing of data undertaken by the re-user ***to preserve the integrity of the protection of the data,*** and reserve the right to prohibit the use of results that contain information jeopardising the rights and interests of third parties. ***The public sector body shall make use of such a secure processing environment provided the re-user has signed a confidentiality agreement that prohibits the disclosure of any information jeopardising the rights and interests of third parties that the re-user may have acquired despite the safeguards and conditions put in place pursuant to paragraph 4.***

Or. en

Justification

Due to the constraints of AT4AM, the reference is now to paragraph 4 that has been combined with para 3.

Amendment 47

Proposal for a regulation

Article 5 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(5a) Public sector bodies shall apply technical means that prevent the re-users from identifying any data subject and shall hold the re-users responsible for continuously assessing the risk of identification and de-anonymisation and for reporting to the public sector body concerned breaches to the confidentiality, the integrity, or the security of the data, in particular where a data breach has resulted in identification of an individual, notwithstanding any reporting obligations under Union law.

Or. en

Amendment 48

Proposal for a regulation

Article 5 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

(5b) In case of anonymised data, public sector bodies shall make a data protection impact assessment prior to granting access to the data. Where it can be reasonably assumed, or where an impact assessment indicates that the processing or subsequent combination of data could lead to identification or de-anonymisation, the public sector body shall not allow access to, or re-use of, the

data.

Or. en

Amendment 49

Proposal for a regulation

Article 5 – paragraph 5 c (new)

Text proposed by the Commission

Amendment

(5c) Re-use with the purpose of identifying data subjects or otherwise de-anonymising datasets shall be prohibited. Re-users shall not identify any data subjects.

Or. en

Amendment 50

Proposal for a regulation

Article 5 – paragraph 6

Text proposed by the Commission

Amendment

(6) Where the re-use of data cannot be granted in accordance with the obligations laid down in paragraphs 3 to 5 and there is no other legal basis for transmitting the data under Regulation (EU) 2016/679, the public sector body shall support ***re-users*** in seeking consent of the data subjects and/or permission from the ***legal entities*** whose rights and interests may be affected by such re-use, where it is feasible without disproportionate cost for the public sector. In that task they may be assisted by the competent bodies referred to in Article 7 (1).

(6) Where the re-use of ***personal*** data cannot be granted in accordance with the obligations laid down in paragraphs 3 to 5 and there is no other legal basis for transmitting the data under Regulation (EU) 2016/679, the public sector body shall support ***entities requesting re-use*** in seeking ***valid*** consent of the data subjects, ***insofar as a legal basis exists for the public sector body to collect their consent***, and/or permission from the ***data holders*** whose rights and interests may be affected by such re-use, where it is feasible without disproportionate cost for the public sector, ***and where there is no reason to believe that the combination of non-personal data sets would lead to the identification of data subjects.*** In that task they may be assisted by the competent

bodies referred to in Article 7 (1).

Or. en

Amendment 51

Proposal for a regulation Article 5 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(6a) Where public sector bodies make available personal data for re-use pursuant to this Article, they shall inform data subjects accordingly of this re-use and of the rights of the data subject in that regard. The public sector bodies shall support data subjects in exercising their rights, including in relation to any re-users. In that task they may be assisted by the competent bodies referred to in Article 7 (1).

Or. en

Amendment 52

Proposal for a regulation Article 5 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

(6b) Public sector bodies shall invite individuals, civil society and consumer protection organisations, in an open and collaborative manner, to participate in setting up processes for allowing the re-use of personal data.

Or. en

Amendment 53

Proposal for a regulation
Article 5 – paragraph 6 c (new)

Text proposed by the Commission

Amendment

(6c) *In particular where special categories of data and sensitive sectors such as the health sector are concerned, re-use of personal data shall take into account the outcome of prior data protection impact assessments.*

Or. en

Amendment 54

Proposal for a regulation
Article 5 – paragraph 9 – introductory part

Text proposed by the Commission

Amendment

(9) The Commission may adopt implementing acts declaring that the legal, supervisory and enforcement arrangements of a third country:

(9) *When justified by the volume of cases pursuant to paragraph 10 in specific countries*, the Commission may adopt implementing acts declaring that the legal, supervisory and enforcement arrangements of a third country:

Or. en *Justification*

As this amendment enters a reference to a subsequent paragraph (para 10), it should be moved below para 10.

Amendment 55

Proposal for a regulation
Article 5 – paragraph 10 – introductory part

Text proposed by the Commission

Amendment

(10) Public sector bodies shall *only transmit confidential* data or data protected *by intellectual property rights to a re-user which intends to transfer the data* to a third country other than a country designated in accordance with paragraph 9

(10) Public sector bodies shall *impose an obligation upon the re-user not to transfer non-personal* data or data protected *on grounds set out in Article 3 (1), points (a), (b), or (c)* to a third country other than a country designated in

if the re-user undertakes:

accordance with paragraph 9 *unless* the re-user undertakes:

Or. en

Amendment 56

Proposal for a regulation Article 5 – paragraph 11

Text proposed by the Commission

(11) Where specific Union acts adopted in accordance with a legislative procedure establish that certain non-personal data categories held by public sector bodies shall be deemed to be highly sensitive for the purposes of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation by laying down special conditions applicable for transfers to third-countries. ***The conditions for the transfer to third-countries*** shall be based on the nature of data categories identified in the Union act and on the grounds for deeming them highly sensitive, non-discriminatory and limited to what is necessary to achieve the public policy objectives identified in the Union law act, such as safety and public health, as well as risks of ***re-identification of anonymized data for*** data subjects, in accordance with the Union’s international obligations. ***They*** may include terms applicable for the transfer or technical arrangements in this regard, limitations as regards the re-use of data in third-countries or categories of persons which are entitled to transfer such data to third countries or, in exceptional cases, restrictions as regards transfers to third-countries.

Amendment

(11) Where specific Union acts adopted in accordance with a legislative procedure establish that certain non-personal data categories held by public sector bodies shall be deemed to be highly sensitive for the purposes of this Article ***and where their transfer to third countries may put at risk Union policy objectives, such as safety and public health, or may lead to identification of data subjects in anonymised data***, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation by laying down special conditions applicable for transfers to third-countries. ***Those*** conditions shall be based on the nature of data categories identified in the Union act and on the grounds for deeming them highly sensitive, non-discriminatory and limited to what is necessary to achieve the public policy objectives identified in the Union law act, such as safety and public health, as well as risks of ***identification of*** data subjects, in accordance with the Union’s international obligations. ***The conditions*** may include terms applicable for the transfer or technical arrangements in this regard, limitations as regards the re-use of data in third-countries or categories of persons which are entitled to transfer such data to third countries or, in exceptional cases, restrictions as regards transfers to third-countries.

Amendment 57

Proposal for a regulation Article 5 – paragraph 13

Text proposed by the Commission

(13) Where the re-user intends to transfer non-personal data to a third country, the public sector body shall inform the data holder about the transfer *of* data to that third country.

Amendment

(13) Where the re-user intends to transfer non-personal data to a third country, the public sector body shall inform the data holder about the ***intention to transfer that*** data to that third country. ***Where the data can be reasonably assumed to lead to the identification or identifiability of natural persons when combined with other datasets, the data shall be treated as personal data.***

Or. en

Amendment 58

Proposal for a regulation Article 6 – paragraph 2

Text proposed by the Commission

(2) Any fees shall be non-discriminatory, proportionate and objectively justified and shall not restrict competition.

Amendment

(2) Any fees ***pursuant to paragraph 1*** shall be non-discriminatory, proportionate and objectively justified and shall not restrict competition ***or inhibit the re-use of data for purposes in the general interest.***

Or. en

Amendment 59

Proposal for a regulation Article 6 – paragraph 4

Text proposed by the Commission

Amendment

(4) Where they apply fees, public sector bodies shall take measures to incentivise the re-use of the categories of data referred to in Article 3 (1) for non-commercial purposes and by small and medium-sized enterprises in line with State aid rules.

(4) Where they apply fees, public sector bodies shall take measures to incentivise the re-use of the categories of data referred to in Article 3 (1) **by non-profit organisations and** for non-commercial purposes **such as scientific research**, and by small and medium-sized enterprises in line with State aid rules. **Where possible, this should allow the re-use at lower or no cost.**

Or. en

Amendment 60

Proposal for a regulation Article 6 – paragraph 5

Text proposed by the Commission

(5) Fees shall be derived from the costs related to the processing of requests for re-use of the categories of data referred to in Article 3 (1). **The** methodology for calculating fees shall be published in advance.

Amendment

(5) Fees shall be derived from the costs related to the processing of requests for re-use of the categories of data referred to in Article 3 (1). **Any fees shall be limited to covering the costs incurred, such as for the preparation of data to uphold protection on the grounds listed in Article 3(1), for maintaining the secure processing environment and further costs incurred by Article 5(3), and as incurred in relation to supporting re-users seeking consent and permission as provided in Article 5(6). The criteria and** methodology for calculating fees shall be published in advance.

Or. en

Amendment 61

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

Amendment

(1) Member States shall designate one or more competent bodies, which may be sectoral, to support the public sector bodies which grant access to the re-use of the categories of data referred to in Article 3 (1) in the exercise of that task.

(1) ***For the tasks mentioned in this Article,*** Member States shall designate one or more competent bodies, which may be sectoral, to support the public sector bodies which grant access to the re-use of the categories of data referred to in Article 3 (1) in the exercise of that task.

Or. en

Amendment 62

Proposal for a regulation Article 7 – paragraph 2 – point b

Text proposed by the Commission

(b) providing technical support ***in the application of tested techniques*** ensuring data processing in a manner that preserves privacy of the information contained in the data for which re-use is allowed, ***including techniques for pseudonymisation, anonymisation, generalisation, suppression and randomisation of personal data;***

Amendment

(b) providing technical support ***for*** ensuring data processing in a manner that preserves privacy of the information contained in the data for which re-use is allowed;

Or. en

Amendment 63

Proposal for a regulation Article 7 – paragraph 2 – point c

Text proposed by the Commission

(c) assisting the public sector bodies, ***where relevant,*** in obtaining consent or permission ***by re-users for re-use for altruistic and other purposes*** in line with specific decisions ***of data holders,*** including on the jurisdiction or jurisdictions in which the data processing is intended to take place;

Amendment

(c) assisting the public sector bodies ***to support re-users*** in obtaining consent ***for re-use of personal data*** or permission ***from data holders*** in line with ***their*** specific decisions, including on the jurisdiction or jurisdictions in which the data processing is intended to take place;

Amendment 64**Proposal for a regulation****Article 9 – paragraph 1 – point a***Text proposed by the Commission*

(a) intermediation services between data holders ***which are legal persons*** and potential data users, including making available the technical or other means to enable such services; those services may include bilateral or multilateral exchanges of data or the creation of platforms or databases enabling the exchange or joint exploitation of data, as well as the establishment of a specific infrastructure for the interconnection of data holders and data users;

Amendment

(a) intermediation services between data holders and potential data users ***of non-personal data***, including making available the technical or other means to enable such services; those services may include bilateral or multilateral exchanges of ***non-personal*** data or the creation of platforms or databases enabling the exchange or joint exploitation of ***non-personal*** data, as well as the establishment of a specific infrastructure for the interconnection of data holders and data users;

Or. en

Amendment 65**Proposal for a regulation****Article 9 – paragraph 1 – point b***Text proposed by the Commission*

(b) intermediation services between data subjects that seek to make their personal data available and potential data users, including making available the technical or other means to enable such services, ***in*** the exercise of the rights provided in Regulation (EU) 2016/679;

Amendment

(b) intermediation services between data subjects that seek to make their personal data available and potential data users, including making available the technical or other means to enable such services, ***and in particular enabling*** the exercise of the ***data subjects'*** rights provided in Regulation (EU) 2016/679; ***the data sharing services shall not themselves process the personal data, but shall only allow data subjects to give consent to specific data users and for specific purposes;***

Amendment 66

Proposal for a regulation

Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) *services* of data cooperatives, that is to say services **supporting data subjects or one-person companies or micro, small and medium-sized enterprises, who are members of the cooperative or who confer the power to the cooperative to negotiate terms and conditions for data processing before they consent, in making informed choices before consenting to data processing, and allowing for mechanisms to exchange views on data processing purposes and conditions that would best represent the interests of data subjects or legal persons.**

Amendment

(c) **activities** of data cooperatives, that is to say **organisations or services, which:**

Justification

(The point is split up into two sub-points (i) and (ii).)

Amendment 67

Proposal for a regulation

Article 9 – paragraph 1 – point c – point i (new)

Text proposed by the Commission

Amendment

i) support members who are data subjects to exercise the rights provided in Regulation (EU) 2016/679, by offering services including, but not limited to, collectively negotiating terms and conditions for data processing, allowing for mechanisms to exchange views on data processing purposes and conditions, thereby representing their interests; or

Amendment 68

Proposal for a regulation

Article 9 – paragraph 1 – point c – point ii (new)

Text proposed by the Commission

Amendment

ii) enable small and medium-sized enterprises and not-for-profit or academic institutions to collectively negotiate terms for sharing non-personal data.

Or. en

Amendment 69

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

(2) This **Chapter** shall be without prejudice to the application of other Union and national law to providers of data sharing services, including powers of supervisory authorities to ensure compliance with applicable law, in particular as regard the protection of personal data and competition law.

(2) This **Regulation** shall be without prejudice to the application of other Union and national law to providers of data sharing services, including powers of supervisory authorities to ensure compliance with applicable law, in particular as regard the protection of personal data and competition law.

Or. en

Amendment 70

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

Amendment

(3) A provider of data sharing services that is not established in the Union, but offers the services referred to in Article 9

(3) A provider of data sharing services that is not established in the Union, but offers the services referred to in Article 9

(1) within the Union, shall appoint a legal representative in one of the Member States in which those services are offered. The provider shall be deemed to be under the jurisdiction of the Member State in which the legal representative is established.

(1) within the Union, shall appoint a legal representative in one of the Member States in which those services are offered. The provider shall be deemed to be under the jurisdiction of the Member State in which the legal representative is established. ***The representative shall be mandated by the provider of data sharing services to be addressed in addition to or instead of it by, in particular, competent authorities and data subjects and data holders, on all issues related to the data sharing services, for the purposes of ensuring compliance with this Regulation. The designation of a representative by providers of data sharing services shall be without prejudice to legal actions which could be initiated against providers of data sharing services themselves.***

Or. en

Amendment 71

Proposal for a regulation Article 10 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(4a) By way of derogation from paragraph 4, a provider of data sharing services shall notify the competent authority in the following cases:

(a) the provider intends to provide services on the basis of, or can reasonably assume to process, any of the following: personal data, or anonymised data that was derived from personal data;

(b) the provider can reasonably assume that the combination of non-personal data under the service it provides could lead to the identification or identifiability of natural persons;

The provider shall not start the activity before the competent authority has

authorised it.

Or. en

Amendment 72

Proposal for a regulation

Article 10 – paragraph 6 – point d

Text proposed by the Commission

(d) a website where information on the provider and the activities can be found, *where applicable*;

Amendment

(d) a ***publicly accessible*** website where information on the provider and the activities can be found, ***including as a minimum the information referred to in this paragraph, points (a), (b), (c), (e), (f), and (fa)***;

Or. en

Amendment 73

Proposal for a regulation

Article 10 – paragraph 6 – point f

Text proposed by the Commission

(f) a description of the service the provider intends to provide;

Amendment

(f) a description of the service the provider intends to provide ***and how the conditions set out in Article 11 are fulfilled***;

Or. en

Amendment 74

Proposal for a regulation

Article 10 – paragraph 6 – point f a (new)

Text proposed by the Commission

Amendment

(fa) the nature of data to be controlled, processed, or re-used by the provider, and, in the case of personal data, an indication

of the categories of personal data and the categories of recipients of personal data;

Or. en

Amendment 75

Proposal for a regulation

Article 10 – paragraph 6 – point f b (new)

Text proposed by the Commission

Amendment

(fb) an indication in the case of processing of personal data or where the provider can reasonably assume that the combination of non-personal data under the service it provides could lead to the identification or identifiability of natural persons;

Or. en

Amendment 76

Proposal for a regulation

Article 10 – paragraph 6 – point g

Text proposed by the Commission

Amendment

(g) the *estimated* date for starting the activity;

(g) the *intended* date for starting the activity, *and, where applicable, the duration foreseen.*

Or. en

Amendment 77

Proposal for a regulation

Article 10 – paragraph 6 – point h

Text proposed by the Commission

Amendment

(h) *the Member States where the*

deleted

provider intends to provide services.

Or. en

Amendment 78

Proposal for a regulation Article 10 – paragraph 9

Text proposed by the Commission

(9) The competent authority shall notify the Commission of each new notification. The Commission shall keep a register of providers of data sharing services.

Amendment

(9) The competent authority shall notify the Commission of each new notification. The Commission shall keep a **public** register of **all** providers of data sharing services **in the Union, which shall make available the information referred to in paragraph 6, points (a), (b), (c), (d), (f), (fa), and (fb).**

Or. en

Amendment 79

Proposal for a regulation Article 11 – paragraph 1 – point 2

Text proposed by the Commission

(2) the **metadata** collected **from** the provision of **the** data sharing service may be used only for the development of that service;

Amendment

(2) the **data** collected **with respect to any activity of a natural or legal person for the purposes of** the provision of **a** data sharing **service, including the date, time and geolocation data, duration of activity and connections to other natural or legal persons established by the person who uses the** service may be used only for the development of that service;

Or. en

Amendment 80

Proposal for a regulation
Article 11 – paragraph 1 – point 3

Text proposed by the Commission

(3) the provider shall ensure that the procedure for access to its service is fair, transparent and non-discriminatory for both data holders **and** data users, including as regards prices;

Amendment

(3) the provider shall ensure that the procedure for access to its service is fair, transparent and non-discriminatory for both data **subjects and data** holders, **as well as for** data users, including as regards prices;

Or. en

Amendment 81

Proposal for a regulation
Article 11 – paragraph 1 – point 4

Text proposed by the Commission

(4) the provider shall facilitate the exchange of the data in the format in which it receives it from **the** data holder and shall convert the data into specific formats only to enhance interoperability within and across sectors or if requested by the data user or where mandated by Union law or to ensure harmonisation with international or European data standards;

Amendment

(4) the provider shall facilitate the exchange of the data in the format in which it receives it from **a data subject or a** data holder and shall convert the data into specific formats only to enhance interoperability within and across sectors or if requested by the data user or where mandated by Union law or to ensure harmonisation with international or European data standards;

Or. en

Amendment 82

Proposal for a regulation
Article 11 – paragraph 1 – point 5

Text proposed by the Commission

(5) the provider shall have procedures in place to prevent fraudulent or abusive practices in relation to **access to data from** parties seeking access through their

Amendment

(5) the provider shall have procedures in place to prevent fraudulent or abusive practices in relation to parties seeking access through their services;

services;

Or. en

Amendment 83

Proposal for a regulation

Article 11 – paragraph 1 – point 6

Text proposed by the Commission

(6) the provider shall ensure a reasonable continuity of provision of its services and, in the case of services which ensure storage of data, shall have sufficient guarantees in place that allow data holders and data users to obtain access to their data in case of insolvency;

Amendment

(6) the provider shall ensure a reasonable continuity of provision of its services and, in the case of services which ensure storage of data, shall have sufficient guarantees in place that allow data holders and data users to obtain access to their data, ***or, in the case of providing intermediation services between data subjects and data users, pursuant to Article 9(1), point b, that allow data subjects to exercise their rights*** in case of insolvency ***of the provider***;

Or. en

Amendment 84

Proposal for a regulation

Article 11 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6a) the provider shall take reasonable measures to ensure interoperability with other data sharing services by means of commonly used, formal or informal, open standards in the sector in which the data sharing service providers operate;

Or. en

Amendment 85

Proposal for a regulation
Article 11 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment

(9a) the provider shall have procedures in place to ensure compliance with the Union and national rules on the protection of personal data, including procedures for ensuring the exercise of data subjects' rights; the provider shall in particular provide the data subjects with easily accessible tools, allowing them a comprehensive view of how and for which specific purpose their personal data are shared by the provider;

Or. en

Amendment 86

Proposal for a regulation
Article 11 – paragraph 1 – point 11

Text proposed by the Commission

Amendment

(11) where a provider provides tools for obtaining consent from data subjects or permissions to process data made available by **legal persons**, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

(11) where a provider provides tools for obtaining consent from data subjects or permissions to process data made available by **data holders**, it shall specify the jurisdiction or jurisdictions **outside the Union** in which the data use is intended to take place **and provide data subjects with tools to withdraw consent and data holders with tools to withdraw permissions to process data.**

Or. en

Amendment 87

Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission

Amendment

(3) The designated competent authorities, the data protection authorities, the national competition authorities, the authorities in charge of cybersecurity, and other relevant sectorial authorities shall exchange the information which is necessary for the exercise of their tasks in relation to data sharing providers.

(3) ***The powers of*** the designated competent authorities ***are without prejudice to the powers of*** the data protection authorities, the national competition authorities, the authorities in charge of cybersecurity, and other relevant sectorial authorities. ***Those authorities shall exchange the information which is necessary for the exercise of their tasks in relation to data sharing providers. In particular, for any question requiring an assessment of compliance with Regulation (EU) 2016/679, and before starting any data sharing service activities related to personal data, the competent authority shall first request an opinion or decision by the competent supervisory authority established pursuant to that Regulation which shall be legally binding for the competent authority.***

Or. en

Amendment 88

Proposal for a regulation Article 13 – paragraph 2

Text proposed by the Commission

(2) The competent authority shall have the power to request from providers of data sharing services all the information that is necessary to verify compliance with the requirements ***laid down in Articles 10 and 11***. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

Amendment

(2) The competent authority shall have the power to request from providers of data sharing services all the information that is necessary to verify compliance with the requirements ***of this Chapter***. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

Or. en

Amendment 89

Proposal for a regulation Article 13 – paragraph 3

Text proposed by the Commission

(3) Where the competent authority finds that a provider of data sharing services does not comply with one or more of the requirements *laid down in Article 10 or 11*, it shall notify that provider of those findings and give it the opportunity to state its views, within a reasonable time limit.

Amendment

(3) Where the competent authority finds that a provider of data sharing services does not comply with one or more of the requirements *of this Chapter*, it shall notify that provider of those findings and give it the opportunity to state its views, within a reasonable time limit.

Or. en

Amendment 90

Proposal for a regulation

Article 13 – paragraph 4 – point a

Text proposed by the Commission

(a) to impose dissuasive financial penalties which may include periodic penalties with retroactive effect;

Amendment

(a) to impose dissuasive financial penalties which may include periodic penalties *and penalties* with retroactive effect;

Or. en

Amendment 91

Proposal for a regulation

Article 13 – paragraph 4 – point b

Text proposed by the Commission

(b) to require cessation *or postponement* of the provision of the data sharing service.

Amendment

(b) to require cessation of the provision of the data sharing service *in case of serious or substantial breaches where they have not been corrected upon prior notification or warning or postponement of the provision of such a service until modifications of its conditions, as requested by the competent authority, are made; the competent authority for data sharing services shall request the Commission to remove the provider of the data sharing service from the register of*

providers of data sharing services, once it has ordered the cessation of the service.

Or. en

Amendment 92

Proposal for a regulation Article 13 – paragraph 6

Text proposed by the Commission

(6) If a provider of data sharing services has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation may cover information exchanges between the competent authorities concerned and requests to take the measures referred to in this Article.

Amendment

(6) If a provider of data sharing services has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation may cover information exchanges between the competent authorities concerned ***for the purpose of their tasks under this Regulation*** and requests to take the measures referred to in this Article. ***Where a competent authority for data sharing services in one Member State requests assistance from a competent authority in another Member State, it shall submit a duly justified request. The competent authority for data sharing services in that other Member State shall respond within two weeks of receipt of the request. Any information exchanged in the context of assistance requested and provided under this paragraph shall be used only in respect of the matter for which it was requested.***

Or. en

Amendment 93

Proposal for a regulation
Article 14 – paragraph 1

Text proposed by the Commission

This Chapter shall not apply to not-for-profit entities whose activities consist only in seeking to collect data for objectives of general interest, made available by natural or legal persons on the basis of data altruism.

Amendment

This Chapter shall not apply to:

(a) public sector bodies that offer data sharing facilities on a non-commercial basis;

(b) not-for-profit entities whose activities consist only in seeking to collect data for objectives of general interest, made available by natural or legal persons on the basis of data altruism.

Or. en

Amendment 94

Proposal for a regulation
Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14 a (new)

Policies for data altruism in Member States

(1) Member States shall define policies for data altruism and shall put in place organisational or technical arrangements, in particular to provide secure processing environments that can be made available to General Interest Data Hubs by the public sector to allow supervision, to ensure the protection of personal data and confidentiality, and to further facilitate data altruism. These policies shall in particular support data subjects in making meaningful use of their data subjects' rights, and in making personal data related to them held by public sector

bodies available voluntarily for data altruism.

(2) The European Data Innovation Board shall advise and assist in developing a consistent practice with regard to data altruism throughout the Union.

Or. en

Amendment 95

Proposal for a regulation Article 15 – title

Text proposed by the Commission

Register of *recognised data altruism organisations*

Amendment

Register of *General Interest Data Hubs*

Or. en

Amendment 96

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

(1) Each competent authority designated pursuant to Article 20 shall keep a register of *recognised data altruism organisations*.

Amendment

(1) Each competent authority *for the registration of General Interest Data Hubs* designated pursuant to Article 20 shall keep a *public* register of *General Interest Data Hubs*.

Or. en

Amendment 97

Proposal for a regulation Article 15 – paragraph 2

Text proposed by the Commission

Amendment

(2) The Commission shall maintain a Union register of ***recognised data altruism organisations***.

(2) The Commission shall maintain a Union register of ***General Interest Data Hubs***.

Or. en

Amendment 98

Proposal for a regulation Article 15 – paragraph 3

Text proposed by the Commission

Amendment

(3) An entity registered in the register in accordance with Article 16 may refer to itself as a ***‘data altruism organisation recognised in the Union’*** in its written and spoken communication.

(3) An entity registered in the register in accordance with Article 16 may refer to itself as a ***‘General Interest Data Hub’*** in its written and spoken communication.

Or. en

Amendment 99

Proposal for a regulation Article 16 – title

Text proposed by the Commission

Amendment

General requirements for ***registration***

General requirements for ***General Interest Data Hubs***

Or. en

Amendment 100

Proposal for a regulation Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

In order to qualify for registration, the

(1) In order to qualify for registration as a General Interest Data Hub, an entity

data altruism organisation shall:

shall::

Or. en

Amendment 101

Proposal for a regulation

Article 16 – paragraph 1 – point a

Text proposed by the Commission

(a) be a legal **entity** constituted to meet objectives of general interest;

Amendment

(a) be a legal **person** constituted to meet objectives of general interest **which shall be demonstrated in the application pursuant to Article 17(4)**;

Or. en

Amendment 102

Proposal for a regulation

Article 16 – paragraph 1 – point b

Text proposed by the Commission

(b) operate on a not-for-profit basis and be independent from any entity that operates on a for-profit basis;

Amendment

(b) operate on a not-for-profit basis and be independent, **at least with regard to its organisation and personnel**, from any entity that operates on a for-profit basis;

Or. en

Amendment 103

Proposal for a regulation

Article 16 – paragraph 1 – point c

Text proposed by the Commission

(c) perform the activities related to data altruism **take place** through a legally independent structure, separate from other activities it has undertaken.

Amendment

(c) perform the activities related to data altruism through a legally independent structure, separate from other activities it has undertaken;

Amendment 104

Proposal for a regulation

Article 16 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) have procedures in place to ensure compliance with the Union and national rules on the protection of personal data, including procedures for ensuring the exercise of data subjects' rights; the entity shall in particular provide the data subjects with easily accessible tools allowing them a comprehensive view of how and for which specific purpose their personal data are shared or used by the entity and by data users;

Or. en

Justification

See Art 9(9a)

Amendment 105

Proposal for a regulation

Article 16 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) have adequate technical, legal and organisational measures in place to prevent transfer or access to non-personal data that is unlawful under Union law;

Or. en

Justification

See Art 11(7)

Amendment 106

Proposal for a regulation Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) General Interest Data Hubs shall only make data available to data users from the following categories:

(a) data users that pursue objectives of general interest;

(b) data users that pursue scientific research in the general interest.

Or. en

Amendment 107

Proposal for a regulation Article 16 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

(1b) General Interest Data Hubs shall not use the data for which they provide services for other purposes than placing them at the disposal of data users, including where data is made available through a secure processing environment

Or. en

Amendment 108

Proposal for a regulation Article 16 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

(1c) General Interest Data Hubs shall take measures to ensure a high level of security for the storage and transmission of non-personal data;

Justification

See Art 11(8).

Amendment 109

**Proposal for a regulation
Article 16 – paragraph 1 d (new)**

Text proposed by the Commission

Amendment

(1d) General Interest Data Hubs shall act in the data subjects' best interest when facilitating the exercise of their rights, in particular by advising data subjects on potential data uses and standard terms and conditions attached to such uses;

Or. en

Justification

See Art 11(10).

Amendment 110

**Proposal for a regulation
Article 16 – paragraph 1 e (new)**

Text proposed by the Commission

Amendment

(1e) Where General Interest Data Hubs provide tools for obtaining consent from data subjects or permissions to process data made available by data holders, they shall specify the jurisdiction or jurisdictions outside the Union in which the data use is intended to take place and provide data subjects with tools to withdraw consent and data holders with tools to withdraw permissions to process data.

Or. en

Justification

See Art 11(11)

Amendment 111

Proposal for a regulation

Article 17 – title

Text proposed by the Commission

Amendment

Registration

Registration *of General Interest Data Hubs*

Or. en

Amendment 112

Proposal for a regulation

Article 17 – paragraph 1

Text proposed by the Commission

Amendment

(1) Any entity which meets the requirements of Article 16 may request to be entered in the register of ***recognised data altruism organisations*** referred to in Article 15 (1).

(1) Any entity which meets the requirements of Article 16 may request to be entered in the register of ***General Interest Data Hubs*** referred to in Article 15 (1).

Or. en

Amendment 113

Proposal for a regulation

Article 17 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

(4) Applications for registration shall contain the following information:

(4) Applications for registration shall contain ***all of*** the following information:

Or. en

Amendment 114

Proposal for a regulation

Article 17 – paragraph 4 – point d

Text proposed by the Commission

(d) the entity's **main** sources of income;

Amendment

(d) the entity's sources of income;

Or. en

Amendment 115

Proposal for a regulation

Article 17 – paragraph 4 – point f

Text proposed by the Commission

(f) a website where information on the entity and the activities can be found;

Amendment

(f) a **publicly accessible** website where information on the entity and the activities can be found, **including as a minimum the information referred to in points (a), (b), (d), (e), (g), (h) and (ha) of this paragraph;**

Or. en

Amendment 116

Proposal for a regulation

Article 17 – paragraph 4 – point h a (new)

Text proposed by the Commission

Amendment

(ha) the nature of data to be controlled, processed, or re-used by the provider, and, in case of personal data, an indication of the categories of personal data and the categories of recipients of personal data;

Or. en

Justification

See Art 10(6), point (fa).

Amendment 117

Proposal for a regulation

Article 17 – paragraph 4 – point h b (new)

Text proposed by the Commission

Amendment

(hb) an indication in case of processing of personal data or where the provider can reasonably assume that the combination of non-personal data under the service it provides could lead to the identification or identifiability of natural persons;

Or. en

Justification

See Art 10(6), point (fb).

Amendment 118

Proposal for a regulation

Article 17 – paragraph 5

Text proposed by the Commission

Amendment

(5) Where the entity has submitted all necessary information pursuant to paragraph 4 and the competent authority considers that the entity complies with the requirements of Article 16, it shall register the entity in the register of ***recognised data altruism organisations*** within twelve weeks from the date of application. The registration shall be valid in all Member States. Any registration shall be communicated to the Commission, for inclusion in the Union register of ***recognised data altruism organisations***.

(5) Where the entity has submitted all necessary information pursuant to paragraph 4 and the competent authority ***for the registration of General Interest Data Hubs*** considers that the entity complies with the requirements of Article 16, it shall register the entity in the register of ***General Interest Data Hubs*** within twelve weeks from the date of application. The registration shall be valid in all Member States. Any registration shall be communicated to the Commission, for inclusion in the Union register of ***General Interest Data Hubs***.

Or. en

Amendment 119

Proposal for a regulation Article 17 – paragraph 6

Text proposed by the Commission

(6) The information referred to in paragraph 4, points (a), (b), (f), (g), **and (h)** shall be published in the national register of **recognised data altruism organisations**.

Amendment

(6) The information referred to in paragraph 4, points (a), (b), (f), (g), **(h), (ha), and (hb)**, shall be published in the national register of **General Interest Data Hubs**.

Or. en

Amendment 120

Proposal for a regulation Article 17 – paragraph 7

Text proposed by the Commission

(7) Any entity entered in the register of **recognised data altruism organisations** shall **submit** any changes of the information provided pursuant to paragraph 4 **to the competent authority** within 14 calendar days from the day on which the change takes place.

Amendment

(7) Any entity entered in the register of **General Interest Data Hubs** shall **notify the competent authority for the registration of General Interest Data Hubs** of any changes of the information provided pursuant to paragraph 4 within 14 calendar days from the day on which the change takes place. **The competent authority shall without delay inform the Commission by electronic means of such notification.**

Or. en

Amendment 121

Proposal for a regulation Article 17 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

(7a) Where the information provided in the application indicates that sensitive data categories could be controlled,

processed or re-used, the General Interest Data Hubs shall conduct a data protection impact assessment pursuant to Article 35, and, where applicable, Article 36, of Regulation (EU) 2016/679, taking into account the possibility of using a secure processing environment provided for by the state, or deny the application.

Or. en

Amendment 122

Proposal for a regulation

Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

(1) Any entity entered in the national register of *recognised data altruism organisations* shall keep full and accurate records concerning:

Amendment

(1) Any entity entered in the national register of **General Interest Data Hubs** shall keep full and accurate records concerning:

Or. en

Amendment 123

Proposal for a regulation

Article 18 – paragraph 1 – point a

Text proposed by the Commission

(a) all natural or legal persons that were given the possibility to process data held by that entity;

Amendment

(a) all natural or legal persons that were given the possibility to process data held by that entity, **and their contact details**;

Or. en

Amendment 124

Proposal for a regulation

Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

(2) Any entity entered in the register of **recognised data altruism organisations** shall draw up and transmit to the competent national authority an annual activity report which shall contain at least the following:

Amendment

(2) Any entity entered in the register of **General Interest Data Hubs** shall draw up and transmit to the competent national authority **for the registration of General Interest Data Hubs** an annual activity report which shall contain at least the following:

Or. en

Amendment 125

Proposal for a regulation

Article 18 – paragraph 2 – point c

Text proposed by the Commission

(c) a list of all natural and legal persons that were allowed to use data it holds, including a summary description of the general interest purposes pursued by such data use and the description of the technical means used for it, including a description of the techniques used to preserve privacy and data protection;

Amendment

(c) a list of all natural and legal persons that were allowed to **process or otherwise** use data it holds, including a summary description of the general interest purposes pursued by such data use and the description of the technical means used for it, including a description of the techniques used to preserve privacy and data protection;

Or. en

Amendment 126

Proposal for a regulation

Article 19 – title

Text proposed by the Commission

Specific requirements to safeguard rights and interests of data subjects and **legal entities** as regards their data

Amendment

Specific requirements to safeguard rights and interests of data subjects and **data holders** as regards their data

Or. en

Amendment 127

Proposal for a regulation

Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

(1) Any entity entered in the register of **recognised data altruism organisations** shall inform data holders:

Amendment

(1) Any entity entered in the register of **General Interest Data Hubs** shall inform data **subjects and data** holders **prior to any processing of their data**:

Or. en

Amendment 128

Proposal for a regulation

Article 19 – paragraph 1 – point a

Text proposed by the Commission

(a) about the purposes of general interest for which **it** permits the processing of their data by a data user in an easy-to-understand manner;

Amendment

(a) about the purposes of general interest for which **the data subject provides consent and for which the entity** permits the processing of their data by a data user in an easy-to-understand manner;

Or. en

Amendment 129

Proposal for a regulation

Article 19 – paragraph 1 – point b

Text proposed by the Commission

(b) about any processing outside the Union.

Amendment

(b) about **the location of** any processing **performed** outside the Union.

Or. en

Amendment 130

Proposal for a regulation

Article 19 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The entity shall also ensure that consent from data subjects or permissions to process data made available by legal persons can be easily withdrawn.

Or. en

Amendment 131

Proposal for a regulation Article 19 – paragraph 3

Text proposed by the Commission

Amendment

(3) Where an entity entered in the register of **recognised data altruism organisations** provides tools for obtaining consent from data subjects or permissions to process data made available by **legal persons**, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

(3) Where an entity entered in the register of **General Interest Data Hubs** provides tools for obtaining consent from data subjects or permissions to process data made available by **data holders**, it shall specify the jurisdiction or jurisdictions **outside the Union** in which the data use is intended to take place.

Or. en

Amendment 132

Proposal for a regulation Article 20 – title

Text proposed by the Commission

Amendment

Competent authorities for registration

Competent authorities for **the** registration
of General Interest Data Hubs

Or. en

Amendment 133

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

(1) Each Member State shall designate one or more competent authorities responsible for the register of **recognised data altruism organisations** and for the monitoring of compliance with the requirements of this Chapter. The designated competent authorities shall meet the requirements of Article 23.

Amendment

(1) Each Member State shall designate one or more competent authorities responsible for the register of **General Interest Data Hubs** and for the monitoring of compliance with the requirements of this Chapter. The designated competent authorities **for the registration of General Interest Data Hubs** shall meet the requirements of Article 23.

Or. en

Amendment 134

Proposal for a regulation Article 20 – paragraph 3

Text proposed by the Commission

(3) The competent authority shall undertake its tasks in cooperation with the data protection authority, where such tasks are related to processing of personal data, and with relevant sectoral bodies of the same Member State. For any question requiring an assessment of compliance with Regulation (EU) 2016/679, the competent authority shall first seek an opinion or decision by the competent supervisory authority established pursuant to that Regulation and comply with that opinion or decision.

Amendment

(3) The competent authority **for the registration of General Interest Data Hubs** shall undertake its tasks in cooperation with the data protection authority, where such tasks are related to processing of personal data, and with relevant sectoral bodies of the same Member State. For any question requiring an assessment of compliance with Regulation (EU) 2016/679, the competent authority shall first seek an opinion or decision by the competent supervisory authority established pursuant to that Regulation and comply with that opinion or decision.

Or. en

Amendment 135

Proposal for a regulation Article 21 – paragraph 1

Text proposed by the Commission

(1) The competent authority shall monitor and supervise compliance of entities entered in the register of ***recognised data altruism organisations*** with the conditions laid down in this Chapter.

Amendment

(1) The competent authority shall monitor and supervise compliance of entities entered in the register of ***General Interest Data Hubs*** with the conditions laid down in this Chapter.

Or. en

Amendment 136

**Proposal for a regulation
Article 21 – paragraph 2**

Text proposed by the Commission

(2) The competent authority shall have the power to request information from entities included in the register of ***recognised data altruism organisations*** that is necessary to verify compliance with the provisions of this Chapter. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

Amendment

(2) The competent authority shall have the power to request information from entities included in the register of ***General Interest Data Hubs*** that is necessary to verify compliance with the provisions of this Chapter. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

Or. en

Amendment 137

**Proposal for a regulation
Article 21 – paragraph 5 – point a**

Text proposed by the Commission

(a) lose its right to refer to itself as a ***'data altruism organisation recognised in the Union'*** in any written and spoken communication;

Amendment

(a) lose its right to refer to itself as a ***'General Interest Data Hub'*** in any written and spoken communication;

Or. en

Amendment 138

Proposal for a regulation

Article 21 – paragraph 5 – point b

Text proposed by the Commission

(b) be removed from the register of *recognised data altruism organisations*.

Amendment

(b) be removed from the register of *General Interest Data Hubs*.

Or. en

Amendment 139

Proposal for a regulation

Article 21 – paragraph 6

Text proposed by the Commission

(6) If an entity included in the register of *recognised data altruism organisations* has its main establishment or legal representative in a Member State but is active in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other as necessary. Such assistance and cooperation may cover information exchanges between the competent authorities concerned and requests to take the supervisory measures referred to in this Article.

Amendment

(6) If an entity included in the register of *General Interest Data Hubs* has its main establishment or legal representative in a Member State but is active in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other as necessary. Such assistance and cooperation may cover information exchanges between the competent authorities concerned and requests to take the supervisory measures referred to in this Article.

Or. en

Amendment 140

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

(1) In order to facilitate the collection

Amendment

(1) In order to facilitate the collection

of data based on data altruism, the Commission may adopt implementing acts developing a European data altruism consent form. The form shall allow the collection of consent across Member States in a uniform format. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29 (2).

of data based on data altruism, the Commission may adopt implementing acts developing a European data altruism consent form, ***after consultation of the European Data Protection Board***. The form shall allow the collection of consent across Member States in a uniform format. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29 (2).

Or. en

Amendment 141

Proposal for a regulation Article 22 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The European data altruism consent form shall detail the specific purpose or purposes of the intended use or uses.

Or. en

Amendment 142

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

Amendment

(1) The competent authorities designated pursuant to Article 12 and Article 20 shall be legally distinct from, and functionally independent of any provider of data sharing services or entity included in the register of ***recognised data altruism organisations***.

(1) The competent authorities designated pursuant to Article 12 and Article 20 shall be legally distinct from, and functionally independent of any provider of data sharing services or entity included in the register of ***General Interest Data Hubs***. ***The functions of the competent authorities designated pursuant to Articles 12 and 20 may be performed by the same entity. Member States shall be allowed either to establish***

one or more new entities or to rely on existing entities.

Or. en

Amendment 143

Proposal for a regulation Article 23 – paragraph 6

Text proposed by the Commission

(6) The competent authorities of a Member State shall provide the Commission and competent authorities from other Member States, on reasoned request, with the information necessary to carry out their tasks under this Regulation. Where a national competent authority considers the information requested to be confidential in accordance with Union and national rules on commercial and professional confidentiality, the Commission and any other competent authorities concerned shall ensure such confidentiality.

Amendment

(6) The competent authorities of a Member State shall provide the Commission and competent authorities from other Member States, on reasoned request ***and without undue delay***, with the information necessary to carry out their tasks under this Regulation. Where a national competent authority considers the information requested to be confidential in accordance with Union and national rules on commercial and professional confidentiality, the Commission and any other competent authorities concerned shall ensure such confidentiality.

Or. en

Amendment 144

Proposal for a regulation Article 24 – paragraph 1

Text proposed by the Commission

(1) Natural and legal persons shall have the right to lodge a complaint with the relevant national competent authority against a provider of data sharing services or an entity entered in the register of ***recognised data altruism organisations***.

Amendment

(1) Natural and legal persons shall have the right to lodge a complaint with the relevant national competent authority against a provider of data sharing services or an entity entered in the register of ***General Interest Data Hubs in relation to any matter pertaining to this Regulation***.

Or. en

Amendment 145

Proposal for a regulation Article 26 – paragraph 1

Text proposed by the Commission

(1) The Commission shall establish a European Data Innovation Board (“the Board”) in the form of an Expert Group, consisting of the representatives of competent authorities of all the Member States, the European Data Protection Board, the Commission, **relevant data spaces** and other representatives **of competent authorities** in specific sectors.

Amendment

(1) The Commission shall establish a European Data Innovation Board (“the Board”) in the form of an Expert Group, consisting of the representatives of competent authorities of all the Member States **pursuant to Articles 12 and 20**, the European Data Protection Board, the Commission and other representatives **relevant bodies** in specific sectors **as well as bodies with specific expertise such as national statistical offices**.

Or. en

Amendment 146

Proposal for a regulation Article 26 – paragraph 2

Text proposed by the Commission

(2) Stakeholders and relevant third parties may be invited to attend meetings of the Board and to participate in its work.

Amendment

(2) Stakeholders and relevant third parties, **in particular from civil society and consumer protection groups**, may be invited to attend meetings of the Board and to participate in its work, **on a case by case basis or permanently, as relevant**.

Or. en

Amendment 147

Proposal for a regulation Article 27 – title

Text proposed by the Commission

Amendment

Amendment 148

Proposal for a regulation

Article 27 – paragraph 1 – point b

Text proposed by the Commission

(b) to advise and assist the Commission in developing a consistent practice of the competent authorities in the application of requirements applicable to data sharing providers;

Amendment

(b) to advise and assist the Commission in developing a consistent practice of the competent authorities in the application of requirements applicable to data sharing *service providers and entities performing activities related to data altruism;*

Amendment 149

Proposal for a regulation

Article 27 – paragraph 1 – point e

Text proposed by the Commission

(e) to facilitate the cooperation between national competent authorities under this Regulation through capacity-building and the exchange of information, in particular by establishing methods for the efficient exchange of information relating to the notification procedure for data sharing service providers and the registration and monitoring of *recognised data altruism organisations.*

Amendment

(e) to facilitate the cooperation between national competent authorities under this Regulation through capacity-building and the exchange of information, in particular by establishing methods for the efficient exchange of information relating to the notification procedure for data sharing service providers and the registration and monitoring of *General Interest Data Hubs;*

Amendment 150

Proposal for a regulation
Article 27 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

***(ea) to facilitate the cooperation
between national competent authorities
on the application of Article 30.***

Or. en

Amendment 151

Proposal for a regulation
Article 30 – title

Text proposed by the Commission

Amendment

International access

International access ***and transfer***

Or. en

Amendment 152

Proposal for a regulation
Article 30 – paragraph -1 (new)

Text proposed by the Commission

Amendment

***(-1) This Chapter shall apply to the
transfer of non-personal data only.***

Or. en

Amendment 153

Proposal for a regulation
Article 30 – paragraph 1

Text proposed by the Commission

Amendment

(1) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data

(1) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data

sharing provider or the entity entered in the register of **recognised data altruism organisations**, as the case may be, shall take all reasonable technical, legal and organisational measures in order to prevent transfer or access to non-personal data held in the Union where such transfer or access would create a conflict with Union law or the law of the relevant Member State, **unless the transfer or access are in line with paragraph 2 or 3.**

sharing provider or the entity entered in the register of **General Interest Data Hubs**, as the case may be, shall take all reasonable technical, legal and organisational measures in order to prevent transfer or access to non-personal data held in the Union where such transfer or access would create a conflict with Union law or the law of the relevant Member State, **without prejudice to paragraphs 2 or 3.**

Or. en

Amendment 154

Proposal for a regulation Article 30 – paragraph 2

Text proposed by the Commission

(2) Any judgment of a court or tribunal and any decision of an administrative authority of a third country requiring a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a data sharing provider or entity entered in the register of **recognised data altruism organisations** to transfer from or give access to non-personal data subject to this Regulation in the Union may only be recognised or enforceable in any manner if based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between the requesting third country and a Member State concluded before [the entry into force of this Regulation].

Amendment

(2) Any judgment of a court or tribunal and any decision of an administrative authority of a third country requiring a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a data sharing provider or entity entered in the register of **General Interest Data Hubs** to transfer from or give access to non-personal data subject to this Regulation in the Union may only be recognised or enforceable in any manner if based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between the requesting third country and a Member State concluded before [the entry into force of this Regulation].

Or. en

Amendment 155

Proposal for a regulation
Article 30 – paragraph 3 – introductory part

Text proposed by the Commission

(3) Where a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a data sharing provider or entity entered in the register of **recognised data altruism organisations** is the addressee of a decision of a court or of an administrative authority of a third country to transfer from or give access to non-personal data held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only:

Amendment

(3) ***In the absence of an international agreement referred to in paragraph 2,*** where a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a data sharing provider or entity entered in the register of ***General Interest Data Hubs*** is the addressee of a decision of a court or of an administrative authority of a third country to transfer from or give access to non-personal data held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only:

Or. en

Amendment 156

Proposal for a regulation
Article 30 – paragraph 3 – subparagraph 1

Text proposed by the Commission

The addressee of the decision shall ask the opinion of the relevant competent bodies or authorities, pursuant to this Regulation, in order to determine if these conditions are met.

Amendment

The addressee of the decision shall ask the opinion of the relevant competent bodies or authorities, pursuant to this Regulation, in order to determine if these conditions are met. ***The relevant competent bodies or authorities shall exchange information on international access requests in the framework of the European Data Innovation Board.***

Or. en

Amendment 157

Proposal for a regulation
Article 30 – paragraph 4

Text proposed by the Commission

(4) If the conditions in paragraph 2, or 3 are met, the public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data sharing provider or the entity entered in the register of ***recognised data altruism organisations***, as the case may be, shall, provide the minimum amount of data permissible in response to a request, based on a reasonable interpretation of the request.

Amendment

(4) If the conditions in paragraph 2, or 3 are met, the public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data sharing provider or the entity entered in the register of ***General Interest Data Hubs***, as the case may be, shall, provide the minimum amount of data permissible in response to a request, based on a reasonable interpretation of the request.

Or. en

Amendment 158

Proposal for a regulation
Article 30 – paragraph 5

Text proposed by the Commission

(5) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data sharing provider and the entity providing data altruism shall inform the data holder about the existence of a request of an administrative authority in a third-country to access its data, except in cases where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.

Amendment

(5) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data sharing provider and the entity providing data altruism shall inform ***the data subject or*** the data holder about the existence of a request of an administrative authority in a third-country to access its data, except in cases where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.

Or. en

Amendment 159

Proposal for a regulation

Article 33 – paragraph 1 – introductory part

Text proposed by the Commission

In Annex II to Regulation (EU) No 2018/1724, the following line is added under “Starting, running and closing a business”:

Amendment

In Annex II to Regulation (EU) No 2018/1724, the following line is added under “Starting, running and closing a business”:

IN THE TABLE: REPLACE "European Data Altruism Organisation" with "General Interest Data Hub"

Or. en