














Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2022/0047(COD) Awaiting Parliament's position in 1st reading
Data Act	
Subject 1.20.05 Public access to information and documents, administrative practice 1.20.09 Protection of privacy and data protection 2.40 Free movement of services, freedom to provide 3.30.06 Information and communication technologies, digital technologies 3.30.25 International information networks and society, internet 3.50.04 Innovation	
Legislative priorities Joint Declaration 2022 Joint Declaration 2023-24	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Industry, Research and Energy	 DEL CASTILLO VERA Pilar	31/03/2022
		Shadow rapporteur	
		 KUMPULA-NATRI Miapetra	
		 MITUA Alin	
		 LIZZI Elena	
		 DE LA PISA CARRIÓN Margarita	
		 KOUNTOURA Elena	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Legal Affairs (Associated committee)	 GARCÍA DEL BLANCO Ibán	28/02/2022
	 Internal Market and Consumer Protection (Associated committee)		11/05/2022
		 BIELAN Adam	
	 Civil Liberties, Justice and Home Affairs (Associated committee)		15/06/2022



Key events

23/02/2022	Legislative proposal published	COM(2022)0068	Summary
23/03/2022	Committee referral announced in Parliament, 1st reading		
07/07/2022	Referral to associated committees announced in Parliament		
09/02/2023	Vote in committee, 1st reading		
28/02/2023	Committee report tabled for plenary, 1st reading	A9-0031/2023	
14/03/2023	Debate in Parliament		
14/03/2023	Decision by Parliament, 1st reading	T9-0069/2023	
14/03/2023	Matter referred back to the committee responsible		

Technical information

Procedure reference	2022/0047(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Rules of Procedure EP 57; Treaty on the Functioning of the EU TFEU 114
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Awaiting Parliament's position in 1st reading
Committee dossier	ITRE/9/08515

Documentation gateway

Legislative proposal	COM(2022)0068	23/02/2022	EC	Summary
Document attached to the procedure	SEC(2022)0081	24/02/2022	EC	
Document attached to the procedure	SWD(2022)0034	24/02/2022	EC	
Document attached to the procedure	SWD(2022)0035	24/02/2022	EC	
Economic and Social Committee: opinion, report	CES0850/2022	15/06/2022	ESC	
Committee of the Regions: opinion	CDR1959/2022	30/06/2022	CofR	
European Central Bank: opinion, guideline, report	CON/2022/0030 OJ C 402 19.10.2022, p. 0005	05/09/2022	ECB	

Committee draft report		PE732.704	14/09/2022	EP	
Amendments tabled in committee		PE738.509	09/11/2022	EP	
Amendments tabled in committee		PE738.511	09/11/2022	EP	
Amendments tabled in committee		PE738.548	09/11/2022	EP	
Amendments tabled in committee		PE738.549	09/11/2022	EP	
Committee opinion	IMCO	PE736.701	25/01/2023	EP	
Committee opinion	JURI	PE736.696	26/01/2023	EP	
Committee opinion	LIBE	PE737.389	02/02/2023	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0031/2023	28/02/2023	EP	
Text adopted by Parliament, partial vote at 1st reading/single reading		T9-0069/2023	14/03/2023	EP	

Additional information

Research document	Briefing	07/10/2022
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Data Act

PURPOSE: to set harmonised rules on fair access to and use of data (Data Act).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND : the volume of data generated by humans and machines has been increasing exponentially in recent years. Most data are unused however, or its value is concentrated in the hands of relatively few large companies. It is therefore crucial to unlock such potential by providing opportunities for the reuse of data, as well as by removing barriers to the development of the European data economy in compliance with European rules and fully respecting European values.

On 25 March 2021, the European Council reiterated the importance of better exploiting the potential of data and digital technologies for the benefit of the society and economy. On 1-2 October 2020, it stressed the need to make high-quality data more readily available and to promote and enable better sharing and pooling of data, as well as interoperability.

In its [resolution](#) of 25 March 2021 on a European Data Strategy, the European Parliament urged the Commission to bring forward a data law to encourage and enable greater and fairer data flows across all sectors, between businesses, between businesses and public administrations and vice versa, and between public administrations themselves. It also stressed the need to create common European data spaces to ensure the free flow of non-personal data across countries and sectors, and between businesses, academia, relevant stakeholders and the public sector.

Following the [Data Governance Act](#), this proposal is the second main legislative initiative resulting from the February 2020 European strategy for data, which aims to make the EU a leader in our data-driven society. Its aim is to ensure fairness in the allocation of value from data among actors in the data economy and to foster access to and use of data.

The Data Act should ensure fairness in the digital environment, stimulate a competitive data market, open up opportunities for data-driven innovation and make data more accessible to all.

CONTENT: the proposed Regulation aims to establish a harmonised framework that specifies who, in addition to the manufacturer or other data holder, has a right of access to data generated by products or related services, under what conditions and on what basis, in all economic sectors.

The proposed Regulation:

- aims to ensure that users of a product or related service in the Union can access, in a timely manner, the data generated by the use of that product or related service and that those users can make use of that data, including sharing it with third parties of their choice. Manufacturers and designers should design products in such a way that data is easily accessible by default, and they should be transparent about what data will be accessible and how it can be accessed. Users would have the right to authorise the data holder to give access to the data to third party service providers, such as after sales service providers;

- sets out the general rules applicable to data provision obligations. Where a data holder is obliged to make data available to a data recipient, the general framework sets out the conditions under which the data is made available and the compensation for making the data available. All these conditions should be fair and non-discriminatory, and any compensation should be reasonable;

- adapts the rules of contract law and prevents the exploitation of contractual unfairness that hinder fair access to and fair use of data by micro, small or medium-sized enterprises. The Data Regulation would protect SMEs from unfair contract terms imposed by a party with significantly more bargaining power. The Commission would also develop model contract terms to help these companies draft and negotiate fair data sharing contracts;
- provide for the use by public sector bodies and Union institutions, agencies or bodies of data held by enterprises in certain situations where there is an exceptional data need. This primarily concerns public emergencies, but also other exceptional situations where compulsory business-to-government data sharing is justified;
- introduces minimum regulatory requirements of contractual, commercial and technical nature, imposed on providers of cloud, edge and other data processing services, to enable switching between such services. In particular, the proposal ensures that customers maintain functional equivalence (a minimum level of functionality) of the service after they have switched to another service provider;
- puts in place safeguards against unlawful data transfer without notification by cloud service providers. This is because concerns have been raised about non-EU/European Economic Area (EEA) governments unlawful access to data. Such safeguards should further enhance trust in the data processing services that increasingly underpin the European data economy;
- provides for the development of interoperability standards for data to be reused between sectors, in a bid to remove barriers to data sharing across domain-specific common European data spaces, in consistency with sectoral interoperability requirements, and between other data that are not within the scope of a specific common European data space;
- supports the setting of standards for 'smart contracts'. These are computer programmes on electronic ledgers that execute and settle transactions based on pre-determined conditions. They have the potential to provide data holders and data recipients with guarantees that conditions for sharing data are respected.

Data Act

The Committee on Industry, Research and Energy adopted the report by Pilar del CASTILLO VERA (EPP, ES) 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).

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Data and scope

The report clarifies that the proposed Regulation should lay down harmonised rules on:

- the design of connected products to allow access to data generated by a connected product or generated during the provision of related services to the user of that product;
- data holders making available data they accessed from a connected product or generated during the provision of a related service to data subjects, users or to data recipients, at the request of the user or data subject;
- fair contractual terms for data sharing agreements;
- making available data to public sector bodies or Union institutions, agencies or bodies, where there is an exceptional need in the public interest;
- facilitating switching between data processing services;
- introducing safeguards against unlawful international governmental access to non-personal data; and
- developing interoperability standards and common specifications for data to be transferred and used.

Objectives

The Data Regulation aims to boost innovation by removing barriers obstructing consumers and businesses access to data. The legislation will clarify who can access data and under what conditions. It will allow a wider range of private and public entities to share data.

The Regulation:

- obliges manufacturers of connected products and providers of related services to design their products and services in such a way that users of a connected product or related service in the EU can access, in a timely manner, the data accessible from the product or generated during the provision of a related service and that those users can use the data, including by sharing them with third parties of their choice;
- requires data holders to make data available to users and to data recipients designated by those users;
- provides that data holders should make data available to data recipients in the Union on fair, reasonable and non-discriminatory terms and in a transparent manner;
- provides that, if there is an exceptional need, data holders should make data available to public sector bodies of the Member States and to Union institutions, bodies, offices and agencies;
- further aims to facilitate switching between data processing services and to improve the interoperability of data and data sharing mechanisms and services in the Union.

SMEs

Start-ups, SMEs and companies from traditional sectors with less-developed digital capabilities struggle to obtain access to relevant data. This Regulation aims to facilitate access to data for these entities, while ensuring that the corresponding obligations are scoped as proportionately as possible to avoid overreach.

When companies draw up their data sharing contracts, the law will rebalance the bargaining power in favour of SMEs, protecting them from

unfair contract terms imposed by companies in a much stronger bargaining position.

Trade secrets

Members strengthened provisions to protect trade secrets and avoid a situation where increased access to data is used by competitors to retro-engineer services or devices. They also set stricter conditions on business-to-government data requests.

Emergency situations

The amended text also sets out how public sector bodies, in exceptional circumstances or emergencies, such as floods and forest fires, can access and use data held by the private sector where necessary.

Implementation and enforcement

The report underlines that avoiding fragmentation of the market must be a guiding principle of the Regulation. The Data Act should give further clarity on the roles and coordination between competent authorities regarding, inter alia, the supervision, complaint handling and penalty regime.

Strengthened coordination

The report notes that each Member State should designate an independent competent coordinating authority (data coordinator) as responsible for the application and enforcement of this Regulation, for coordinating the activities entrusted to that Member State, for acting as the single contact point towards the Commission, with regard to the implementation of this Regulation and for representing the Member State at the European Data Innovation Board.

To further enhance coordination in the enforcement of this Regulation, the European Data Innovation Board should foster the mutual exchange of information amongst competent authorities as well as advise and assist the Commission in certain matters.

Processing of data

This Regulation should 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 a conflict between this Regulation and Union law on the protection of personal data or national law adopted in accordance with such Union law, the relevant Union or national law on the protection of personal data should prevail.

Transparency				
DEL CASTILLO VERA Pilar	Rapporteur	ITRE	15/02/2023	Google
MITU?A Alin	Shadow rapporteur	ITRE	09/02/2023	Ledger SAS
DEL CASTILLO VERA Pilar	Rapporteur	ITRE	08/02/2023	DATEV eG
MITU?A Alin	Shadow rapporteur	ITRE	07/02/2023	U.S Mission to EU
DEL CASTILLO VERA Pilar	Rapporteur	ITRE	07/02/2023	Airbus
MITU?A Alin	Shadow rapporteur	ITRE	25/01/2023	Ford Motor Company
MITU?A Alin	Shadow rapporteur	ITRE	24/01/2023	Honda Motor Europe
MITU?A Alin	Shadow rapporteur	ITRE	24/01/2023	Zurich Insurance Company Ltd
MITU?A Alin	Shadow rapporteur	ITRE	17/01/2023	European Alliance for Research Excellence
MITU?A Alin	Shadow rapporteur	ITRE	17/01/2023	Insurance Europe
MALDONADO LÓPEZ Adriana	Member	30/11/2022	BBVA	
BOESELAGER Damian	Member	14/11/2022	DIGITALEUROPE Panel discussion	
BOESELAGER Damian	Member	04/11/2022	ACEA Marco Boggian, Jocelyn Delatre	

GRUDLER Christophe	Member	28/10/2022	Fédération Nationale des Syndicats d'Exploitants Agricoles
BOESELAGER Damian	Member	27/10/2022	DIHK Freya Lemke
BOESELAGER Damian	Member	25/10/2022	Deutsches Verkehrsforum Dr. Eck, Daniela Paitzies
MANDERS Antonius	Member	18/10/2022	LKQ Europe
BOESELAGER Damian	Member	13/10/2022	Heiko Richter, Federica Bordelot, Paul Keller Expert-Exchange Data Act
BOESELAGER Damian	Member	13/10/2022	BEUC Maryant
BOESELAGER Damian	Member	13/10/2022	Verband Kommunalen Unternehmen e.V. Heiko Schäffer, Christiane Barth