



CEPLIS TELEGRAM

14/03/2023

6 Pages

N°6/23



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DATA ACT: MEPS BACK NEW RULES FOR FAIR ACCESS TO AND USE OF INDUSTRIAL DATA

The European Parliament has taken a step forward in supporting the development of the European data economy by backing the Data Act. This Act is a set of new rules that aim to ensure fair access to and use of industrial data. **The Data Act is designed to address the challenges of the modern data economy by promoting open data sharing and fostering trust between data providers and users.** This is essential to enable the development of innovative products and services that rely on industrial data, such as artificial intelligence, the internet of things, and smart cities.

The text, adopted on Tuesday 14 March, would contribute to the development of new services, in particular in artificial intelligence where huge amounts of data are needed for algorithm training. It can also lead to better prices for after-sales services and repairs of connected devices.

The volume of data generated by humans and machines is increasing exponentially and becoming a critical factor for innovation by businesses and by public authorities (e.g. shaping of smart cities). The Data Act establishes common rules governing the sharing of data generated by the use of connected products or related services to ensure fairness in data sharing contracts. MEPs adopted measures to allow users access to the data they generate, as 80% of industrial data collected are never used, according to the European Commission.

Companies would be able to decide what data can be shared, and the manufacturer could choose not to make certain data available “by design”. **When companies draft their data-sharing contracts, the law will rebalance the negotiation power in favour of SMEs, by shielding them from unfair contractual terms imposed by companies in a significantly stronger bargaining position.**

The text also defines how public sector bodies can access and use data held by the private sector that are necessary in exceptional circumstances or emergencies, such as floods and wildfires. MEPs also 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.



EUROPEAN PARLIAMENT ADOPTS NEW CARBON SINKS GOAL THAT INCREASES EU 2030 CLIMATE AMBITION

On March 10th, 2023, the European Parliament adopted a new carbon sinks goal that increases the EU's 2030 climate ambition. The new law raises the EU carbon sinks target for the land use and forestry sector, which should reduce greenhouse gases in the EU in 2030 by up to 57% compared to 1990.

This new target was adopted with a large majority of 578 votes in favor, 67 against, and 42 abstentions. The Parliament's Environment Committee had already approved the proposal in January 2023. The EU 2030 target for net greenhouse gas (GHG) removals, land use change and forestry sector (LULUCF) will be set at 310 million tonnes CO₂ equivalent, which is around 15% more than today. The revision of LULUCF rules is part of the "Fit for 55 in 2030 package", which is the EU's plan to reduce greenhouse gas emissions by at least 55% by 2030 compared to 1990 levels in line with the European Climate Law. This new EU target should reduce the EU's GHGs in 2030 further from 55% to around 57% compared to 1990-levels.

All EU member states will have nationally binding 2030 targets for removals and emissions from LULUCF based on recent levels of removals and potential for further removals. The current rules, which will apply until 2025, provide that EU Member States will have to ensure that emissions in the LULUCF sector do not exceed the amount that was removed. From 2026, EU Member States will have a four-year budget for 2026-2029 instead of binding annual targets.

Member States can purchase or sell removal credits between LULUCF and the Effort Sharing Regulation to reach their targets. A mechanism will also ensure that Member States receive compensation if natural disasters, such as forest fires, occur. Monitoring, reporting and verification of emissions and removals will be improved, including by using more geographical data and remote sensing, so that EU members' progress towards achieving their targets can be followed more accurately.

EU Member States will be obliged to take corrective action if progress towards their target is not sufficient. There will also be a penalty for non-compliance: 108% of the GHG above their 2026-2029 GHG budget will be added to their 2030 target. To ensure that the EU target is met, the Commission will submit a progress report no later than six months after the first global stocktake agreed under the Paris Agreement. If appropriate, the Commission shall follow up with legislative proposals.



COMMISSION PROPOSES MORE TRANSPARENCY AND LESS RED TAPE FOR COMPANIES TO IMPROVE BUSINESS ENVIRONMENT IN THE EU

Companies are at the heart of the Single Market. Thanks to their business activities and investments, including on a cross-border basis, they play a leading role in contributing to the EU's economic prosperity, competitiveness, and in carrying through the EU's twin transition to a sustainable and digital economy. To this end, companies need a predictable legal framework that is conducive to growth and adapted to face the new economic and social challenges in an increasingly digital world. This is why the European Commission has proposed measures that would apply to around 16 million limited liability companies and 2 million partnerships in the EU.

The proposal in question, adopted the 29th of March, provides for a Directive making it easier for companies to expand the use of digital tools and processes in EU company law. It aims to facilitate cross-border companies' operations and to increase business transparency and trust by making more information about companies publicly available at EU level. It will also cut red tape for cross-border businesses, saving around €437 million of administrative burden per year, thanks to an EU Company Certificate or the application of the “once-only principle”. The proposal will contribute to further digitalisation of the Single Market and help companies, in particular, small and medium-sized ones to do business in the EU.

To cut red tape and alleviate the administrative burden for cross-border business, the proposed rules include:

- **Application of the “once-only principle”** so that companies do not need to re-submit information when setting up a branch or a company in another Member State. The relevant information can be exchanged through the Business Registers Interconnection System (BRIS);
- **An EU Company Certificate, containing a basic set of information about companies**, which will be available free of charge in all EU languages;
- **A multilingual standard model for a digital EU power of attorney** which will authorise a person to represent the company in another Member State;
- **Removing formalities** such as the need for an apostille or certified translations for company documents.

The proposal is updating the existing EU rules for companies (Directive (EU) 2017/1132) to adapt them further to the digital developments and new challenges, and to stimulate growth and competitiveness in the Single Market.

To ensure greater transparency and trust in companies the proposed rules are intended to:

- **Make sure that important information about companies** (e.g. about partnerships and groups of companies) **is publicly available** in particular at EU level through the BRIS;
- **Make searches for information about companies in the EU easier** by allowing a search through BRIS and, at the same time, through two other EU systems interconnecting national beneficial ownership registers and insolvency registers;
- **Ensure that company data in business registers is accurate, reliable and up-to-date**, for example by providing for checks of company information before it is entered in business registers in all Member States.

The proposal will now be discussed by the European Parliament and the Council. Once adopted, Member States will have two years to transpose the Directive into national law.



For more information, click [here](#).

EUROPEAN PARLIAMENT APPROVES PAY TRANSPARENCY DIRECTIVE

The 30th of March 2023, a large majority in the European Parliament approved the new "EU Pay Transparency Directive." With this Directive, the EU aims to implement **concrete measures to close the gender pay gap**. Among other things, the Directive gives employees access to the information needed to determine whether they are being treated fairly compared to other employees in the same company, and gives them the necessary tools to claim their right to equal pay. Member States have three years to transpose the Directive into national legislation.

The Directive in question will have a big impact on reward policies within companies, for example:

- Employers must already inform about the initial wage level or pay scale in the job announcement or before the interview. Employers cannot ask future employees about their pay history.
- Employees have the right to request information about their individual salary level and the average salary level, broken down by gender, for categories of employees doing the same work or work of equal value. This right applies to all employees irrespective of company size.
- Obligation to report annually on the gender pay gap for companies with more than 250 employees. Companies with more than 100 employees should report every three years.
- A joint pay gap assessment must be conducted with employee representatives if the gender pay gap exceeds 5%.

These new obligations are part of a larger European movement that goes far beyond gender equality. In addition to gender equality, companies will have to strive for workplace diversity and inclusive policies in the future. This is seen as essential by Europe and fits into the framework of a future proof ESG strategy (Environmental, Social and Governance standards).

The clock is ticking, as Member States now have three years to transpose this Directive into national law. Employers can prepare by:

- Mapping the potential current wage gap based on objective data and statistics;
- Drafting an ESG future proof wage policy;
- Establishing clear objectives & plan of action to close the wage gap;
- Drafting policies and procedures;
- Step-by-step implementation and follow-up; and
- Communicating to all stakeholders.

These are the sanctions for non compliance:

- Compensation for employees who have been victims of gender pay discrimination, including full recovery of back pay and related bonuses or benefits of any kind.
- Reversal of burden of proof - where the employer has failed to meet transparency obligations, it will be up to the employer, not the employee, to prove that there was no wage discrimination.
- Sanctions will include fines - Member States must establish specific sanctions for violations of these regulations, including fines.
- Organizations watching over equal treatment and employee representatives may act on behalf of employees in judicial or administrative proceedings.

For more information, click [here](#).