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# The European Commission's public consultation on the proposal for a regulation on European data governance (Data Governance Law), COM (2020) 767 final

Statement and amendments proposed  
by the German Social Insurance of 01 February 2021

The German Federal Pension Insurance (DRV Bund), the German Social Accident Insurance (DGUV), the National Association of Statutory Health Insurance Funds (GKV-Spitzenverband) and the national associations for statutory health and long-term care insurance funds and the Social Insurance for Agriculture, Forestry and Horticulture (SVLFG) have joined forces to form the "German Social Insurance – Working Group Europe" in view of their common European policy interests.

The German Social Insurance represents the interests of its members vis-à-vis the bodies of the European Union and other European institutions and advises the relevant players in the context of current legislative proposals and initiatives.

As part of Germany's statutory insurance system, health and long-term care insurance, pension insurance and accident insurance offer effective protection against the consequences of major life risks.



## 1. Introduction

The umbrella organisations of the German social insurance system welcome the establishment of European Data Spaces. Not only do they need to be adequately equipped, it must also be clarified who may enter them and for what purpose, how they are to be used and what care the user must take in doing so.

This is especially true if the data was collected for public purposes and was not made available by the data subjects voluntarily or on their own initiative. These data subjects must be able to trust to a significant degree that the use will be limited to the minimum necessary to fulfil the purpose of the collection and that a second use will also be within the framework of a clearly defined and limitable supply and administrative mandate.

The procedure of obtaining the consent of the data subjects to the transfer of data ("data altruism") should also be handled with extreme caution in the public sector. There should be no doubt in the minds of data subjects as to whether the decision to grant a social benefit is influenced by the granting or non-granting of consent to data donation. A distinction must be made between this and, for example, the possibility for the holder of an electronic patient file to voluntarily donate the data contained therein for research and science.

For this reason, as well as for the purpose of secure handling of further reasons for protection of data in the public domain, proposals for the amendment of individual regulations are made below.

1. The following paragraph is added to Article 3:

(4) The provisions on the obligation to disclose data to competitors as part of public procurement procedures shall remain unaffected and shall take precedence over the provisions of this Regulation.

2. In Art. 4 para. (1), the last sub-sentence "... or the availability of data for further use by entities other than the parties to such agreements or other practices is restricted." shall be deleted.

3. A paragraph (8) is added to Article 4 as follows:

"(8) Public bodies are not prevented by subsections (1) to (6) from restricting the right of reuse to such data users as are commissioned by the public body for the purpose of scientific research, planning or other projects (e.g. quality assurance) in the social services sector."

4. Art. 5 is amended as follows:

"(1a) Within the terms and conditions, access may be restricted to such data users, who are acting on a non-profit basis."



(1b) Within the terms and conditions, continued use may be limited to specific purposes such as scientific, applied, or non-applied research."

5. In Art. 5, paragraph (2), in the first sentence, the words "The conditions for reuse shall be ..." are replaced by "Without prejudice to paragraph (1a), the conditions for reuse shall be ...".

6. Art. 5 para. (6) and Art. 7 para. (2) c) shall be deleted.

7. Art. 8 is amended as follows:

Para. (3): "Requests for reuse of data of the categories of data referred to in Art. 3 para. 1 **(a) to (c)** shall be ..."

Paragraph (4): "Any natural or legal person, who is affected by a decision **under paragraph (3)** ..."

8. A new Article 22a is inserted:

Art. 22a - Public bodies

"This Regulation - in particular Art. 22 - does not oblige public sector bodies to disclose data concerning the data subject to a third party in case of consent of the data subject. Public sector bodies are not bound by the consent form to be drafted under Art. 22."