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Subject:	Proposal for a Regulation of the European Parliament and of the Council laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act) - Letter sent to the Chair of the European Parliament Committee on Industry, Research and Energy (ITRE)

Following the Permanent Representatives Committee meeting of 22 November 2023 which endorsed the final compromise text on the abovementioned proposal with a view to agreement, delegations are informed that the Presidency sent the attached letter, together with its Annex, to the Chair of the European Parliament Committee on Industry, Research and Energy (ITRE).

SGS / 4969

Council of the
European Union

Brussels, 22 November 2023

Mr Cristian-Silviu BUŞOI
Chair, European Parliament Committee on Industry, Research and Energy
B-1047 Brussels

Subject: **Proposal for a Regulation of the European Parliament and of the Council laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act)**

Dear Mr Cristian-Silviu BUŞOI,

Following the outcome of the informal trilogue between the representatives of the three institutions held on 13 November 2023 in the European Parliament regarding the Regulation in subject, the draft compromise text was agreed today by the Permanent Representatives Committee.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the exact form as set out in the compromise text contained in the Annex to this letter, but subject to revision by the legal linguists of both institutions, the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council I also wish to thank you for your close cooperation and expert Chairmanship which should enable us to reach agreement on this dossier at first reading.

Yours faithfully,

Raúl FUENTES MILANI
Chairman of the
Permanent Representatives Committee

copy to: Mr Johannes HAHN, Commissioner
Mr Ivars IJABS, Rapporteur

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ANNEX

2022/0379 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

[1] OJ C [...], [...], p. [...]
[2] OJ C [...], [...], p. [...]

(1) It is necessary to strengthen the development of cross-border interoperability of network and information systems which are used to provide or manage public services in the Union, to allow public administrations in the Union to cooperate and make public services function across borders. The existing informal cooperation should be replaced with a clear legal framework to enable interoperability across different administrative levels and sectors and to ***facilitate*** seamless cross-border data flows for truly European digital services ***that strengthen the single market, while respecting the principle of subsidiarity***. Public sector interoperability has an important impact on the right to free movement of goods***, persons,*** services ***and capital*** laid down in the Treaties, as burdensome administrative procedures can create significant obstacles, especially for small and medium-sized enterprises ('SMEs').

(1a) Cooperation on cross-border interoperability between public sector bodies can address common challenges, in particular in the border regions, and ensure seamless cross-border data flows.

(2) Member States and the Union have been working for more than two decades to support the modernisation of administrations through digital transformation and foster the deep interconnections needed for a truly European digital space. The communication from the Commission '2030 Digital Compass: the European way for the Digital Decade' (COM(2021) 118) underlines the need to speed up the digitalisation of public services by 2030, including by ensuring interoperability across all levels of government and across public services. ***In addition, the Digital Decade Policy Programme (Decision (EU) 2022/2481) sets clear target of 100 % online accessible provision of key public services by 2030. Such key public services should also cover services that are relevant for major life events for natural persons, such as losing or finding a job, studying, owning or driving a car, or starting up a business, and for legal persons in their professional life-cycle.*** Furthermore, the COVID-19 pandemic increased the speed of digitalisation, pushing public administrations to adapt to the online paradigm, including for cross-border digital public services, as well as for the smarter and greener use of technologies in accordance with the climate and energy targets set in the European Green Deal and the Regulation (EU) 2021/1119 of the European Parliament and of the Council[1]***. This Regulation aims to significantly contribute to these Union goals by creating a structured cooperation***

framework on cross-border interoperability amongst Member States and the Commission to support the setup of digital public services, helping to reduce cost and time for citizens, businesses and for the public sector.[3]. This Regulation aims to significantly contribute to these Union goals by creating a structured cooperation framework on cross-border interoperability amongst Member States and the Commission to support the setup of digital public services***, helping to reduce cost and time for citizens, businesses and for the public sector***.

(2a) In the pursuit of enhancing cross-border interoperability in the Union, it is imperative to underscore that interoperability, while of the utmost importance, does not in isolation guarantee the accessibility and seamlessness of trans-European digital public services. A comprehensive and sustainable ecosystem of digital infrastructures, with adequate financial support, is equally paramount to this objective, as set out in the Digital Decade Policy Programme 2030. In line with the Commission's communication of 30 June 2021 titled 'A long-term Vision for the EU's Rural Areas – Towards stronger, connected, resilient and prosperous rural areas by 2040', special attention should be given to extending connectivity to rural and remote areas within the Union, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the island, cross-border and mountain regions, ensuring that the benefits of digital transformation align with and support established EU initiatives for enhanced regional inclusivity and connectivity.

(2b) The development of cross-border interoperability for trans-European digital public services set out in this Regulation should pay attention to legal interoperability. As a catalyst of development of organizational, semantic and technical interoperability, legal interoperability facilitates reaping of the benefits of cross-border interoperability at large, such as swift access of businesses and citizens to information, faster procedures and services or reduction of administrative obstacles. Furthermore, one of the barriers for interoperability, reuse of solutions and establishment of cross border services is the language barrier, therefore semantic interoperability is a key aspect to facilitate effective communication in diverse multi-linguistic environments, including at local and regional level.

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[3] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

(2c) ***Trans-European digital public services are digital services provided by Union entities or public sector bodies either to one another, or to natural or legal persons in the Union, and requiring interaction across Member States borders, between Member States and Union entities, or between Union entities. Such trans-European digital public services include, inter alia, the key public services as defined in the Decision (EU) 2022/2481 establishing the Digital Decade Policy Programme 2030, covering services that are relevant for major life events for natural persons, such as finding a job or studies, and for legal persons in their professional life-cycle. The key public services with trans-European relevance will reap major benefits to European citizens when interoperable across borders. Examples of such trans-European digital public services are services that, by means of cross-border exchanges of data, allow for mutual recognition of academic diplomas or professional qualifications, exchanges of vehicle data for road safety, access to social security and health data including pandemic and vaccination certifications, access to single window systems, exchange of information related to taxation, customs, public tender accreditation, digital driving license or commercial registers, and in general all those that implement the "Once-Only" principle to access and exchange cross-border data.***

(2d) ***Without prejudice to the competence of the Member States to define what constitutes public services, Union entities and public sector bodies are encouraged to reflect on user needs and accessibility in the design and development of such services, in line with the European Declaration on Digital Rights and Principles. Also, Union entities and public sector bodies are encouraged to ensure that people with disabilities, the elderly and other vulnerable groups can use public services at service levels comparable to those provided to other citizens.***

(3) The new governance structure***, with the Interoperable Europe Board at its center (the 'Board'),*** should have a legal mandate to ***jointly*** drive ***with the Commission*** the further development of ***cross-border interoperability in the Union, including*** the European Interoperability Framework and other common ***legal, organisational, semantic and technical*** interoperability solutions, such as specifications and applications. Furthermore, this Regulation should establish a clear and easily recognisable label for some interoperability solutions ***('Interoperable Europe solutions')***. The creation of a vibrant community around open government technology solutions should be fostered.

(3a) ***Local and regional authorities will play an active role in the development of interoperability solutions. They should also seek to involve SMEs, research and educational organisations and civil society and share the outcome of such exchanges.***

(4) It is in the interest of a coherent approach to public sector interoperability throughout the Union, of supporting the principle of good administration and the free movement of personal and non-personal data within the Union, to align the rules as far as possible for all ***Union entities and*** public ***sector bodies that set binding requirements for trans-European digital public services, and thus affect the ability of those entities and bodies to share data through their network and information systems*** . This objective includes the Commission and other ***Union entities***, as well as public sector bodies in the Member States across all levels of administration: national, regional and local. Agencies are playing an important role in collecting regulatory reporting data from Member States. Therefore, the interoperability of this data ▌ should also be in scope of this Regulation.

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(4c) ***The fundamental right to the protection of personal data is safeguarded, in particular, by Regulations (EU) 2016/679 and (EU) 2018/1725 of the European Parliament and of the Council. Directive 2002/58/EC of the European Parliament and of the Council additionally protects private life and the confidentiality of communications, including by way of conditions on any personal and non-personal data storing in, and access from, terminal equipment. Those Union legislative acts provide the basis for sustainable and responsible data processing, including where datasets include a mix of personal and non-personal data. This Regulation complements and is without prejudice to Union law on the protection of personal data and privacy, in particular Regulations (EU) 2016/679 and (EU) 2018/1725 and Directive 2002/58/EC. No provision of this Regulation should be applied or interpreted in such a way as to diminish or limit the right to the protection of personal data or the right to privacy and confidentiality of communications.***

(5) Cross-border interoperability is not solely enabled via centralised Member State digital infrastructures, but also through a decentralised approach. This entails ***the need for trust between public administrations, allowing for*** data exchange between local administrations in different Member States without necessarily going through national nodes. Therefore, it

is necessary to develop common ***interoperability*** solutions***, reusable*** across all administrative levels***. Interoperability solutions encompass different forms ranging from higher-level tools like conceptual frameworks and guidelines to more technical solutions like reference architectures, technical*** specifications***, or standards. Also, concrete services*** and applications***, as well as documented technical components such as source code, including artifacts and AI models can be interoperability solutions, if they address legal, organisational, semantic, or technical aspects of cross-border interoperability*** . Needs for cross-border digital interactions are increasing, which requires solutions that can fulfil these needs. With this Regulation, the intention is to facilitate and encourage the exchange between all levels of administration***, overcome cross-border barriers and administrative burden, thereby increasing the efficiency of public services at large***.

(6) Interoperability facilitates successful implementation of policies, in particular those with a strong public sector connection, such as justice and home affairs, taxation and customs, transport, ***energy,*** health, agriculture, ***and employment,*** as well as in business and industry regulation. However, a single sector interoperability perspective is associated with the risk that the adoption of different or incompatible solutions at national or sectoral levels will give rise to new electronic barriers that impede the proper functioning of the internal market and the associated freedoms of movement. Furthermore, it risks undermining the openness and competitiveness of markets and the delivery of services of general interest to businesses and citizens. Therefore, this Regulation should also facilitate, encourage and apply to cross-sector interoperability***, thereby supporting the removal of barriers, incompatibilities and fragmentation of digital public services***.

(7) In order to eliminate fragmentation in the interoperability landscape in the Union, a common understanding of interoperability in the Union and a holistic approach to interoperability solutions should be promoted. A structured cooperation should support measures promoting digital-ready and interoperable by default policy set-up. Furthermore, it should promote the efficient management and use of digital service infrastructures and their respective components by ***Union entities and public sector bodies*** that permit the

establishment and operation of sustainable and efficient ▌ public services***, with the aim of ensuring accessibility up to the lowest administrative division***.

(7a) Union entities and public sector bodies can introduce binding requirements for trans-European digital public services. To ensure that such services can exchange data cross-border a mechanism should be established to allow for the discovery of legal, organisational, semantic and technical barriers to cross-border interoperability ('interoperability assessment'). The mechanism should ensure adequate consideration of cross-border interoperability aspects in all decisions that can impact on the design of such services.

(8) To set up ***binding requirements for trans-European digital*** public services, it is important to focus on the interoperability aspect as early as possible in the policymaking process ***following the 'digital-by-default' principle and 'interoperability-by-design' approach. Therefore, the public sector body or Union entities that intends to set binding requirements*** on the cross-border interoperability ***for one or several trans-European digital public services, for example in the course of the digitalisation of key public services as referred to in Decision (EU) 2022/2481[1], should carry out an interoperability assessment. To ensure the effectiveness and efficiency of this task, a Member State may decide the internal resources and the collaboration between its public bodies in order to support carrying out these assessments***.

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(8b) This assessment is necessary to understand the magnitude of impact of the planned requirements and to propose measures to reap the benefits and address potential costs. In situations, where the assessment is not mandatory, the public sector body or Union entity may decide to carry out the interoperability assessment on a voluntary basis. This Regulation therefore fosters all the situations regarding interoperability.

(8c) A binding requirement can be any obligation, prohibition, condition, criteria, or limit of legal, organisational, semantic or technical nature within a law, regulation, administrative provision, contract, call for tender, or other official document. Binding requirements affect how trans-European digital public services and their network and information systems used for their provision are designed, procured, developed, and implemented, thereby influencing the inbound or outbound data flows of these services.

However, tasks such as evolutive maintenance not introducing substantive change, security and technical updates, or simple procurement of standard ICT equipment should usually not affect the cross-border interoperability of trans-European digital public services, and should therefore not result in a mandatory interoperability assessment within the meaning of this Regulation.

(9) ***The approach to conducting interoperability assessments should be proportionate, differentiated in accordance with the level and scope at which they are undertaken.*** Under some circumstances it may ▌ be reasonable and economical for the subject of an interoperability assessment to be broader than a single project, for example when public sector bodies intend to establish a common application or processing platform. In those other cases, ***it*** should be strongly encouraged ***that the assessment*** go beyond the achievement of the Interoperable Europe objectives towards a full implementation of interoperability. ***Similarly, the requirements for interoperability assessments conducted at the level of single project implementation, such as in a local authority, should be pragmatic and allow for a narrow focus taking into account the fact that the wider benefits of interoperability assessments are generally harvested at the early stages of policy design and development of reference architecture, specifications and standards. The Interoperable Europe Board when adopting the guidelines on the content of the interoperability assessment, should, amongst other elements, take into account the capacity of regional and local public bodies and avoid an excessive burden for such authorities.***

(9a) In the process of consulting with those directly affected or their representatives, the Union entity or public sector body should be able to make use of already established consultation practices and current data.

(10) The interoperability assessment should evaluate the impacts of the planned ***binding requirements for trans-European digital public services on cross-border interoperability***, for example, having regard to the origin, nature, particularity and scale of those impacts. The outcome of that assessment should be taken into account when determining the appropriate measures that need to be taken in order to set up or modify the ***binding requirements for trans-European public services***.

(11) The organisation should publish the outcome of the interoperability assessment on ***a public location designated by the national competent authorities or the interoperability coordinators for Union entities, at least in a*** website. The publication of the outcome should not compromise intellectual property rights or trade secrets, and should be restricted where justified on the grounds of public order or security. The provisions of Union law governing the protection of personal data should be observed. ***In addition, the organisations should share the outcome of the interoperability assessments electronically with the Board. On that basis, the Board should analyse and provide suggestions in order to improve cross-border interoperability of trans-European digital public services. The suggestions of the Board should be published on the Interoperable Europe Portal.***

(11a) A common checklist for interoperability assessment reports is needed to facilitate the tasks of Union entities and public bodies to carry out these assessments and to enable the Board to draw recommendations from their outcomes to improve cross-border interoperability. Accordingly, the report representing the outcome of the interoperability assessment should summarise the impacts of the assessed requirement on the legal, organisational, semantic, technical and governance dimensions of the cross-border interoperability, along with the type of interoperability solutions used to tackle such impacts as well as the remaining barriers that are not tackled. The use of the common checklist included in the Annex should be further explained by guidelines adopted by the Board.

(11b) The Commission should provide user-friendly means to address and transmit the outcome of the assessments, among others in machine-readable format. The online tool for interoperability assessment reports should serve the purpose of providing a simple and user-friendly interface to produce and publish such reports. Standardised output of reporting in a machine-readable format can be used for monitoring purposes. Such a tool should also facilitate automated translation and should be integrated in the Interoperable Europe portal. To foster interoperability and seamless integration, the online tool should further adopt and adhere to an open data model derived from the checklist included in the Annex to this Regulation. Additionally, the provision of an application programming interface (API) is crucial, allowing the integration of the tool into existing reporting platforms, thereby maximizing utility and efficiency for all stakeholders. While the use of the online tool should be voluntary, by submitting the

necessary data and by allowing for its publication on the Interoperable Europe portal, the obligation of a Union entity or a public sector body to publish a report presenting the outcome of the interoperability assessment on a public location should be considered fulfilled.

(12) Public sector bodies or ▌ Union ***entities*** that search for interoperability solutions should be able to request from other public sector bodies or ***Union entities the interoperability solutions those organisations use such as good practices, specifications, and software code***, together with the related documentation. Sharing should become a default ***. In addition,*** public sector bodies ***or Union entities should seek to develop new interoperability solutions or to further develop existing interoperability solutions. When doing so, they should prioritise solutions that do not carry restrictive licensing terms, when equivalent. Nevertheless, sharing interoperability solutions should not be understood as a requirement for Union entities and public sector bodies to give up their intellectual property rights***.

(13) When public administrations decide to share their solutions with other public administrations or the public, they are acting in the public interest. This is even more relevant for innovative technologies: for instance, open code makes algorithms transparent and allows for independent audits and reproducible building blocks. The sharing of interoperability solutions among public administration should set the conditions for the achievement of an open ecosystem of digital technologies for the public sector that can produce multiple benefits.

(14) When monitoring the coherence of the ***recommended*** interoperability solutions and proposing measures to ensure their compatibility with existing solutions that share a common purpose, the ▌ Board should take into account the obsolescence of solutions.

(15) The European Interoperability Framework (EIF) should ensure coherence and be recognised as the single point of reference for the Union's approach to interoperability in the public service sector. In addition, specialised interoperability frameworks can address the needs of specific sectors, domains or administrative levels. Those frameworks***, which are of non-binding nature,*** should further promote the implementation of interoperability solutions ***and the interoperability by design principle***.

(15a) The EIF should promote the principle of multilingualism in the public sector, among others.

(16) The EIF should be developed by the ▌ Board, composed ▌ by one representative of each Member State. The Member States, ***together with the Commission***, are thus at the centre of the development and implementation of the EIF. The ▌ Board should update the EIF when necessary.

(17) The specialised interoperability frameworks issued to complement the EIF should take into account and not prejudice the existing sector-specific frameworks developed at the Union level (for example in the health sector).

(18) Interoperability is directly connected with, and dependent on the use of open specifications and standards. Therefore, the Union public sector should be allowed to agree on cross-cutting open specifications and other solutions to promote interoperability. The new framework should provide for a clear process on the establishment and promotion of ***recommended*** interoperability solutions in the future***, bearing the label 'Interoperable Europe solution'***. This way, the public sector will have a more coordinated voice to channel public sector needs and public values into broader discussions. ***The Board should agree upon general criteria that these solutions should follow, as well as be able to withdraw such recommendations, upon which the 'Interoperable Europe solution' label should be removed from the relevant interoperability solutions and the interoperability solutions could be deleted from the portal, where appropriate.***

(19) Many interoperability specifications used by the public sector could be derived from existing Union legislation. Therefore, it is necessary to establish a link between all specifications for ***trans-European digital public services*** that are mandatory to use due to Union legal provisions. It is not always easy for implementing authorities to find the requirements in the most recent and machine-readable format. A single point of entry ***(the Interoperable Europe portal)*** and clear rules on the metadata of such information should help public sector bodies to have their digital service infrastructures comply with the existing and future rules.

(20) An Interoperable Europe portal should be ***built on existing initiatives and*** established as ***an easily accessible*** point of reference for interoperability solutions***, assessments***,

knowledge and community. The portal should be established as a link to official sources but should also be open to input from the Interoperable Europe Community.

(21) The Interoperable Europe portal should make publicly available ***and findable interoperability*** solutions that follow the EIF principles***, such as*** openness, ***accessibility,*** technical neutrality***, reusability, security and privacy. There should be clear distinction between solutions that are recommended by the Board ('Interoperable Europe solutions') and other interoperability*** solutions, ***such as those shared proactively for reuse by public administrations, those linked to EU policies and relevant*** solutions ***from national portals. Use cases in the portal*** should be ***searchable by country or by public service they support. The Board should be consulted on the way solutions are categorised on the portal***.

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(21b) As open source enables users to actively assess and inspect the interoperability and security of the solutions, it is important that open source supports the implementation of interoperability solutions. In this context, the use of open source licences should be promoted to enhance legal clarity and mutual recognition of licences in the Member States. With the European Union Public Licence (EUPL) the Commission already provides a solution for such licencing. Member States' portals collecting open source solutions that are linked with the Interoperable Europe portal should allow for the use of EUPL, while not excluding that such portals can allow the use of other open source licences.

(22) At the moment, the Union's public services delivered or managed electronically depend in many cases on non-Union providers. It is in the Union's strategic interest to ensure that it retains and develops essential technological capacities to secure its Digital Single Market, and in particular to ensure service delivery, protect critical network and information systems, and to provide key ***public*** services. The Interoperable Europe support measures should help public administrations to evolve and be capable of incorporating new challenges and new areas in cross-border contexts. Interoperability is a condition for avoiding technological lock-in, enabling technical developments, and fostering innovation, which should boost the global competitiveness ***of the Union, resilience and open strategic autonomy*** of the Union.

(23) It is necessary to establish a governance mechanism to facilitate the implementation of Union policies in a way that ensures interoperability. This mechanism should focus on the interoperable digital implementation of policies once they have been adopted in the form of legal acts and should serve to develop interoperability solutions on a needs-driven basis. The mechanism should support public sector bodies. ***Policy implementation*** projects to support public sector bodies should be proposed by the ▌ Board to the Commission who should decide whether to set up the projects***, with due regards to the potential need for non- authoritative, machine-executable versions of the policy, such as reference implementation models or code, reusable at all levels***.

(24) All levels of government should cooperate with innovative organisations, be it companies or non-profit entities, in design, development and operation of public services. Supporting GovTech cooperation between public sector bodies***, research and educational institutions,*** start-ups and innovative SMEs, ▌ civil society organisations ('CivicTech'), is an effective means of supporting public sector innovation***, flexibility*** and promoting use of interoperability tools across private and public sector partners. Supporting an open GovTech ecosystem in the Union that brings together public and private actors across borders and involves different levels of government should allow to develop innovative initiatives aimed at the design and deployment of GovTech interoperability solutions.

(25) Identifying shared innovation needs and priorities and focusing common GovTech and experimentation efforts across borders would help Union public sector bodies to share risks, lessons learnt, and results of innovation support projects. Those activities will tap in particular into the Union's rich reservoir of technology start-ups and SMEs. Successful GovTech projects and innovation measures piloted by Interoperable Europe innovation measures should help scale up GovTech tools and interoperability solutions for reuse.

(26) Interoperable Europe support measures could benefit from safe spaces for experimentation, while ensuring responsible innovation and integration of appropriate risk mitigation measures and safeguards. To ensure a legal framework that is innovation-friendly, future-proof and resilient to disruption, it should be made possible to run such projects in ***interoperability*** regulatory sandboxes. ***Interoperability*** regulatory sandboxes should consist in controlled test environments that facilitate the development and testing of innovative solutions before such ***solutions*** are integrated in the network and information systems of the public sector. The objectives of the regulatory sandboxes should be to foster

interoperability through innovative solutions by establishing a controlled experimentation and testing environment with a view to ensure alignment of the solutions with this Regulation and other relevant Union law and Member States' legislation, to enhance legal certainty for innovators and the competent authorities and to increase the understanding of the opportunities, emerging risks and the impacts of the new solutions. To ensure a uniform implementation across the Union and economies of scale, it is appropriate to establish common rules for the ***interoperability*** regulatory sandboxes' implementation. The European Data Protection Supervisor may impose administrative fine to Union ***entities*** in the context of regulatory sandboxes, according to Article 58(2)(i) of Regulation (EU) 2018/1725 of the European Parliament and of the Council.

(27) It is necessary to provide ▌ for the use of personal data collected for other purposes in order to develop certain interoperability solutions in the public interest within the regulatory sandbox, in accordance with Article 6(4) of Regulation (EU) 2016/679 of the European Parliament and of the Council, and Article ***5*** of Regulation (EU) 2018/1725 of the European Parliament and of the Council ***and without prejudice to Articles 4(2) of Directive (EU) 2016/680. All other obligations of data controllers and rights of data subjects under Regulation (EU) 2016/679,*** Regulation ***(EU) 2018/1725 and Directive (EU) 2016/680 remain applicable. In particular, this Regulation should not provide*** a legal basis ***in the meaning of Article 22(2)(b) of Regulation (EU) 2016/679 and Article 24(2)(b) of Regulation (EU) 2018/1725. The Regulation aims only at providing*** for the processing of personal data in the context of the regulatory sandbox as such. Any other processing of personal data falling within the scope of this Regulation would require a separate legal basis.

(27a) In order to increase transparency of processing of personal data by public sector bodies and Union entities, the Interoperable Europe portal should give access to information on the processing of personal data in the context of regulatory sandboxes, in accordance with Regulation (EU) 2016/679 and Regulation (EU) 2018/1725.

(28) It is necessary to enhance a good understanding of interoperability issues, especially among public sector employees. Continuous training is key in this respect and cooperation and coordination on the topic should be encouraged. Beyond trainings on Interoperable Europe solutions, all initiatives should, where appropriate, build on, or be accompanied by, the sharing of experience and solutions and the exchange and promotion of best practices.

To this end, the Commission should develop trainings and training materials, and promote the development of a certification programme on interoperability matters in order to promote best practices, qualifications for human resources and a culture of excellence. The Commission should contribute to the increase of the general availability and uptake of trainings on public sector interoperability at national, local and regional level, in line with the EU strategies for digital skills. The Commission and the Member States should foster capacity-building, particularly within public administration, in terms of reskilling and upskilling needed for the implementation of the Act.

(29) To create a mechanism facilitating a mutual learning process among public ***Union entities and public*** sector bodies and sharing of best practices in implementing Interoperable Europe solutions across the Member States, it is necessary lay down provisions on the peer review process. Peer reviews ***should*** lead to valuable insights and recommendations for the public sector body undergoing the review. In particular, they could contribute to facilitating the transfer of technologies, tools, measures and processes among the ***participants of*** the peer review. They ***should*** create a functional path for the sharing of best practices across Member States ***and Union entities*** with different levels of maturity in interoperability. ***A peer review is set up upon the request of a Union entity or a public sector body when needed, on a voluntary basis.*** In order to ensure that the peer review process is cost-effective and produces clear and conclusive results, and also to avoid the placement of unnecessary burden, the Commission may adopt guidelines on the best set-up for such peer reviews, based on the needs that occur and after consulting the ▌ Board.

(30) To develop the general direction of the Interoperable Europe structured cooperation in promoting the digital interconnection and interoperability of public services in the Union and to oversee the strategic and implementation activities related to that cooperation, an Interoperable Europe Board should be established. The Interoperable Europe Board should carry out its tasks taking into consideration cross-border interoperability rules and solutions already implemented for existing network and information systems.

(31) Certain Union ***entities*** such as the European Data Innovation Board and the European Health Data Space Board have been created and tasked to, among others, enhance interoperability at specific domain or policy level. However, none of the existing ***entities*** is tasked to address ***binding requirements for trans-European digital*** public services***. The*** Board should support the Union ***entities*** working on policies, actions and solutions

relevant for cross-border interoperability of ***trans-European digital*** public services ▌, for example on semantic interoperability for data spaces portability and reusability. The Board should interact with all relevant Union ***entities*** in order to ensure alignment and synergies between cross-border interoperability actions and sector specific ones. ***To this end, the Chair of the Board may invite experts with specific competence in a subject on the agenda, including representatives from regional and local authorities and from the open source and standardisation communities.***

(32) Advancing public sector interoperability needs the active involvement and commitment of experts, practitioners, users and the interested public across Member States***. This effort spans*** all levels of government ***- national, regional and local - and involves*** international partners***, research and educational institutions, as well as relevant communities,*** and the private sector. In order to tap into their expertise, skills and creativity, a dedicated open forum (the 'Interoperable Europe Community') should help channel feedback, user and operational needs, identify areas for further development and help scope priorities for EU interoperability cooperation. The establishment of the Interoperable Europe Community should support the coordination and cooperation between the strategic and operational key players for interoperability.

(33) The Interoperable Europe Community should be open to all interested parties. Access to the Interoperable Europe Community should be made as easy as possible, avoiding unnecessary barriers and burdens. The Interoperable Europe Community should bring together public and private stakeholders, including citizens, with expertise in the field of cross-border interoperability, coming from different backgrounds, such as academia, research and innovation, education, standardisation and specifications, businesses and public administration at all levels. ***Active participation in the Interoperable Europe Community, including by identifying support measures and funding opportunities should be encouraged.***

(34) To ensure the rules laid down by this Regulation are efficiently implemented, it is necessary to designate national competent authorities responsible for its implementation. In many Member States, some entities have already the role of developing interoperability. Those entities could take over the role of competent authority in accordance with this Regulation. ***In addition, should there be more than one national competent authority, a single point of contact should be designated among them.***

(35) An Interoperable Europe Agenda should be ***developed*** as the Union's main instrument for ***coordinating*** public investments in interoperability solutions ***and setting out the roadmap for implementing this Regulation***. It should deliver a comprehensive overview of funding possibilities and funding commitments in the field, integrating where appropriate the related Union programmes. This should contribute to creating synergies and coordinating financial support related to interoperability development and avoiding duplication ***at all levels***.

(36) Information should be collected in order to ***guide the effective and efficient implementation of the*** regulation***, including the provision of evidence to support the work of the Board, and inputs for the*** evaluation of this Regulation in accordance with paragraph 22 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[1]. Therefore, the Commission should carry out a monitoring and evaluation of this Regulation. The evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added***, with specific focus on the impact of the Regulation on cross-border interoperability of trans-European digital public services as an enabler for seamless and accessible digital public services, the reduction of administrative burden and the need for any additional measures and policies at Union level***. The evaluation should also be the basis for impact assessments of possible further measures. ***Furthermore, the Commission should prepare, after consulting the Interoperable Europe Board, the methodology, process, and indicators for*** monitoring***. The monitoring mechanism*** should ***be designed to minimise the administrative burden on Member States by reusing as much as feasible*** existing data sources and ***creating synergies with existing*** monitoring ***mechanisms, such as the Digital Economy and Society Index, the eGovernment Benchmark and the trajectories of the Digital Decade Policy Programme***.

(36a) The Commission should annually compile and present a report to the European Parliament and the Council regarding the interoperability in the Union. This report should include the progress towards the cross-border interoperability of trans-European

digital public services, implementation barriers and drivers, and results achieved over time, in line with the monitoring topics listed in the Article 20. For indicators where data is not available, Member States should provide the data in a timely manner through the Interoperable Europe Board to ensure the effective delivery of the report. The quality of this report is contingent upon the timely availability of data.

(37) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to set out rules and the conditions for the establishment and the operation of the ***interoperability*** regulatory sandboxes. ***These powers should be exercised with the assistance of a committee within the meaning of Regulation (EU) No 182/2011 and in application of the examination procedure referred to in Article 4 of this Regulation.***

(38) Since the objective of this Regulation, namely interoperability within public administrations on a Union-wide scale, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in the same Article, this Regulation does not go beyond what is necessary in order to achieve the objectives of the Treaties, especially with regards to the strengthening of the Single Market.

(39) The application of this Regulation should be deferred to three months after the date of its entry into force in order to provide Member States and the ***Union entities*** with sufficient time to prepare for the application of this Regulation. Such time is necessary to establish ***the Board,*** the Interoperable Europe ***Community and designate interoperability coordinators. In addition, this Regulation should allow time for Member States*** and the ***Union entities to prepare*** for the ***effective implementation of the interoperability assessments and for each Member State to designate one or more*** national competent authorities and ***a single points of contact. Therefore, the provisions on*** interoperability ***assessments, national competent authorities and single points of contact should apply from [nine months from the entry into force of this Regulation]***.

(40) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council[4] and delivered an opinion on ***13 January 2023.***

HAVE ADOPTED THIS REGULATION:

Chapter 1
General provisions

Article 1

Subject matter and scope

1. This Regulation lays down measures to promote the cross-border interoperability of ***trans-European digital public services thus contributing to the interoperability of their network and information systems*** by establishing common rules and a ***governance framework***.

2. This Regulation applies to ***Union entities and public sector bodies that regulate,*** provide***,*** manage ***or implement trans-European digital*** public services ▌ .

2a. This Regulation shall apply without prejudice to the competence of the Member States to define what constitutes public services as well as their ability to define procedural rules, provision, management or implementation of those services.

2b. This Regulation is without prejudice to the competences of the Member States with regards to their activities concerning public security, defence and national security.

2c. This Regulation shall not entail the supply of information the disclosure of which would be contrary to the essential interests of Member States' public security, defence or national security.

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[4] ***[1]*** Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

(1) 'cross-border interoperability' means the ability of ***Union entities and*** public sector bodies ***of*** Member States ***to interact with each other across borders by sharing data, information and knowledge through digital processes following the legal, organisational, semantic and technical requirements related to such cross-border interaction***;

(1a) 'trans-European digital public services' means digital services provided by Union entities or public sector bodies either to one another, or to natural or legal persons in the Union, and requiring interaction across Member States' borders, between public sector bodies and Union entities, or between Union entities, by means of their network and information systems;

(2) 'network and information system' means a network and information system as defined in Article ***6***, point (1), of ▌ Directive (EU) ***2022/2555 (***NIS 2 ***Directive)***[5];

(3) 'interoperability solution' means a ***reusable asset concerning legal, organisational, semantic or technical requirements to enable cross-border interoperability, such as conceptual frameworks, guidelines, reference architectures,*** technical ***specifications, standards, services and applications, as well as documented technical components, such as source code***;

(3a) 'Union entities' means the Union institutions, bodies, offices and agencies set up by, or on the basis of, the Treaty on European Union, the Treaty on the functioning of European Union or the Treaty establishing the European Atomic Energy Community;

(4) 'public sector body' means a public sector body as defined in Article 2, point (1), of Directive (EU) 2019/1024 ***of the European Parliament and of the Council***[7b];

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5 Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive), OJ L 333, 27.12.2022, p. 80.

(5) ‘data’ means data as defined in Article 2, point (1), of Regulation (EU) 2022/868 ***of the*** European ***Parliament and of the Council[6];***

(6) ‘machine-readable format’ means a machine-readable format as defined in Article 2, point (13), of Directive (EU) 2019/1024;

(7) ‘GovTech’ means a technology-based cooperation between public and private sector actors supporting public sector digital transformation;

(8) ‘standard’ means a standard as defined in Article 2, point (1), of Regulation (EU) No 1025/2012 of the European Parliament and of the Council[7];

(8a) ‘ICT technical specification’ means ICT technical specification as defined in Article 2, point (5), of Regulation (EU) No 1025/2012 of the European Parliament and of the Council;

(8b) open source licence’ means a licence whereby the reuse, redistribution and modification of the software is permitted for all uses in a unilateral declaration by the right holder, that may be subject to certain conditions, and where the source code of the software is made available to users indiscriminately;

(9) ‘highest level of management’ means a manager, management or coordination and oversight body at the most senior administrative level, taking account of the high-level governance arrangements in each institution, body or agency of the Union.

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6 ***7a Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive) (OJ L 333, 27.12.2022, p. 80). 7b 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 L 172, 26.6.2019, p. 56). [1] 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 (Data Governance Act) (OJ L 152, 03.06.2022, p. 1).***

7 Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

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(9d) ***'interoperability regulatory sandbox' means a controlled environment set up by a Union entity or public sector body for the development, training, testing and validation of innovative interoperability solutions, where appropriate in real world conditions, supporting the cross-border interoperability of trans-European digital public services for a limited period of time under regulatory supervision.***

(9e) ***'binding requirement' means any obligation, prohibition, condition, criteria or limit of legal, organisational, semantic, or technical nature, set by a Union entity or public sector body concerning one or several trans-European digital public services and having effect on cross-border interoperability.***

Article 3

Interoperability assessment

1. ***Prior to taking a decision on new or substantially modified binding requirements concerning trans-European digital public services and having effect on cross-border interoperability, a Union entity or a*** public ***sector body*** shall carry out an ▌ interoperability assessment***.***

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Where, in relation to binding requirements, an interoperability assessment has already been carried out or where the ***requirements are implemented by solutions provided by Union entities, the public sector body concerned shall not be required to perform a new interoperability assessment in relation to those requirements. A single interoperability assessment may be carried out to address a set of binding requirements***.

The ***Union entity*** or the ***public sector body*** concerned may also carry out the interoperability assessment in other cases.

2. ***An*** interoperability assessment shall ***identify and assess in an appropriate manner:***

(a) the impacts of the binding requirements ***on cross-border interoperability, using the European Interoperability Framework as a support tool;***

(b) the stakeholders for which the binding requirements are relevant;

(c) the Interoperable Europe solutions that support the implementation of the binding requirements.

The ***Union entity or public sector body*** concerned shall publish a report presenting the outcome of the interoperability assessment on ***an official*** website***, in a machine-readable format, facilitating automated translation and share it electronically with the Board. This provision shall not restrict existing Member States' rules on access to documents. The publication shall not compromise intellectual property rights or trade secrets, public order or security***.

3. ***Union entities and public sector bodies may decide which body provides*** the necessary support to carry out the interoperability assessment. The Commission ***shall*** provide technical tools to support the assessment***, including an online tool to facilitate the completion of the report and its publication on the Interoperable Europe portal***.

5. The ***Union entity or public sector body*** concerned shall consult recipients of the services ***directly*** affected***, including citizens,*** or their representatives . This consultation is without prejudice to the protection of commercial or public interests or the security of such ***services***.

6. The Interoperable Europe Board shall adopt guidelines on the ***interoperability assessment, and on reporting,*** by ... at the latest [***nine months*** after the entry into force of this Regulation] .

Article 4

Share and reuse of interoperability solutions between *Union entities and public sector bodies*

1. A ***Union entity or public sector body*** shall make available to any other such entity that requests it ***an interoperability solution supporting a trans-European service, including*** the technical documentation***,*** and ▌ where applicable, the ***version history,*** documented source code ***and the references to open standards or technical specifications used.***

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The obligation to share shall not apply to any of the following interoperability solutions:

(a) that support processes which fall outside the scope of the public task of the ***Union entity or the public sector body*** concerned as defined by law or by other binding rules, or, in the absence of such rules, as defined in accordance with common administrative practice in the ***Union entities or Member State*** in question, provided that the scope of the public tasks is transparent and subject to review;

(b) for which third parties hold intellectual property rights ***that restrict the possibilities to share the solution for reuse***;

(c) access to which is excluded or restricted on grounds of:

(i) sensitive critical infrastructure protection related information as defined in Article 2, point (d) of Council Directive 2008/114/EC[8];

(ii) the protection of defence interests, or public security***, including national critical infrastructure***.

2. To enable the reusing entity to manage the interoperability solution autonomously, the sharing entity shall specify ***any conditions that may apply to the reuse of the solution,***

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8 Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p. 75).

including possible guarantees that will be provided to the reusing entity in terms of cooperation, support and maintenance. ***Such conditions may also include the exclusion of liability of the sharing entity in case of misuse of the interoperability solution by the reusing entity.*** Before adopting the interoperability solution***, upon request***, the reusing entity shall provide to the sharing entity an assessment of the solution covering its ability to manage autonomously the cybersecurity and the evolution of the reused interoperability solution.

3. The obligation in paragraph 1 of this Article may be fulfilled by publishing the relevant content on the Interoperable Europe portal or a portal, catalogue or repository connected to the Interoperable Europe portal. In that case, paragraph 2 of this Article shall not apply to the sharing entity. The publication on the Interoperable European portal shall be made by the Commission, at the request of the sharing entity.

4. A ***Union entity or public sector body*** or a third party ***reusing*** an interoperability solution may adapt it to its own needs***, unless intellectual property rights held by a third party restricts the adaptation of the solution***. If the interoperability solution was made public as set out in paragraph 3, the adapted interoperability solution shall be made public in the same way.

5. The sharing and reusing entities may conclude an agreement on sharing the costs for future developments of the interoperability solution.

5a. When deciding on the implementation of interoperability solutions, Union entities and public sector bodies shall prioritise implementation of interoperability solutions that do not carry restrictive licensing terms, such as open source solutions, when equivalent in functionalities, total cost, user-centricity, cybersecurity or other relevant objective criteria. The Commission shall provide support in identifying such solutions, as provided for in Article 9.

5b. The Interoperable Europe Board shall adopt guidelines on the sharing of interoperability solutions.

Chapter 2

European **Interoperability** *enablers*

Article 5

General principles

1. The Commission shall publish Interoperable Europe solutions and the European Interoperability Framework on the Interoperable Europe portal ▌, by electronic means, in formats that are open, machine-readable, accessible ▌, ***for persons with disabilities in line with Directive (EU) 2016/2102 of the European Parliament and of the Council[10a] and Directive (EU) 2019/882 of the European Parliament and of the Council[10b]*** findable and re-usable, if applicable, together with their ***documented source code and*** metadata. ***Machine translated versions of the Interoperable Europe solutions shall be published on the Interoperable Europe portal in all the official languages of the Union.***

2. The Interoperable Europe Board shall monitor the overall coherence of the developed or recommended interoperability solutions, and propose measures to ensure, where appropriate, their compatibility with other interoperability solutions that share a common purpose, while supporting, where relevant, the complementarity with or transition to new technologies.

Article 6

European Interoperability Framework and specialised interoperability frameworks

1. The Interoperable Europe Board shall develop a European Interoperability Framework (EIF)[10] and propose to the Commission to adopt it. ***In the event that*** the Commission ***adopts*** the EIF***, it*** shall publish the EIF***,*** in the Official Journal of the European Union.

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[10] ***10a Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1). 10b Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70). [1]*** Communication from the Commission to the European Parliament, the Council, the European Economic and Social

2. The EIF shall provide a model and a set of recommendations on legal, organisational, semantic and technical interoperability, ***and their governance,*** addressed to all entities falling within the scope of this Regulation for interacting with each other through their network and information systems. The EIF shall be taken into account in the interoperability assessment in accordance with Article 3(4), point (b) and Article 3(6).

3. The Commission, after consulting the Interoperable Europe Board, may adopt other interoperability frameworks ('specialised interoperability frameworks') targeting the needs of specific sectors or administrative levels. The specialised interoperability frameworks shall be based on the EIF. The Interoperable Europe Board shall assess the alignment of the specialised interoperability frameworks with the EIF. The Commission shall publish the specialised interoperability frameworks on the Interoperable Europe portal.

4. Where a Member State develops a national interoperability framework and other relevant national policies, strategies or guidelines, it shall take into ***utmost*** account the EIF.

Article 7

Interoperable Europe solutions

The Interoperable Europe Board shall recommend interoperability solutions for the cross-border interoperability of ***trans-European digital*** public services ▌. When an interoperability solution is recommended by the Interoperable Europe Board, it shall carry the label 'Interoperable Europe solution' and shall be published on the Interoperable Europe portal ***, making a clear distinction between Interoperable Europe solutions and other solutions. The Interoperable Europe Board may withdraw its recommendation resulting in removal of the 'Interoperable Europe solution' label, and its removal from the portal, if necessary***.

The Interoperable Europe solutions shall adhere to the principles of openness and reuse and meet the criteria developed by the Board.

Committee and the Committee of the Regions European Interoperability Framework – Implementation Strategy, COM/2017/0134 final.

Article 8

Interoperable Europe portal

1. The Commission shall provide a portal ('the Interoperable Europe portal') as a single point of entry for information related to cross-border interoperability of ***trans-European digital*** public services ***. The portal shall be*** electronically ***accessible to all citizens, including persons with disabilities,*** and free of charge. The portal shall have at least the following functions:

   (a) access to Interoperable Europe solutions***, in a user-friendly manner, and at least searchable per Member State and per public service***;

   (b) access to other interoperability solutions not bearing the label 'Interoperable Europe solution'***, such as solutions:***

      (i) shared according to Article 4(3);

      (ii) provided for by other Union policies;

      (iii) published on other portals or catalogues connected to the Interoperable Europe portal.

   (c) access to ICT technical specifications eligible for referencing in accordance with Article 13 of Regulation (EU) No 1025/2012;

   (d) access to information on processing of personal data in the context of regulatory sandboxes referred to in Articles 11 and 12, if any high risks to the rights and freedoms of the data subjects, as referred to in Article 35(1) of Regulation (EU) 2016/679 and in Article 39 of Regulation (EU) 2018/1725, has been identified, as well as access to information on response mechanisms to promptly mitigate those risks. The published information may include a disclosure of the data protection impact assessment;

   (e) fostering knowledge exchange between members of the Interoperable Europe Community, as set out in Article 16, such as providing a feedback system to express their views on measures proposed by the Interoperable Europe Board or

express their interest to participate to actions related to the implementation of this Regulation;

(ea)listing best practices and knowledge sharing supporting interoperability including where appropriate guidance on public procurement, cybersecurity, IT integration and data governance;

(f) access to interoperability-related monitoring data referred to in Article 20;

(g)allowing citizens ***, businesses, in particular SMEs, as well as the*** civil society organisations to provide feedback on the published content***;***

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2. The Interoperable Europe Board may propose to the Commission to publish on the portal other interoperability solutions or to have them referred to on the portal. ▌

2a.The solutions accessible through the Interoperable Europe portal shall:

(a) not be subject to third party rights ***that prevent their distribution and use***;

(aa)not contain personal data or confidential information;

(b) have a high-level of alignment with the Interoperable Europe solutions which may be proven by publishing the outcome of the interoperability assessment referred to in Article 3;

(c) use a licence that allows at least for the reuse by other public sector bodies or ***Union entities*** or be issued as open source ▌ ;

(d) be regularly maintained under the responsibility of the owner of the interoperability solution.

3. When a public sector body or ***a Union entity*** provides a portal, catalogue or repository with similar functions, it shall take the necessary ***and proportionate*** measures to ensure interoperability with the Interoperable Europe portal. Where such portals collect open source solutions, they shall allow for the use of the European Union Public Licence.

4. The Commission may adopt guidelines on interoperability for other portals with similar functions as referred to in paragraph 3.

Chapter 3
Interoperable Europe support measures

Article 9

Policy implementation support projects

1. The Interoperable Europe Board may propose to the Commission to set up projects to support public sector bodies in the digital implementation of Union policies ensuring the cross-border interoperability of ***trans-European digital*** public services ('policy implementation support project').

2. The policy implementation support project shall set out:

   (a) the existing Interoperable Europe solutions deemed necessary for the digital implementation of the policy requirements;

   (b) any missing interoperability solutions to be developed, deemed necessary for the digital implementation of the policy requirements;

   (c) other recommended support measures, such as trainings***, sharing of expertise*** or peer-reviews***, as well as financial support opportunities to assist the implementation of interoperability solutions***.

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3. The Commission shall set out, after consulting the Interoperable Europe Board, the scope, the timeline, the needed involvement of sectors and administrative levels and the working methods of the support project. If the Commission has already performed and published an interoperability assessment, in accordance with Article 3, the outcome of that assessment shall be taken into account when setting up the support project.

4. In order to reinforce the policy implementation support project, the Interoperable Europe Board may propose to establish a ***interoperability*** regulatory sandbox as referred to in Article 11.

5. The outcome of a policy implementation support project as well as interoperability solutions developed in the project shall be openly available and made public on the Interoperable Europe Portal.

Article 10

Innovation measures

1. The Interoperable Europe Board may propose to the Commission to set up innovation measures to support the development and uptake of innovative interoperability solutions in the EU ('innovation measures').

2. Innovation measures shall ***contribute to the development of existing or new Interoperable Europe solutions and may involve GovTech actors.***

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3. In order to support the development of innovation measures, the Interoperable Europe Board may propose to set up a ***interoperability*** regulatory sandbox.

4. The Commission shall make the results from the innovation measures openly available on the Interoperable Europe portal.

Article 11

Establishment of *interoperability* regulatory sandboxes

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2. ***Interoperability*** regulatory sandboxes shall be operated under the responsibility of the participating ***Union entities or*** public sector bodies***.*** ***Interoperability regulatory sandboxes that entail*** the processing of personal data by public sector bodies, ***shall be operated*** under the supervision of ***the national data protection authorities as well as*** other relevant national ▌, ***regional or local supervisory authorities. Interoperability regulatory sandboxes that entail*** the processing of personal data by ***Union entities shall be operated*** under the ***supervision*** of the European Data Protection Supervisor.

3. The establishment of an ***interoperability*** regulatory sandbox as set out in paragraph 1 shall aim to contribute to the following objectives:

(a) foster innovation and facilitate the development and roll-out of innovative digital interoperability solutions for public services;

(b) facilitate cross-border cooperation between national ***regional and local*** competent authorities and synergies in public service delivery;

(c) facilitate the development of an open European GovTech ecosystem, including cooperation with small and medium enterprises***, research and educational institutions*** and start-ups;

(d) enhance authorities' understanding of the opportunities or barriers to cross-border interoperability of innovative interoperability solutions, including legal barriers;

(e) contribute to the development or update of Interoperable Europe solutions***;***

(ea) contribute to evidence-based regulatory learning;

(eb) improve legal certainty and contribute to the sharing of best practices through cooperation with the authorities involved in the interoperability regulatory sandbox with a view to ensuring compliance with this Regulation and, where appropriate, with other Union and Member States legislation.

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4a. ***In order to ensure a harmonised approach and support the implementation of interoperability regulatory sandboxes, the Commission may issue guidelines and clarifications, without prejudice to other Union legislative acts.***

5. The Commission, after consulting the Interoperable Europe Board ***shall upon joint request from at least three participants authorise the establishment of a interoperability*** regulatory sandbox***. Where appropriate the request shall specify information such as the purpose of*** the processing of personal data, the ***actors involved and their roles, the categories of personal data concerned, and their source(s) and the envisaged retention period***. This consultation ***shall*** not replace the prior consultation referred to in Article 36 of Regulation (EU) 2016/679 and in Article 40 of Regulation (EU) 2018/1725. Where the sandbox is set up for interoperability solutions supporting the cross-border interoperability of ***trans-European digital*** public services ▌ by one or more Union ***entities***, ***including*** with the participation of public sector bodies, no authorisation ***shall be*** needed.

Article 12

Participation in the *interoperability* regulatory sandboxes

1. The participating public sector bodies ***or Union entities*** shall ensure ▌ , to the extent the ***operation of the*** interoperability ***regulatory sandbox requires*** the processing of personal data or otherwise falls under the supervisory remit of other national***, regional or local*** authorities providing or supporting access to data, ***that*** the national data protection authorities ***as well as*** other national***, regional or local*** authorities ***that*** are associated to the operation of the regulatory sandbox. As appropriate, the ***participants*** may allow for the involvement in the ***interoperability*** regulatory sandbox of other actors within the GovTech ecosystem such as national or European standardisation organisations, notified bodies, research and experimentation labs, innovation hubs, and companies wishing to test innovative interoperability solutions***, in particular SMEs and start-ups***.

2. Participation in the ***interoperability*** regulatory sandbox shall be limited to a period that is appropriate to the complexity and scale of the project, and in any case not longer than 2 years from the establishment of the ***interoperability*** regulatory sandbox. The participation may be extended for up to one more year if necessary to achieve the purpose of the processing.

3. Participation in the ***interoperability*** regulatory sandbox shall be based on a specific plan elaborated by the participants taking into account the advice of other national competent authorities or the European Data Protection Supervisor, as applicable. The plan shall contain as a minimum the following:

(a) description of the participants involved and their roles, the envisaged innovative interoperability solution and its intended purpose, and relevant development, testing and validation process;

(b) the specific regulatory issues at stake and the guidance that is expected from the authorities supervising the ***interoperability*** regulatory sandbox;

(c) the specific modalities of the collaboration between the participants and the authorities, as well as any other actor involved in the ***interoperability*** regulatory sandbox;

(d) a risk management and monitoring mechanism to identify, prevent and mitigate ***risks***;

(e) the key milestones to be completed by the participants for the interoperability solution to be considered ready to be put into service;

(f) evaluation and reporting requirements and possible follow-up;

(g) where ***it is strictly necessary and proportionate to process*** personal data***, the reasons for such processing***, an indication of the categories of personal data concerned, the purposes of the processing for which the personal data are intended***, the controllers and processors*** involved in the processing and their role.

4. The participation in the ***interoperability*** regulatory sandboxes shall not affect the supervisory and corrective powers of any authorities supervising the sandbox.

5. Participants in the ***interoperability*** regulatory sandbox shall remain liable under applicable Union law and Member States legislation on liability for any damage caused in the course of their participation in the ***interoperability*** regulatory sandbox.

6. Personal data may be processed in the regulatory sandbox ***for purposes other than that for which it has initially been lawfully collected,*** subject to the following cumulative conditions:

(a) the innovative interoperability solution is developed for safeguarding public interests in the area of a high level of efficiency and quality of public administration and public services;

(b) the data processed is limited to what is necessary for the functioning of the interoperability solution to be developed or tested in the sandbox, and the functioning cannot be effectively achieved by processing anonymised, synthetic or other non-personal data;

(c) there are effective monitoring mechanisms to identify if any high risks to the rights and freedoms of the data subjects, as referred to in Article 35(1) of Regulation (EU) 2016/679 and in Article 39 of Regulation (EU) 2018/1725, may arise during the operation of the sandbox, as well as a response mechanism to promptly mitigate those risks and, where necessary, stop the processing;

(d) any personal data to be processed are in a functionally separate, isolated and protected data processing environment under the control of the participants and only ***duly*** authorised persons have access to that data;

(e) any personal data processed are not to be transmitted, transferred or otherwise accessed by other parties that are not participants in the sandbox ***unless such disclosure occurs in compliance with Regulation (EU) 2016/679 or, where applicable, Regulation 2018/725, and all*** participants ***have agreed to it***;

(f) any processing of personal data ***shall*** not affect the application of the rights of the data subjects as provided for under Union law on the protection of personal data, in particular in Article 22 of Regulation (EU) 2016/679 and Article 24 of Regulation (EU) 2018/1725;

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(g) any personal data processed are protected by means of appropriate technical and organisational measures and deleted once the participation in the sandbox has terminated or the personal data has reached the end of its retention period;

(h) the logs of the processing of personal data are kept for the duration of the participation in the sandbox***, unless provided otherwise by*** Union or ***national law***;

(i) a complete and detailed description of the process and rationale behind the training, testing and validation of the interoperability solution is kept together with the testing results as part of the technical documentation and transmitted to the Interoperable Europe Board;

(j) a short summary of the interoperability solution developed in the sandbox, its objectives and expected results are made available on the Interoperable Europe portal.

6a. Paragraph 1 is without prejudice to Union or Member States laws laying down the basis for the processing of personal data which is necessary for the purpose of developing, testing and training of innovative interoperability solutions or any other legal basis, in compliance with Union law on the protection of personal data.

7. The ***participants*** shall submit periodic reports and a final report to the Interoperable Europe Board and the Commission on the results from the ***interoperability*** regulatory sandboxes, including good practices, lessons learnt***, security measures*** and recommendations on their setup and, where relevant, on the development of this Regulation and other Union legislation supervised within the ***interoperability*** regulatory sandbox. The Interoperable Europe Board shall issue an opinion to the Commission on the outcome of the ***interoperability*** regulatory sandbox, specifying, where applicable, the actions needed to implement new interoperability solutions to promote the cross-border interoperability of ***trans-European digital*** public services ▌ .

8. The Commission shall ensure that information on the ***interoperability*** regulatory sandboxes is available on the Interoperable Europe portal.

9. The detailed rules and the conditions for the establishment and the operation of the ***interoperability*** regulatory sandboxes, including the eligibility criteria and the procedure for the application for, selection of, participation in and exiting from the sandbox, and the rights and obligations of the participants***, shall be adopted by the Commission through implementing acts in accordance with the examination procedure referred to in Article 22 by [… 12 months after the entry into force]***.

Article 13

Training

1. The Commission, assisted by the Interoperable Europe Board, shall provide training material on the use of the EIF and on Interoperable Europe solutions***, amongst others, those that are free and open source. Union entities and public sector bodies*** shall provide their staff entrusted with strategical or operational tasks having an impact on ***trans-European digital public services*** with appropriate training programmes concerning interoperability issues.

2. The Commission shall organise training courses on interoperability issues at Union level to enhance cooperation and the exchange of best practices between the staff of ***Union entities and*** public sector bodies, ***targeting public sector employees in particular at local and regional level. The Commission*** shall ***make the training courses publicly accessible online, free of charge***.

2a. The Commission shall promote the development of a certification programme on interoperability matters to promote best practices, human resources qualification and a culture of excellence.

Article 14

Peer reviews

1. A ***voluntary*** mechanism for cooperation between public sector bodies designed to support them to implement Interoperable Europe solutions ***to support trans-European digital***

public services and to help them perform the interoperability assessments referred to in Article 3 ('peer review') shall be established.

2. The peer review shall be conducted by interoperability experts drawn from Member States other than the Member State where the public sector body undergoing the review is located. The Commission may, after consulting the Interoperable Europe Board, adopt guidelines on the methodology and content of the peer-review.

3. Any information obtained through a peer review shall be used solely for that purpose. The experts participating in the peer review shall not disclose any sensitive or confidential information obtained in the course of that review to third parties. The Member State concerned shall ensure that any risk of conflict of interests concerning the designated experts is communicated to the other Member States and the Commission without undue delay.

4. The experts conducting the peer review shall prepare and present within one month after the end of the peer review a report and submit it to the public sector body concerned and to the Interoperable Europe Board. The reports shall be published on the Interoperable Europe portal when authorised by the Member State where the public sector body undergoing the review is located.

Chapter 4

Governance of cross-border interoperability

Article 15

Interoperable Europe Board

1. The Interoperable Europe Board ***('the Board')*** is established. It shall facilitate strategic cooperation and ***provide advice on the application of this Regulation***.

2. The ▌ Board shall be composed of ***one representative of each Member State and of the Commission.***

2a. ***One expert each designated by the Committee of the Regions, the EU Cybersecurity Agency (ENISA) and the European Cybersecurity Competence Centre (ECCC) shall be invited to participate as observers.***



3. The Board shall be chaired by the Commission. ***The Chair may grant observer status in the Board to experts designated by Union entities, regions, organisations and candidate countries***. The Chair may invite to participate, on an ad hoc basis, experts with specific competence in a subject on the agenda. The Commission shall provide the secretariat of the ▌ Board.

The members of the ▌ Board shall make every effort to adopt decisions by consensus. In the event of a vote, the outcome of the vote shall be decided by simple majority of the component members. The members who have voted against or abstained shall have the right to have a document summarising the reasons for their position annexed to the opinions, recommendations or reports.

4. The ▌ Board shall have the following tasks:

(a) support the implementation of ***interoperability frameworks of the Member States and of the institutions, bodies and agencies of the Union*** and other relevant ***Union and*** national policies, strategies or guidelines***, including 'digital-by-default' principle and 'interoperability-by-design' approach***;

▌

(b) adopt guidelines on the interoperability assessment referred to in Article 3(6)***, as well as guidelines on the common checklist set out in the Annex, and update them if necessary***;

(ba) adopt guidelines on sharing the interoperability solutions referred to in Article 4;

(c) propose measures to foster the share and reuse of interoperable solutions;

(d) monitor the overall coherence of the ▌ recommended interoperability solutions***, on national, regional and local level, including the information on their metadata and categorisation***;

(da) analyse the information and evidence collected in accordance with Article 3(2), and provide, on that basis, suggestions in order to improve cross-border interoperability of trans-European digital public services;

(e) propose to the Commission measures to ensure, where appropriate, the compatibility of interoperability solutions with other interoperability solutions that share a common purpose, while supporting, where relevant, the complementarity with or transition to new technologies;

(f) develop the EIF and update it, if necessary, and propose it to the Commission;

(g) assess the alignment of the specialised interoperability frameworks with the EIF and answer the request of consultation from the Commission on those frameworks;

(h) recommend Interoperable Europe solutions ***and the withdraw such recommendations, based on pre-agreed criteria***;

(i) propose to the Commission to publish on the Interoperable Europe portal the interoperability solutions referred to in Article 8(2), or to have them referred to on the portal;

(j) propose to the Commission to set up policy implementation support projects**,** innovation measures and other ***relevant measures, including funding support***;

(ja) identify best practices of integrating interoperable solutions in public procurement and tenders;

(k) review reports from innovation measures, on the use of the ***interoperability*** regulatory sandbox and on the peer reviews and propose follow-up measures, if necessary;

(l) propose measures to enhance interoperability capabilities of public sector bodies, such as trainings;

▌

(m) adopt the Interoperable Europe Agenda;(n) provide advice to the Commission on the monitoring and reporting on the application of this Regulation;

(o) propose measures to relevant standardisation organisations and bodies to contribute to European standardisation activities, in particular through the procedures set out in Regulation (EU) No 1025/2012;

(p) propose measures to collaborate with international bodies ***and research and educational institutions*** that could contribute to the development ***on*** interoperability, especially international communities on open source solutions, open standards or ***technical*** specifications and other platforms ▌;

(q) coordinate with the European Data Innovation Board, referred to in Regulation (EU) No 2022/686 on interoperability solutions for the common European Data Spaces, as well as with any other Union ***entity*** working on interoperability solutions relevant for the public sector;

(r) inform regularly and coordinate with the interoperability coordinators and**,** ***when relevant, with*** the Interoperable Europe Community**,** on matters concerning ***trans-European digital public services, including relevant EU-funded projects and networks***.

▌

(rb) provide to the Commission in a timely manner the necessary input and data required for the effective delivery of the reports in accordance with Article 20.

▌

5. The ▌ Board may set up working groups to examine specific points related to the tasks of the Board. Working groups shall involve members of the Interoperable Europe Community.

6. The ▌ Board shall adopt its own rules of procedure.

Article 16

Interoperable Europe Community

1. The Interoperable Europe Community ***('The Community')*** shall contribute to the activities of the Board by providing expertise and advice***, when requested by the Board***.

2. Public and private stakeholders ***as well as civil society organisations and academic contributors*** residing or having their registered office in a Member State may register on the Interoperable Europe portal as a member of the ▌ Community.

3. After confirmation of the registration, the membership status shall be made public on the Interoperable Europe portal. Membership shall not be limited in time. It may however be revoked by the ▌ Board at any time for proportionate and justified reasons, especially if a person is no longer able to contribute to the ▌ Community or has abused its status as a member of the Community.

4. The members of the ▌ Community may be invited to among other:

(a) contribute to the content of the Interoperable Europe portal;***(aa) provide expertise for the development of interoperability solutions;***

(b) participate in the working groups ***and other activities***;

(c) participate in the ***support measures set out in Chapter 3***.

▌

▌

(cc) promote the use of interoperability standards and frameworks.

5. The Board shall organise once a year an online assembly of the Community.

6. The Board shall adopt the code of conduct for the Community that shall be published on the Interoperable Europe portal.

Article 17

National competent authorities *and single point of contact*

1. ▌ Each Member State shall designate one or more competent authorities as responsible for the application of this Regulation. Member States ***shall designate one single point of contact from among competent authorities***.

2. The ***single point of contact*** shall have the following tasks:

▌

(b) coordinate within the Member State all questions related to this Regulation;

(c) support public sector bodies within the Member State to set up or adapt their processes to do interoperability assessment referred to in Article 3;

(d) foster the share and reuse of interoperability solutions through the Interoperable Europe portal or other relevant portal;

(e) contribute with country-specific knowledge to the Interoperable Europe portal;

(f) coordinate and encourage the active involvement of a diverse range of national***, regional and local entities*** in policy implementation support projects and innovation measures referred to in ***Chapter 3***;

(g) support public sector bodies in the Member State to cooperate with the relevant public sector bodies in other Member States on topics covered by this Regulation.

3. The Member States shall ensure that the competent ***authorities*** ***have*** adequate competencies and resources to carry out, in an effective and efficient manner, the tasks assigned to ***them***.

4. The Member States shall set up the necessary cooperation structures between all national authorities involved in the implementation of this Regulation. Those structures may build on existing mandates and processes in the field.

5. Each Member State shall notify to the Commission, without undue delay, the designation of ***a single point of contact*** and any subsequent change thereto, and inform the Commission of other national authorities involved in the oversight of the interoperability policy. Each Member State shall make public the designation of their ***single point of contact***. The Commission shall publish the list of the designated ***single points of contact***.

Article 18

Interoperability coordinators for *Union entities*

1. ▌ Union ***entities that regulate,*** provide or manage ***trans-European digital*** public services shall designate an interoperability coordinator under the oversight of its highest level of management to ensure the contribution to the implementation of this Regulation.

2. The interoperability coordinator shall support the concerned departments to set up or adapt their processes to implement the interoperability assessment.

Chapter 5
Interoperable Europe planning and monitoring

Article 19

Interoperable Europe Agenda

1. After organising a public consultation process through the Interoperable Europe portal that involves, among others, the members of the ***Community and interoperability coordinators, the*** Board shall adopt each year a strategic agenda to plan and coordinate priorities for the development of cross-border interoperability of ***trans-European digital*** public services ('Interoperable Europe Agenda'). The Interoperable Europe Agenda shall take into account the Union's long-term strategies for digitalisation, existing Union funding programmes and ongoing Union policy implementation.

2. The Interoperable Europe Agenda shall contain:

   (a) ***a*** needs ***assessment*** for the development of interoperability solutions;

   (b) a list of ongoing and planned Interoperable Europe support measures;

   (c) a list of proposed follow-up actions to innovation measures ***including actions in support of open source interoperability solutions***;

   (d) identification of synergies with other relevant Union and national programmes and initiatives.

   (da) indications of available financial opportunities in support of the priorities included;

   ▌

3. The Interoperable Europe Agenda shall not constitute financial obligations ***and further administrative burden***. After its adoption, the Commission shall publish the Agenda on the Interoperable Europe portal ***and provide regular updates on its implementation***.

Article 20

Monitoring and evaluation

1. The Commission shall monitor the progress of the development of ***trans-European digital*** public services to ***support evidence-based policymaking and actions needed*** in the Union ***at national, regional and local levels***. The monitoring shall give priority to the reuse of existing international, Union and national monitoring data and to automated data collection. ***The Commission shall consult the Board in the preparation of the methodology, indicators and the process of the monitoring.***

2. As regards topics of specific interest for the implementation of this Regulation, the Commission shall monitor:

   (a) ***the progress towards*** the implementation of the EIF by the Member States;

   (b) the take-up of the interoperability solutions ***for*** different ***public services*** across the Member States ▌;

   (c) the development of open source ***interoperability*** solutions for the public services, public sector innovation and the cooperation with GovTech actors**,** ***including SMEs and start-ups,*** in the field of cross-border interoperable public services to be delivered or managed electronically in the Union***;***

   (ca) the progress with regards to the cross-border interoperability of trans-European digital public services in the Union;

   ▌

   (cc) enhanced public sector interoperability skills.

   ▌

   ▌

   ▌

3. Monitoring results shall be published by the Commission on the Interoperable Europe portal. Where feasible, they shall be published in a machine-readable format.

3a. The Commission shall annually submit and present to the European Parliament and the Council a report on the interoperability in the Union. The report shall:

(a) cover the progress with regard to the cross-border interoperability of trans-European digital public services in the Union;

(b) identify significant implementation barriers as well as drivers towards cross-border interoperable public services in the Union;

(c) results achieved over time in terms of the implementation of the EIF, the take-up of interoperability solutions, the enhancement of interoperability skills, the development of open source interoperability solutions for public services, and the increase of public sector innovation and cooperation with GovTech actors.

4. By ... at the latest [three years after the date of application of this Regulation], and every four years thereafter, the Commission shall present to the European Parliament and to the Council a report on the application of this Regulation, which shall include conclusions of the evaluation. The report shall specifically assess the need for establishing mandatory interoperability solutions.

4a. The report shall assess in particular:

(a) the impact of the Regulation on cross-border interoperability as an enabler for seamless and accessible digital public services in the Union;

(b) increased efficiency, including by the reduction of administrative burden in online transaction processes thanks to cross-border interoperability for citizens and businesses, in particular on SMEs and startups;

(c) the need for any additional policies, measures or actions that might be required at Union level.

4b. In cases where the obligation to submit the report mentioned in paragraph 3a coincides with the requirement to present a report mentioned in paragraph 4, the Commission may combine both reports into a single comprehensive report.

Chapter 6
Final provisions

Article 21

Costs

1. Subject to the availability of funding, the general budget of the Union shall cover the costs of:

   (a) the development and maintenance of the Interoperable Europe portal;

   (b) the development, maintenance and promotion of Interoperable Europe solutions;

   (c) the Interoperable Europe support measures.

2. These costs shall be met in compliance with the applicable provisions of the relevant basic act.

Article 21a

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 22

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from [3 months after the date of entry into force of this Regulation]***, except for Articles 3 and 17, which shall apply from [9 months after the date of entry into force of this Regulation]***.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

Annex -1

Common checklist for interoperability assessments

The following items shall be included in the reports referred to in Article 3.

1. General Information

- ***Organisation providing the report and other relevant information***
- ***Concerned initiative, project or action***

2. Requirements

- ***Trans-European digital public services concerned***
- ***Binding requirements assessed***
- ***Stakeholders affected, public and/or private***
- ***Identified effects on cross-border interoperability***

3. Results

- ***Interoperable Europe solutions identified for use***
- ***Other relevant interoperability solutions, when applicable, including machine-to-machine interfaces***
- ***Remaining barriers to cross-border interoperability***