

Data Act

2022/0047(COD) - 09/11/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 481 votes to 31, with 71 abstentions, a resolution on the proposal for a regulation of the European Parliament and of the Council on harmonised rules on fair access to and use of data (Data Act).

Parliament's position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

The new legislation establishes rules on **sharing data generated by the use of connected products or related services** (e.g. Internet of Things, industrial machines) and allows users to access the data they generate. It provides for new rules specifying who can access and use data generated within the EU across all economic sectors.

The regulation aims to:

- guarantee fairness in the distribution of the value produced by data between stakeholders in the digital environment;
- stimulate the development of a competitive data market;
- open up opportunities for data-driven innovation; and
- make data more accessible to the user.

This regulation lays down harmonised rules, *inter alia*, on:

- the making available of product data and related service data to the user of the connected product or related service;
- the making available of data by data holders to data recipients;
- the making available of data by data holders to public sector bodies, the Commission, the European Central Bank and Union bodies, where there is an exceptional need for those data for the performance of a specific task carried out in the public interest;
- facilitating switching between data processing services;
- introducing safeguards against unlawful third-party access to non-personal data; and
- the development of interoperability standards for data to be accessed, transferred and used.

Any processing of personal data pursuant to this Regulation should comply with Union data protection law.

The regulation contains measures concerning:

- the obligation to make data relating to products and data relating to related services accessible to the user;

- the rights and obligations of users and data holders regarding access to, use and provision of product data and related service data;
- the user's right to share data with third parties;
- measures to prevent the misuse of contractual imbalances in data sharing contracts due to **unfair contractual terms** imposed by a party in a stronger bargaining position;
- the protection of **trade secrets** and intellectual property rights, accompanied by appropriate safeguards against abusive behaviour;
- additional guidance with regard to **reasonable compensation** for making the data available and dispute settlement mechanism;
- certain adjustments regarding data sharing requests from public sector bodies due to exceptional needs;
- clearer and more widely applicable provisions regarding the effective **switching from one data processing service to another**;
- the gradual withdrawal of switching charges;
- introducing safeguards against **unlawful third-party access to non-personal data**;
- essential requirements regarding **interoperability** of data, of data sharing mechanisms and services, as well as of common European data spaces.