

# The Data Governance Act (DGA)

## MODERN, YET IRRELEVANT?

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## Introduction

European regulation of data are the most normal thing in the world. For example, we have had EU rules on personal data since 1995.<sup>1</sup> And since 2003, there has been a directive on documents – data – held by public authorities.<sup>2</sup> That directive was last updated in 2019 by the Open Data Directive.<sup>3</sup> In addition, EU Regulation 2018/1807 entered into force, creating a framework for the free movement of non-personal data.

The latest relevant European legislative achievement is the *Data Governance Act* (DGA).<sup>4</sup> Data governance is about rules and means for those who use data.<sup>5</sup> More specifically, it deals with data outside the scope of the Open Data Directive. Think of personal data and data protected by intellectual property rights. The DGA thus supplements the Open Data Directive.<sup>6</sup> In addition, the DGA regulates specific data services, as this article will show.

The main aim of the DGA is to boost Europe's data economy. To this end, the DGA seeks, among other things, to create a fair digital environment and foster a competitive data market.<sup>7</sup> According to the European Commission, this will lead to innovative services and more competitive prices.<sup>8</sup> The DGA impact assessment calculated that the European data economy will grow to around €533 billion by 2028.<sup>9</sup> The DGA is expected to boost this growth to around €544.4 billion.<sup>10</sup>

As such, the DGA's ambitions are sky-high. Can the DGA live up to this? Is this indeed a modern law that will drive the data economy, or are some parts irrelevant?

## Background and definitions

### *Background*

The DGA is the first law under the European data strategy.<sup>11</sup> Announced by the Commission in 2020, this strategy outlines a vision for a Single European Data Area. This is a single data market in which data flows freely within the European Union (EU) and sectors. This, it said, could be important for the rapid development of technologies. In the field of AI for example. A logical thought, as data fuels artificial intelligence (AI). After all, the data are needed to train a data model or can serve as input for AI systems.<sup>12</sup>

The DGA contributes to the European data strategy by, among other things, overcoming certain obstacles to data reuse, increasing trust in voluntary data sharing and creating alternatives to current business models with data. The DGA regulates this in four sections: conditions for protected data held by public bodies, conditions for data intermediation services, data altruism and the European Data Innovation Council. In addition, the DGA contains provisions on enforcement, supervision and international data flows. These topics are all discussed in the sections below.

The DGA came into force on 30 May 2022 and is applicable on 24 September 2023.<sup>13</sup>

## Definitions and roles

In the DGA, the term '**data**' comes up frequently. Data are about any digital representation of actions, facts or information and compilations thereof. These include sound recordings or visual or audiovisual recordings.<sup>14</sup>

Data held by public sector bodies should be 're-usable' by citizens and businesses for commercial or non-commercial purposes under certain conditions.<sup>15</sup> Data exchange between public sector bodies is not re-use.<sup>16</sup> The definition of '**re-use**' is thus almost identical to that from the Open Data Directive, although data held by public sector bodies fall outside the DGA definition.<sup>17</sup>

The DGA introduces new roles. They are '**data holders**', '**data users**' and providers of '**data intermediation services**'. Data holders are legal or natural persons<sup>18</sup> who have the right to grant access<sup>19</sup> to or share certain personal or non-personal data.<sup>20</sup> Data users are legal or natural persons<sup>21</sup> who have lawful access to personal or non-personal data and the right to use that data,<sup>22</sup> for example because the General Data Protection Regulation (GDPR) allows data use. Between entities - data holders, data users and data subjects (read: 'data subjects' under the GDPR) - '**data sharing**' can take place.<sup>23</sup> Data sharing can be done directly or through an intermediary, for example on the basis of open or commercial licences, free of charge or for a fee. The DGA additionally introduces '**data intermediation services**'. These are providers of, for example, data marketplaces or data cooperatives, as explained in more detail below.

## Conditions for data re-use

**Chapter II of the DGA sets out the conditions for the re-use of various types of data held by public bodies.**<sup>24</sup> It covers only data protected under:

1. commercial confidentiality, including business, professional and company secrets;
2. statistical confidentiality;
3. intellectual property rights of third parties; or
4. personal data protection laws, insofar as they fall outside the European Open Data Directive.

Reuse of these kinds of sensitive data are already happening, for example with regard to data protected by statistical confidentiality or by personal data protection laws. Examples include Germany's *Forschungsdatenzentrum* (statistical data for research)<sup>25</sup> and Finland's *Findata* (personal data such as health data).<sup>26</sup>

**Not all data of public bodies are eligible for re-use under the DGA.** Exceptions include data of public corporations, cultural or educational establishments.<sup>27</sup> Also excluded from the DGA are data protected because of public security, defence or national security.<sup>28</sup> This also applies if the data provision is outside the public bodies' task.<sup>29</sup>

If a public body does not actively make data available for re-use, the re-use may follow a granted request. The subsequent decision should in principle be taken within two months of the request.<sup>30</sup> **However, the DGA tempers expectations: there is no obligation to allow data re-use.** Member States may decide for themselves when data will be made accessible for this

purpose, within the frameworks for conditions imposed by the DGA.<sup>31</sup> Those conditions are discussed below.

In addition, the DGA does not affect European or national laws regulating access to government documents.<sup>32</sup> Thus, the provisions of the Dutch *Wet open overheid* (Open Government Act) are not limited or nullified by the DGA. And in case of conflict between the DGA and data protection legislation such as the GDPR, the latter prevails.<sup>33</sup>

### *Conditions, fees and requirements*

**Public bodies may impose conditions on the re-use of the four categories of data.** For example, with regard to the re-use purpose<sup>34</sup> The conditions should be non-discriminatory, transparent, proportionate and objectively justified.<sup>35</sup> This also applies to any fees for re-users.<sup>36</sup> The DGA determines how fees may be structured.<sup>37</sup> Conditions in favour of scientific research are allowed.<sup>38</sup> In addition, re-use for non-commercial purposes is encouraged, e.g. by giving researchers, *start-ups* and civil society organisations discounted or free access to the data.

**Public bodies cannot simply provide the data. The DGA requires that the protected nature of the data must be maintained.**<sup>39</sup> The regulation provides guidance on how public bodies can do this, for example by anonymising personal data or filtering out confidential information from data before it is provided.<sup>40</sup> Or consider a secure processing environment within which the re-user processes the data. Such an environment allows public bodies to determine and monitor data processing activities.<sup>41</sup> They can then verify the process, means and all results of data processing by the reuser.<sup>42</sup> Another requirement implies that the re-user should be bound by confidentiality obligations that prohibit disclosure of information that jeopardises the rights and interests of third parties.<sup>43</sup> Re-identification of data subjects is prohibited. It is therefore not allowed, for example, to use data analysis and links to identify individuals on the basis of non-personal data.<sup>44</sup> Re-users must prevent re-identification with technical and operational measures.<sup>45</sup>

**The DGA contains notification obligations.** The re-user must report breaches that lead to re-identification to the relevant public body.<sup>46</sup> This is in addition to the notification obligations under the GDPR.<sup>47</sup> **In addition**, a notification obligation applies in respect of non-personal data. If those data are used in an unauthorised manner, the re-user must notify the relevant legal entities without delay.<sup>48</sup>

If the DGA does not allow re-use and the GDPR does not provide a basis for the data processing, the public body should assist potential re-users in seeking the consent of the data subjects or the admission of the relevant data holders, as long as this does not lead to disproportionate burdens on the public body.<sup>49</sup>

Finally, like in the Open Data Directive, **exclusive agreements on data are out of the question**, except when necessary for the provision of services or products in the public interest.<sup>50</sup>

### *Single information points*

**Member States should make all relevant information on re-use conditions and charges easily accessible through a national single information point.**<sup>51</sup> This point shall be competent

to receive, inter alia, requests for re-use on which they shall be forwarded to the public sector bodies holding the relevant data. Furthermore, the single information point makes available an online searchable list containing an overview of all available data sources.<sup>52</sup> The Netherlands has such a list: the Data Register of the Dutch Government.<sup>53</sup> Already now, it is possible to find datasets through the Data Register, for example data on housing, agriculture and traffic.

**At an European level, the Commission is setting up a central access point.** This point shall provide a searchable register of the data held in the national single information points. It also provides information on how to access those (national) data.<sup>54</sup>

## Data intermediation services

**Chapter III of the DGA contains a notification and supervision framework for providers of data intermediation services.**<sup>55</sup> A 'data mediation service' is a service aimed at establishing commercial relationships for the purpose of data sharing between data subjects and data holders on the one hand and data users on the other.<sup>56</sup> Such services can be businesses or governments. Think of online 'data marketplaces' where companies can make data available or 'data pools' where parties receive a reward for their contribution to the data pool.<sup>57</sup> Practical examples are the German '*Data Intelligence Hub*' (data marketplace for production data), the French *DAWEX* (brings together companies that want to reuse and exploit data) or *API-AGRO* (data sharing hub for agridata).<sup>58</sup> The EU legislator hopes that these kinds of data ecosystems will be an alternative to the big Big Tech companies.<sup>59</sup>

### *Types of data intermediation services*

**There are three types of data intermediation services to which the DGA attaches conditions before they can be provided.**<sup>60</sup> They are:

1. intermediation services between data holders and potential data users;
2. intermediation services between data subjects (making personal data available) or natural persons (making non-personal data available) on the one hand and potential data users on the other; and
3. Data cooperative services.

**The first category** of intermediation services also includes the provision of technical or other means to enable such services. The services may also include dedicated infrastructure for interconnection between data holders and data users.<sup>61</sup>

**The second category** concerns providers that aim to empower data subjects, in particular by giving them more control over their data, for example by helping them exercise their GDPR rights.<sup>62</sup> The business model of the providers should ensure that unwanted incentives are not generated that encourage individuals to use such services to make more data available for processing than is in their best interest.<sup>63</sup> Examples of this type of service are providers of data vaults, where data subjects can manage their data.

**The third category is about data cooperatives.** These are data intermediation services offered by an organisation with members consisting of data subjects, sole traders or small and medium-sized enterprises (SMEs).<sup>64</sup> The DGA names the purposes of such a cooperative. The purposes include that the cooperative supports its members in exercising their rights over the

data and negotiates on their behalf with parties wishing to process the data on the terms of use.<sup>65</sup>

### *Application procedure, register and logo*

Data intermediation services are subject to a **notification procedure**.<sup>66</sup> Anyone wishing to offer these services must first notify the competent authorities.<sup>67</sup> Thereafter, the data mediation service may start in all Member States, provided the conditions mentioned in Chapter III are fulfilled.<sup>68</sup> If the data mediation service stops, this must also be notified.<sup>69</sup>

At the request of the provider, the authority may confirm that the service meets the conditions of the DGA.<sup>70</sup> In such a case, **the provider may use the label 'data mediation service provider authorised in the Union'** with associated logo in its communications. The Commission adopts this logo.<sup>71</sup> See figure 1. The Commission also maintains a public register of all data mediation service providers.<sup>72</sup>

Figure 1. Logo for data mediation service providers



### *Requirements for data intermediation services*

**Data intermediation services should not be provided lightly. A key requirement is that providers must be neutral.**<sup>73</sup> They may only act as intermediaries in the transactions and may not use the data exchanged for other purposes.<sup>74</sup> Thus, providers may not sell the data for themselves or use it for their own product or service, e.g. to operate an AI chatbot. However, the data may be used to improve data intermediation services.

**Other requirements** stipulate that mediation services must be provided from a separate legal entity<sup>75</sup> and that the services do not depend on the extent to which the holder or user uses other services provided by the provider.<sup>76</sup> Furthermore, the DGA contains obligations on the access procedure to be used, interoperability<sup>77</sup> and security measures.<sup>78</sup> Continuity should also be guaranteed to a certain extent, for example in case of bankruptcy,<sup>79</sup> and there is an obligation to report to data holders in case of unauthorised use of non-personal data.<sup>80</sup> Finally, data mediation activities should be logged.<sup>81</sup>

## Data altruism

**Chapter IV provides the framework for the voluntary registration** of entities that collect and process data made available for altruistic purposes,<sup>82</sup> for short: **data altruism**. An example of data altruism is the German *Corona-Datenspende-App*. This app collects health data such as heart rate, body temperature and blood pressure using smart watches and bracelets. Based on the data, researchers were able to discover COVID-19 hotspots.<sup>83</sup>

The EU legislator sees great potential in the use of data made available voluntarily and without compensation by data subjects.<sup>84</sup> This creates collections of data in one accessible place, such as **data pools**. These pools should be large enough to enable data analysis and machine learning (a form of AI). Such techniques can serve general interests such as public health, combating climate change, improving public services or scientific research.

**The DGA provides that Member States can adopt national policies on data altruism.**<sup>85</sup> The Netherlands has not yet announced a concrete policy as a result of the DGA. Should such a policy be announced, it is obvious that it will build on existing policies that are based on the premise that the government voluntarily facilitates data sharing and that citizens and businesses should have control over their data.<sup>86</sup>

### *Public registers and logo*

Recognised data altruism organisations will be included in a **public national register**.<sup>87</sup> The Commission maintains a similar register at EU level. If an organisation on the register meets the requirements (see below), it may call itself a '**data altruism organisation recognised in the Union**' and use a **common logo**.<sup>88</sup> This Commission-designed logo must be accompanied by a QR code with a link to the public Union register of recognised data altruism organisations.<sup>89</sup> See figure 2.

Figure 2. *Logo for data-altruistic organisations*



### *General registration requirements*

**There are various registration requirements to obtain accreditation.** Any organisation that meets the requirements can apply to do so, but – unlike data intermediation services – it is not required to do so to start as a data altruistic organisation.<sup>90</sup>

**Before it can be included in the register, an organisation must,** among other things, **carry out data altruism activities, be a non-profit legal entity established to pursue public interest purposes and comply with the rulebook** to be drawn up by the Commission (see below).<sup>91</sup> In doing so, the EU legislator appears to have accommodated the wish of the Dutch government. The Netherlands considered the previous requirement too meagre, on the basis of which being a non-profit organisation for the public interest was sufficient.<sup>92</sup> Among other things, the applicant must further provide its articles of association explaining which public interest objectives will be promoted.<sup>93</sup>

If all necessary information has been submitted and the relevant authority determines that the requirements have been met, the applicant will be registered within 12 weeks. The registration is valid in all Member States.<sup>94</sup> The Commission receives notification of this on which the registration is also entered in the European register.<sup>95</sup>

### *Safeguards, transparency and administrative obligations*

**The data-altruistic organisation must employ safeguards,** for example by setting up **secure processing environments** or oversight such as **ethics committees**. This must comply with strict ethical-scientific standards and fundamental rights protection.<sup>96</sup> In addition, recognised organisations must not use the data for purposes other than those of public interest for which the data subject or data holder authorises the processing.<sup>97</sup>

With regard to **non-personal data**, the data-altruistic organisation must take measures to ensure an appropriate level of security for data storage and processing.<sup>98</sup> There is a duty of notification towards the data holders. They must be notified by the organisations without delay of any unauthorised use of the shared non-personal data.<sup>99</sup> In addition, restrictions on use must be stated when the data holder grants authorisation.<sup>100</sup>

**Various administrative obligations and transparency obligations are incumbent on the organisations.** Among other things, the organisation must keep complete and accurate records of all natural or legal persons who have been given the opportunity to process data and of any fees paid by them.<sup>101</sup> In addition, the organisation is obliged to prepare an annual activity report and forward it to the competent authority. This includes how the public interest was promoted and what techniques were used to ensure privacy and data protection.<sup>102</sup>

Furthermore, **there are specific requirements to protect the rights and interests of data subjects and data holders,** such as information obligations towards data subjects or data holders. They must be informed by the organisations of, inter alia, the public interest purposes and, if applicable, the purpose for which personal data will be processed. This disclosure should take place prior to the data processing.<sup>103</sup>

### *Rulebook and European consent form*

In addition to the DGA, the Commission, in cooperation with interested organisations, will prepare a **rulebook**.<sup>104</sup> This rulebook will contain, among other things, a specification of information obligations towards data subjects or data holders. It will also include security requirements and information on the tools for granting and revoking consent or authorisation. The rulebook will also address relevant interoperability standards.

In addition, the Commission will adopt a European consent form for data altruism. With this form, data consent or authorisation can be obtained in all Member States.<sup>105</sup> In the case of personal data, this will have to comply with the GDPR.<sup>106</sup>

## European Data Innovation Board

**Chapter VI sets out the framework for the establishment of a European *Data Innovation Board* (EDIB).**<sup>107</sup> The EDIB is an expert group consisting of competent authorities<sup>108</sup> from all Member States, the *European Data Protection Board* (EDPB), the *European Data Protection Supervisor* (EDPS), the European Network and Information Security Agency (ENISA), the Commission, an SME representative and other relevant representatives.<sup>109</sup> The Commission serves as chair.

The EDIB will support the development of a well-functioning European data economy based on common European data spaces by, inter alia, proposing guidelines for those data spaces.<sup>110</sup>

Those guidelines will address, inter alia, the resolution of market access barriers and *lock-in effects* as well as adequate protection in international data flows.<sup>111</sup> In addition, the EDIB has primarily an advisory role for the Commission. Furthermore, the task of the EDIB is to facilitate cooperation, including between Member States and between competent authorities for data intermediation services and for data altruism organisations. Finally, the EDIB also plays a role in the context of other laws, for example in relation to the proposed Data Act.<sup>112</sup>

## Monitoring and enforcement

The DGA prescribes that supervision and enforcement should be vested in national authorities with regard to data intermediation services and data altruism organisations. In both cases, supervision and control will take place both *ex officio* and on the basis of requests from natural or legal persons.<sup>113</sup> **National authorities are given various powers.** They may request information to check the DGA's compliance.<sup>114</sup> The authority may require that any deficiencies be stopped within a time limit to be set by that authority or immediately if the cases are serious.<sup>115</sup>

**The supervisory tools for data intermediation services are stricter than for organisations that serve data altruism.** In relation to data intermediation services, national authorities are empowered to impose deterrent financial sanctions such as periodic penalty payments or fines through administrative procedures.<sup>116</sup> The authority can also suspend the data mediation service<sup>117</sup> or require it to be stopped for serious or repeated breaches.<sup>118</sup> Such sanctions are lacking in relation to data altruism. The DGA only names the consequences if a recognised data altruism organisation fails to comply following a notification from the

authority. For example, the organisation then loses the right to use the logo and it may be removed from the register.<sup>119</sup>

**In either case, complaints can be made to the national authorities on DGA matters.** This can be done individually or collectively.<sup>120</sup> The DGA leaves open how the authorities should deal with complaints and merely states that the complainant will be informed of the procedural progress and the decision taken as well as the remedies provided by the DGA.<sup>121</sup> If an authority fails to act on a complaint, then data subjects are entitled to an effective remedy in court.<sup>122</sup> The procedures, such as a remedy in court, will be laid down in implementing legislation. For this purpose, the DGA Implementation Act has been in the pipeline since July 2022, with the national legislator working with regulators.<sup>123</sup>

How the Netherlands will set up supervision is unknown. What is clear is that this supervision must be effective and dynamic because of European laws and regulations in various areas affecting the digital domain.<sup>124</sup> These laws and regulations comprise not only the DGA, but also the proposed **AI Act** and the **Data Act** as well as the adopted Digital Markets Act (**DMA**), Digital Service Act (**DSA**) and **eIDAS** regulation. Enforcement of these regulations requires sufficient capacity among regulators, a clear division of roles and a coherent and coordinated approach.<sup>125</sup> This is where the Digital Supervisors Cooperation Platform (SDT) will play a role.<sup>126</sup> This platform, established in 2021 by the Dutch Authority for Consumers & Markets (ACM), the Dutch Authority for the Financial Markets (AFM), the Dutch Data Protection Authority (AP) and the Dutch Media Authority (Commissariaat voor de Media), aims to ensure that supervisory activities in the digital domain are aligned.<sup>127</sup>

## International data flows

**The DGA addresses data transfers to third countries in two ways.** **First**, in relation to re-use conditions (Chapter II of the DGA). **Second**, the DGA contains a separate chapter on international access and transfer (Chapter VII).<sup>128</sup>

**In relation to re-use conditions**, the DGA provides that if a re-user wishes to transfer non-personal data to countries outside the EU/EEA, (s)he must inform the public body and the legal entities concerned. The re-user must explain to the legal persons what appropriate data protection safeguards have been put in place. Only if the legal entity authorises the transfer will the public sector body allow the re-use.<sup>129</sup> The re-user should then assume contractual obligations in respect of the data transferred to the third country. This contract is not mandatory if the Commission has determined that the third country meets various conditions, which resembles an 'adequacy decision' under the GDPR.<sup>130</sup> Based on such a decision, third countries like Switzerland and Uruguay are deemed to provide a level of protection that meets European standards. In these cases, personal data may be exported to the third countries without any additional legal measures, whereas this is normally prohibited.

**Chapter VII contains one article on non-personal data.** The gist of this is that non-personal data may be transferred internationally if there is no reason to believe that the combination of non-personal data sets would lead to the identification of data subjects.<sup>131</sup> The DGA is less strict here than the GDPR, which prohibits international transfers in principle. Economic motives may explain this difference. The Commission advocates international data flows

because of the economic potential involved.<sup>132</sup> This strengthens the EU's competitive position as it makes European data more readily available for international trade, the thinking goes.<sup>133</sup>

## Significance for Dutch legal practice

The practical implications of the DGA are diverse. The impact will be felt primarily by the Dutch government and its public entities.

**First and foremost**, a national data-altruism policy will need to be drawn up by the government and organised by the competent authorities, including in relation to streamlining the procedures around re-use (including the single information point), the provision of assistance to public bodies in relation to data re-use as well as the monitoring and enforcement roles of data mediation authorities and recognised data-altruism organisations. Exclusive contracts should be brought into focus so that they are terminated in a timely manner. And public bodies, depending on the extent to which the ability to reuse the data are mandated by the Netherlands, will need to map what data they hold and take procedural measures to facilitate reuse.

An outstanding question remains how the Netherlands will organise supervision and whether this supervision will be effective. Currently, the AP has less than 3 FTE available when preparing for the implementation of new EU regulations, such as the DGA and the AI Act.<sup>134</sup> This low availability limits effective enforcement. The Netherlands should report to the Commission by 24 September 2023 on how it is implementing the DGA.<sup>135</sup> According to the latest state of play, implementation of the DGA is scheduled for the third and fourth quarters of 2023.<sup>136</sup> There is thus a good chance that the Netherlands will be late in implementing the regulation, just like with the Open Data Directive. That directive has not yet been transposed into national law.<sup>137</sup>

**Second, organisations falling within the scope of the DGA will feel an impact, especially data intermediation services.** After all, they have to come forward and comply with the requirements. The question is whether the DGA definition of these services is clear enough. Three services are defined with different activities. In the recitals, the DGA devotes a lot of attention to what it does *not cover*, but this raises more questions than it answers. Fortunately, there is a transitional arrangement, which means that intermediary services will not have to comply with the DGA until 24 September 2025.<sup>138</sup> Hopefully, clarity will emerge from the Commission or the EDIB by then.

Whether organisations with data altruism motives will experience an impact depends on whether they register with the registry and wish to carry the label with logo. In that case, the DGA requirements apply. They can ignore this application, at the expense of publication in the register and the label with logo.

In the absence of a clear policy on data re-use, as envisaged in the DGA, the impact for re-users remains uncertain. They do not know what to expect from public bodies. On this lack of clarity, the Dutch Council of State as legislative adviser previously expressed critical views.<sup>139</sup>

According to Margrethe Vestager, executive vice-president for *A Europe fit for the digital age*, the DGA is the first building block of a solid and fair data economy. So, in the Commission's eyes, the regulation is a very modern law. We may well doubt this, despite modern words in the DGA such as 'data pools' and 'machine learning'. After all, why is regulation of data-altruistic organisations necessary? These organisations are small in number and it is doubtful that the prospect of a label with a logo and subsequent oversight invites others to set up data altruism organisations as well. At this point, the DGA risks being irrelevant.

**The market for data intermediation services, including data cooperatives, needs to take off.** Currently, the Netherlands has only a handful of parties that advertise themselves as 'data cooperatives'.<sup>140</sup> Will regulation by the DGA change this? Time will tell. Thereby, the idea of a logo for data intermediation services is interesting, but it is a pity that digital gatekeepers such as search engines and app stores are not obliged to display the logos. Now consumers have to rely on communications from the service itself and public registries. Registers unknown to the general public.

With regard to reuse options, the DGA is free of obligations. That non-committal is reminiscent of the development of legislation on reuse of public sector information. The first Public Sector Re-use Directive from 2003 was also non-binding, but the latest, from 2019, the Open Data Directive, prescribes mandatory data provision when it comes to **high value datasets**. Who knows, maybe a future DGA 2.0 will follow suit. The current regulation may be irrelevant here.

**The DGA contains modern terms and themes, some of whose relevance is questionable. In its national implementation, the Dutch legislator and government can remove the irrelevance with decisive, non-exempt policies and legislation.**

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<sup>1</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (*OJEU* 1995, L 281/31), now the GDPR, in full: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (*OJEU* 2016, L 119/1).

<sup>2</sup> Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (*OJEU* 2003, L 345/90).

<sup>3</sup> 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 (recast) (*OJ* 2019, L 172/56).

<sup>4</sup> Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (*OJEU* 2022, L 152/1).

<sup>5</sup> European Commission, 'Regulation on data governance. Questions and Answers', 25 November 2020, [https://ec.europa.eu/commission/presscorner/detail/nl/qanda\\_20\\_2103](https://ec.europa.eu/commission/presscorner/detail/nl/qanda_20_2103) (last accessed 22 March 2023).

<sup>6</sup> Recital 6 DGA.

<sup>7</sup> European Commission, 'Press release: Data Regulation: Commission sets out measures for a fair and innovative data economy', 23 February 2022, [https://ec.europa.eu/commission/presscorner/detail/nl/ip\\_22\\_1113](https://ec.europa.eu/commission/presscorner/detail/nl/ip_22_1113). See also recital 2 DGA.

<sup>8</sup> Press release: Data regulation: Commission comes up with measures for a fair and innovative data economy

<sup>9</sup> Commission Staff Working Document Impact Assessment Report, Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on European data governance (Data Governance Act) (25 November 2020, SWD(2020) 295 final), para 8.1.

<sup>10</sup> Commission Staff Working Document Impact Assessment Report (25 November 2020, SWD(2020) 295 final), para 8.1.

<sup>11</sup> The second act is the proposed Regulation of the European Parliament and of the Council concerning harmonised rules on fair access to and fair use of data (Data Regulation, aka Data Act), 23 February 2022, COM(2022)68 final, 2022/0047(COD), available at: <https://eur-lex.europa.eu/legal-content/AUTO/?uri=CELEX:52022PC0068>.

<sup>12</sup> In this regard, see the explanatory memorandum to the proposed Regulation of the European Parliament and of the Council laying down harmonised rules relating to artificial intelligence (Artificial Intelligence Act, also known as AI Act), 21 April 2021, COM(2021)206 final, 2021/0106(COD) and amending certain Union legislative acts, para. 1.3: 'Furthermore, the promotion of AI-driven innovation is closely linked to the Data Governance Act, the Open Data Directive and other initiatives under the EU strategy for data, which will establish trusted mechanisms and services for the re-use, sharing and pooling of data that are essential for the development of data-driven AI models of high quality.'

<sup>13</sup> Art. 38 DGA.

- <sup>14</sup> Art. 2 point 1 DGA. Software is therefore not covered. On the sometimes tricky relationship between opendata law and software re-use, see: ABRvS 31 March 2021, ECLI:NL:RVS:2021:662, *Computerrecht* 2021/160, cf. J.B.A. Gerritsen, p. 357.
- <sup>15</sup> Which are different from the original purpose for which the data were produced within the public tasks of relevant public bodies. Art. 2 point 2 DGA. See Art. 2 point 17 DGA for a definition of public bodies and Art. 2 point 18 DGA for a definition of public law bodies. The definitions of 'public bodies' and 'bodies governed by public law' are almost identical in content to the definitions in the Open Data Directive, see: art. 2 point 1 and point 2 Open Data Directive respectively.
- <sup>16</sup> More precisely: data exchange between public entities because of their public tasks. See also recital 12 DGA.
- <sup>17</sup> Art. 2 para 11 sub b Open data directive. Art. 3 para 2 sub a DGA. See also recital 12 DGA. Cf. art. 2 point 3 jo. art. 1 (1) under b Open Data Directive. See also art. 2 point 19 DGA. Public undertakings fall within the scope of the Open Data Directive to promote cross-border services based on documents of public undertakings providing services of general interest (recital 24 et seq. Open Data Directive). However, the DGA does not explain why it wants to exclude public undertakings from its scope, other than to say that public undertakings do not fall within the definition of public sector entity (recital 8 DGA).
- <sup>18</sup> Not being data objects related to the data in question.
- <sup>19</sup> 'Access' is defined by the DGA as: 'data use, in accordance with specific technical, legal or organisational requirements, without necessarily involving the transmission or downloading of data', according to Art 2(13) DGA.
- <sup>20</sup> This right derives from applicable Union or national law, according to Art. 2(8) DGA.
- <sup>21</sup> This can also be, in DGA terminology, a 'data subject'. Read: a 'data subject' under the GDPR. The European Data Protection Board (EDPB) criticised the DGA, including for definitions that are similar in substance but are referred to differently in the regulations. See EDPB, Statement 05/2021 on the Data Governance Regulation in the light of legislative developments, 20 May 2021, available at: [https://edpb.europa.eu/our-work-tools/our-documents/statements/statement-052021-data-governance-act-light-legislative\\_nl](https://edpb.europa.eu/our-work-tools/our-documents/statements/statement-052021-data-governance-act-light-legislative_nl) and Joint Opinion No 3/2021 of the EDPB and the European Data Protection Supervisor (EDPS) on the Proposal for a Regulation of the European Parliament and of the Council on European Data Governance (Data Governance Regulation) dated 11 March 2021, available at: [https://edpb.europa.eu/our-work-tools/our-documents/edpb-edps-joint-opinion/edpb-edps-joint-opinion-032021-proposal\\_nl](https://edpb.europa.eu/our-work-tools/our-documents/edpb-edps-joint-opinion/edpb-edps-joint-opinion-032021-proposal_nl).
- <sup>22</sup> Art. 2 point 9 DGA.
- <sup>23</sup> The DGA defines this as the provision of data by a data subject or data holder to a data user, with a view to the joint or individual use of that data.
- <sup>24</sup> Art. 1 under a DGA. Recitals 6 and 10 DGA.
- <sup>25</sup> European Commission, 'Data Governance Act explained', <https://digital-strategy.ec.europa.eu/en/policies/data-governance-act-explained> (last accessed 22 March 2023).
- <sup>26</sup> European Commission, 'Data Governance Act explained'. See more extensively on Findata: J. Gerritsen & P. Verhoef, *Data solidarity for health. Points for improvement with an eye to everyone's interests*, The Hague: Rathenau Institute 2020, para 4.3.
- <sup>27</sup> Art. 3(2)(a)-(c) DGA. Recital 12 DGA.
- <sup>28</sup> Art. 3(2)(d) DGA.
- <sup>29</sup> Art. 3(2)(e) DGA thereby clarifies that the provision of data (which falls outside the public task) must be determined by law or other binding regulation of the Member State concerned or, in the absence of any such regulation, as determined in accordance with the common administrative practice of that Member State, provided that the delimitation of public tasks is transparent and subject to review. Recital 11 DGA.
- <sup>30</sup> Art. 9(1), first sentence, DGA. If national law uses shorter deadlines, those deadlines apply. Only exceptionally, in complex cases, the two-month deadline may be extended by 30 days. The applicant should be informed of this, with the reason for delay, see: Art. 9(1), second sentence, DGA.
- <sup>31</sup> Art. 1(2) DGA. Recital 11 DGA. Any confidentiality obligations should also be respected, see Art. 1(2) DGA.
- <sup>32</sup> Art. 1(2)(a) and (b), (3) to (5) DGA. Recital 11 DGA.
- <sup>33</sup> Art. 1(3), second sentence, DGA. Recital 4 DGA. See also recital 35 DGA in relation to data intermediation services.
- <sup>34</sup> Art. 5(2) DGA. Recital 15 DGA. Cf. Art 8(1) Open Data Directive.
- <sup>35</sup> Cf. Article 8(1) Open Data Directive. Nor may the conditions restrict competition, cf. art. 5(2) DGA. Recital 15 DGA. Cf. article 8 (1), second sentence, Open Data Directive.
- <sup>36</sup> Art. 6 DGA. Online payment of compensation should be possible in this regard.
- <sup>37</sup> Art. 6(5) DGA.
- <sup>38</sup> Recital 15 DGA.
- <sup>39</sup> Art. 5(3) DGA.
- <sup>40</sup> Art. 5(3) DGA. Recitals 7 and 15 DGA.
- <sup>41</sup> Art. 5(3)(b) DGA. Recital 15 DGA. See Art 2 para 20 DGA for definition of 'secure processing environment'.
- <sup>42</sup> Even use of the results by the reuser may be prohibited, provided that this decision is understandable and transparent to the reuser, see Art. 5(4) DGA.
- <sup>43</sup> Art. 5(5), first sentence, DGA. Recital 8 DGA.
- <sup>44</sup> Several studies show that re-identification of individuals is possible under circumstances based on non-personal data. See, e.g., L. Rocher, J.M. Hendrickx & Y.A. de Montjoye, 'Estimating the success of re-identifications in incomplete datasets using generative models', *Nat Commun* 10, 3069 (2019), available at <https://doi.org/10.1038/s41467-019-10933-3> and M.R. Koot, *Measuring and predicting anonymity* (diss. Amsterdam UvA), 2012, available at: <https://hdl.handle.net/11245/1.377043>.
- <sup>45</sup> Art. 5(5), second sentence, DGA. Recital 15 DGA.
- <sup>46</sup> Art. 5(5), second sentence, DGA. Recital 15 DGA.
- <sup>47</sup> Art. 33 and 34 GDPR.
- <sup>48</sup> These are the legal persons whose rights and interests may be affected by the unauthorised re-use of non-personal data. Art. 5(5), last sentence, DGA. Where appropriate, the public body should assist the re-user in carrying out the reporting obligation.
- <sup>49</sup> Art. 5(6), first sentence, DGA. At another place in the DGA, it also appears that the employee obligation of public bodies is not unlimited. In the context of re-use conditions to be drawn up, public sector bodies should apply conditions that best serve the interests of the re-user, according to recital 15 DGA, but without imposing excessive burdens on public sector bodies.
- <sup>50</sup> Art. 4 DGA. Recitals 13 and 14 DGA. Exclusive arrangements not covered by the exception, entered into before 23 June 2022, must be terminated by 24 December 2024, Art 4(5) DGA. Cf. art. 12 Open Data Directive.
- <sup>51</sup> Art. 8(1) DGA. Recital 26 DGA.
- <sup>52</sup> The focal point may also establish a separate information channel for SMEs and start-ups. Art. 8(2) DGA. This stipulates the format and scope of the data as well as the re-use conditions, according to Art. 8(2), last sentence, DGA.
- <sup>53</sup> <https://data.overheid.nl>.
- <sup>54</sup> Art. 8(4) DGA.
- <sup>55</sup> Art. 1(1)(b) DGA.

<sup>56</sup> Art. 2 point 11 DGA. See also recitals 28 and 29 DGA. Both in the definition and in the recital, the DGA spends much text on examples that fall *outside* the definition of data intermediation services.

<sup>57</sup> Consideration 28 DGA.

<sup>58</sup> European Commission, 'Data Governance Act explained', <https://digital-strategy.ec.europa.eu/en/policies/data-governance-act-explained> (last accessed 22 March 2023)

<sup>59</sup> European Commission, 'Data Governance Act explained'. See recital 27 DGA on 'players with significant market power'.

<sup>60</sup> Art. 10 DGA.

<sup>61</sup> See also recitals 27 and 32 DGA.

<sup>62</sup> Such as giving and withdrawing their consent to data processing, the right to access their own data, the right to rectification of inaccurate personal data, the right to erasure of data or to 'be forgotten', the right to restrict processing and the right to data portability, which allows data subjects to transfer their personal data to another data controller, according to recital 30 DGA.

<sup>63</sup> This may include advising individuals on the possible ways in which their data will be used and ensuring that due diligence checks are carried out on data users before they are allowed to contact data subjects, in order to prevent fraudulent practices, according to recital 30 DGA.

<sup>64</sup> See also recital 31 DGA.

<sup>65</sup> Art. 2 item 15 DGA.

<sup>66</sup> Art. 10 jo. 11 DGA. Recital 38 DGA.

<sup>67</sup> Art. 11(1) DGA. See Art. 11(6) DGA for the content of this notification. Changes must be notified. See art. 11 paragraph 12 DGA.

<sup>68</sup> Art. 11(4) and (5) DGA.

<sup>69</sup> Art 11(13) DGA.

<sup>70</sup> Art. 11(9), first and second sentences, DGA.

<sup>71</sup> Art. 11(9), third sentence, DGA. Recitals 43 and 59 DGA. European Commission, 'Data intermediaries & data altruism organisations recognised in the Union - common logos', [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13761-Common-logos-for-data-intermediaries-and-data-altruism-organisations-recognised-in-the-EU\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13761-Common-logos-for-data-intermediaries-and-data-altruism-organisations-recognised-in-the-EU_en) (last accessed 16 May 2023).

<sup>72</sup> Art. 11(10) DGA. A similar register has been suggested with organisations representing data subjects in court or before supervisory authorities, see G. González Fuster et al, *The right to lodge a data protection complaint: ok, but then what? An empirical study of current practices under the GDPR*, *Data Protection Law Scholars Network (DPSN)*, Access Now, 2022, <https://hdl.handle.net/1814/74899>, para 4.5.

<sup>73</sup> Recital 33 DGA.

<sup>74</sup> Including data on the date, time and geolocation, the duration of the activity and connections with other natural or legal persons established by the person using the data mediation service, art. 12 point c DGA.

<sup>75</sup> Art. 12 point a DGA.

<sup>76</sup> Art. 12 point b DGA. Recital 33 DGA. The Dutch cabinet considered bundling of services by data intermediation services undesirable because it could lead to a so-called *lock-in* for consumers or companies. See annex to the letter from the Minister of Economic Affairs and Climate Change and the State Secretary for Economic Affairs and Climate and Energy dated 3 November 2021 with reference: BBR / 21267240, available at <https://zoek.officielebekendmakingen.nl/blg-1010510.pdf>.

<sup>77</sup> Art. 12 point f DGA. This also applies to the prices and terms of service applied. Art. 12 point i DGA. Recital 34 DGA.

<sup>78</sup> Art. 12 point l DGA. Thus, the provider shall take the necessary measures to ensure an appropriate level of security for the storage, processing and transfer of non-personal data. The provider shall further ensure the highest level of security for the storage and transmission of commercially sensitive information. Art. 12 point g DGA. Recital 36 DGA. Art. 12 point j DGA. To this end, the provider should take the necessary technical, legal and organisational measures to prevent any transfer of or access to non-personal data that is unlawful under Union law or the national law of the Member State concerned.

<sup>79</sup> Art. 12 point h DGA.

<sup>80</sup> Art. 12 point k DGA.

<sup>81</sup> Art. 12 point o DGA.

<sup>82</sup> Art. 1(1)(c) DGA.

<sup>83</sup> European Commission, 'Data Governance Act explained', <https://digital-strategy.ec.europa.eu/en/policies/data-governance-act-explained> (last accessed 22 March 2023). For more examples within the health domain, see Gerritsen & Verhoef 2020, para 2.2.

<sup>84</sup> Based on their informed consent or when it concerns non-personal data made available by data holders, see: art. 2 para 16 DGA. Recital 45 DGA.

<sup>85</sup> Art. 16 DGA.

<sup>86</sup> 'As indicated in the cabinet vision (Parliamentary paper 26 643, no. 594) on data sharing between companies and the Dutch response (Parliamentary paper 21 112, no. 2858) to the European data strategy, the starting point for the Netherlands is that the government will facilitate voluntary data sharing and that citizens and companies have a grip on data,' *Parliamentary papers II 2020/21*, 21501-33, no. 838. See also NL DIGITAAL, *Intergovernmental Data Strategy Netherlands*, November 2021, available at <https://zoek.officielebekendmakingen.nl/blg-1006581.html>. See also Dutch Data Strategy 2021, <https://zoek.officielebekendmakingen.nl/blg-980769.html> and Parliamentary Papers *II 2021/22*, 26643, no 842 (Hoofdlijnen beleid voor digitalisering, reprint).

<sup>87</sup> Art. 17(1) DGA.

<sup>88</sup> Art. 17(2) DGA. Recital 3 DGA. See also recitals 46 and 59 DGA.

<sup>89</sup> Consideration 47 DGA.

<sup>90</sup> In the Member State where it is established, Art. 19(1) DGA. Paragraph 2 deals with organisations with multiple establishments and paragraph 3 deals with organisations outside the EU/EEA.

<sup>91</sup> Art. 18 DGA.

<sup>92</sup> Rijksoverheid.nl, 'Fiche 2 Regulation Data Governance Act', 25 November 2020, accessed at: [www.rijksoverheid.nl/documenten/publicaties/2020/11/25/fiche-2-verordening-data-governance-act](http://www.rijksoverheid.nl/documenten/publicaties/2020/11/25/fiche-2-verordening-data-governance-act).

<sup>93</sup> Art. 19(4) DGA.

<sup>94</sup> Art. 19(5) DGA.

<sup>95</sup> Art. 19(7) DGA.

<sup>96</sup> Consideration 46 DGA.

<sup>97</sup> Art. 21(2) DGA.

<sup>98</sup> Art. 21(4) DGA.

<sup>99</sup> Art. 21(5) DGA.

<sup>100</sup> In case of non-personal data. Recital 50 DGA.

<sup>101</sup> Art. 20(1) DGA.

<sup>102</sup> Art. 20(2) DGA.

<sup>103</sup> Art. 21(1) DGA.

<sup>104</sup> Art. 22(1) and (2) DGA.

<sup>105</sup> Art 25(1) DGA. Recital 59 DGA.

<sup>106</sup> Art. 25(3) DGA. Recitals 52 and 54 DGA.

<sup>107</sup> Art. 1(1)(d) DGA.

<sup>108</sup> Which Member States should have mandatory in relation to data intermediation services and recognised data altruism organisations.

<sup>109</sup> Art. 29(1), first sentence, DGA.

<sup>110</sup> Art. 30 point h DGA and recital 54 DGA. These data spaces are also called the *European data spaces*, for example in the field of health, see: Proposal for a Regulation of the European Parliament and of the Council on the European health data space dated 3 May 2022, COM(2022)197 final, 2022/0140 (COD), also called European Data Health Space (EHDS). The European Commission is expected to announce in more detail how the spaces will be further developed in 2023. See European Commission, 'Staff working document on data spaces', 23 February 2022, <https://digital-strategy.ec.europa.eu/en/library/staff-working-document-data-spaces> (last accessed 23 March 2023).

<sup>111</sup> The DGA is unclear about who sets the guidelines. Unlike in the GDPR in which the European Data Protection Board (EDPB) issues guidelines (Art 70(1)(d) et seq. GDPR), the DGA speaks of developing and proposing guidelines (Art 30(1)(d) and (e) and (h) DGA, respectively). The context of Art 30 DGA indicates that the EDIB assists the Commission with proposed guidelines, but does not issue them. Logically, this task lies with the Commission, although the DGA does not explicitly name it.

<sup>112</sup> With an advisory role to the Commission. See Article 27(3) Data Act, as proposed by the Commission, on international access and transfer.

<sup>113</sup> Art. 14 para 1 DGA. Art. 24 para 1 DGA.

<sup>114</sup> In the context of data intermediation services, see Article 14(2) DGA. However, information requests must be proportionate.

<sup>115</sup> In the context of data intermediation services, see art. 14(3) DGA. In the context of recognised data altruism organisations, see art. 24(3) DGA.

<sup>116</sup> Art. 14(3) DGA, art. 14(4) under a DGA.

<sup>117</sup> Art. 14(4)(b) DGA. Suspension is also possible if obligations regarding the appointment of a legal representative are not met. See Art 14(5) DGA.

<sup>118</sup> Art. 14(4)(c) DGA.

<sup>119</sup> Art. 24(5) DGA. Recital 4 DGA.

<sup>120</sup> Art. 27(1) DGA.

<sup>121</sup> Art. 27(2) DGA.

<sup>122</sup> Either right to review by an impartial body with the necessary expertise, in either case based on national law. Art. 28(3) DGA.

<sup>123</sup> *Parliamentary Papers II 2022/23*, 36200 VII, no 58, p 56.

<sup>124</sup> Ministry of Economic Affairs and Climate, Digital Economy Strategy, November 2022, available at <https://zoek.officielebekendmakingen.nl/blg-1061622.pdf>. Annex to Letter from the Minister of Economic Affairs and Climate dated 18 November 2022, <https://zoek.officielebekendmakingen.nl/kst-26643-941.html>.

<sup>125</sup> Digital Economy Strategy, November 2022.

<sup>126</sup> *Parliamentary Papers II 2022/23*, 36200 VII, no 58, p 50 ff. See also: ACM, 'ACM prepares for supervision of new EU rules digital economy', 14 April 2023, available at: [www.acm.nl/nl/publicaties/acm-bereidt-zich-voor-op-toezicht-nieuwe-eu-regels-digitale-economie](http://www.acm.nl/nl/publicaties/acm-bereidt-zich-voor-op-toezicht-nieuwe-eu-regels-digitale-economie) and Personal Data Authority, 'SDT supervisors expand cooperation in digital supervision', 24 March 2023, available at: <https://autoriteitpersoonsgegevens.nl/nl/nieuws/toezichhouders-van-sdt-breiden-samenwerking-digitaal-toezicht-uit>.

<sup>127</sup> Personal Data Authority, 'SDT regulators expand cooperation in digital surveillance', 24 March 2023.

<sup>128</sup> Chapter VII DGA.

<sup>129</sup> Art. 5(9) DGA. Recital 20 DGA.

<sup>130</sup> Art. 5(12) jo. 10 DGA. Recitals 21 and 22 DGA.

<sup>131</sup> This also applies to pseudonymised data, see recital 15 DGA.

<sup>132</sup> Consideration 2 DGA.

<sup>133</sup> European Commission, 'Data Governance Act explained', <https://digital-strategy.ec.europa.eu/en/policies/data-governance-act-explained> (last accessed 22 March 2023).

<sup>134</sup> Authority Press Release dated 14 October 2022 on Information Provision for Answers to Factual Questions by the Minister for Legal Protection on the Adoption of the Budget States of the Ministry of Justice and Security for the Year 2023, available at: [www.autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/beantwoording\\_feitelijke\\_vragen\\_door\\_de\\_minister\\_voor\\_rechtsbescherming\\_inzake\\_vaststelling\\_van\\_de\\_begrotingsstaten\\_van\\_het\\_ministerie\\_van\\_justitie\\_en\\_veiligheid\\_voor\\_2023.pdf](http://www.autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/beantwoording_feitelijke_vragen_door_de_minister_voor_rechtsbescherming_inzake_vaststelling_van_de_begrotingsstaten_van_het_ministerie_van_justitie_en_veiligheid_voor_2023.pdf).

<sup>135</sup> See Art. 7(5) ('notification of identity of bodies assisting public bodies in connection with re-use'), Art. 13(1) ('notification of identity of authorities competent for data intermediation services'), Art. 23(2) ('registration of authorities competent for data altruism') and Art. 34(1) ('sanctions') DGA.

<sup>136</sup> Letter from the Ministers for Economic Affairs and Climate and Energy and the State Secretary for Economic Affairs and Climate dated 24 January 2023, available at: [www.tweedekamer.nl/downloads/document?id=2023D02065](http://www.tweedekamer.nl/downloads/document?id=2023D02065).

<sup>137</sup> This also applies to Belgium, Bulgaria and Latvia. Together with these countries, the Netherlands has been summoned to the Court of Justice by the European Commission, see European Commission, 'The European Commission decides to refer BELGIUM, BULGARIA, LATVIA and the NETHERLANDS to the Court of Justice of the European Union for failing to enact EU rules on open data and public sector data re-use', 15 February 2023, available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_706](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_706).

<sup>138</sup> Art. 37 DGA.

<sup>139</sup> Council of State, 'Opinion on Act Implementing Open Data Directive', 19 October 2022, [www.raadvanstate.nl/actueel/nieuws/oktober/samenvatting-open-data-richtlijn/@132262/w04-22-0141/](http://www.raadvanstate.nl/actueel/nieuws/oktober/samenvatting-open-data-richtlijn/@132262/w04-22-0141/). The Council of State also addresses the DGA and advises, among other things: 'It is recommended (...) to discuss the interfaces between the Who and the Data Governance Regulation more extensively in the explanatory memorandum, and, in addition, to indicate which other laws will have to be amended.'

<sup>140</sup> Such as DataFryslân ([www.datafriesland.nl/](http://www.datafriesland.nl/)), JoinData (<https://join-data.nl/>) and Food Value (<https://foodvalue.nl/>).