German comments of the third compromise proposal on the Interoperable Europe Act (document 11287/23)

Reference	Presidency 3rd compromise text	Drafting Suggestions	Comments
(1) (a)	-	(1) (a) Member States should be able to take the necessary measures to ensure the protection of the essential interests of their national and public security and their interests in the area of defence, to safeguard national policy and public policy and public security, and to allow for the prevention, investigation, detection and prosecution of criminal offences. For that purpose, Member States may decide that specific essential and important public and/or commercial entities that carry out activities or provide services in and for these areas should not be obliged to comply with the legal obligations laid out in this Regulation as regards those activities or those services. Where an essential or important entity provides an exclusive service to a public administration entity that is excluded from the scope of this Regulation, Member States therefore may decide that this entity is not obliged to comply with legal obligations under this Regulation in regards to the exclusive service. Furthermore, no Member State should be obliged to supply	We are open to discuss a more concise wording, but it should contain an explicit exclusion of national and public security as well as defence. A similar exclusion is currently under discussion in the context of NIS2 Directive https://data.consilium.europa.eu/doc/document/ST-10193-2022-INIT/x/pdf. Such an exclusion is to been seen mandatory as well in order to safeguard national security interests specifically when it comes to govermental comminication infrastructre and technology that is either used in the areas of defence, national security, public security, or law enforcement such as Public Safety Digital Radio or the Federal Network (Netze des Bundes) for common communication used by all federal agencies.

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		information the disclosure of which would be contrary to the essential interests of its defence or public security. The exclusion of military and public administration entities and Third Parties providing services for public administration or military from the scope of this Regulation should therefore apply to public administration entities and Third Parties providing Services for these entities specifically in the communication sector (such as providing or managing digital safety radion, comunication services, communication networks, communication infrastructure or information systems in the areas of defence, national security, public security, or law enforcement, including the investigation, detection and prosecution of criminal offences) whose activities are predominantly carried out and/or are used by other entities in the areas of defence, national security, public security, or law enforcement.	

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		Public administration entities whose activities are only marginally related to such areas should still be covered by this Regulation.	
(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 public sectors that are controllers or providers of network and information systems used to facilitate or manage public services. This objective includes the Commission and other institutions, bodies and agencies of the Union, 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.	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, while guaranteeing sufficient standards of data protection and data security, to align the rules as far as possible for all public sectors that are controllers or providers of network and information systems used to facilitate or manage public services. (…)	
(26)	Interoperable Europe support measures could benefit from safe spaces for experimentation, while ensuring	(…) The objectives of the regulatory sandboxes should be to foster interoperability through	We suggest to phrase the former Article as a recital.

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	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 regulatory sandboxes. Regulatory sandboxes should consist in controlled test environments that facilitate the development and testing of innovative solutions before such systems 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 regulatory sandboxes' implementation. The European Data Protection Supervisor may impose administrative fine to Union institutions and bodies 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.	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. The establishment of regulatory sandboxes shall contribute to improving legal certainty through cooperation with the authorities involved in the regulatory sandbox with a view to ensuring compliance with this Regulation and, where appropriate, with other Union and Member States legislation. To ensure a uniform implementation across the Union and economies of scale, it is appropriate to establish common rules for the regulatory sandboxes' implementation.	

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(39)	(…) Therefore, the provisions on interoperability assessments and national competent authorities should apply to public sector bodies at State level and to the institutions, bodies and agencies of the Union from [six months following the entry into force of this Regulation]. Moreover, to avoid dispropor-tionate burden on regional and local public sector bodies and to allow for sufficient time to develop the needed capabilities, the provision on interoperability assessments should apply to them from [twelve months following the entry into force of this Regulation].	(…)Therefore, the provisions on interoperability assessments and national competent authorities should apply to public sector bodies at State level and to the institutions, bodies and agencies of the Union from [~~six~~nine months following the entry into force of this Regulation]. Moreover, to avoid disproportionate burden on regional and local public sector bodies and to allow for sufficient time to develop the needed capabilities, the provision on interoperability assessments should apply to them from [twelve months following the entry into force of this Regulation].	
	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,		
Article 1 – 1.	1. This Regulation lays down measures to promote the cross-border interoperability of **trans-European digital public services thus contributing to the interconnection and interoperability of their** network and information systems~~which are used to provide or manage public services in the Union~~ by establishing common rules and a **governance** framework ~~for coordination on public sector interoperability, with the aim of fostering the development of an interoperable trans-European digital public services infrastructure.~~		
Article 1 – 2.	2. This Regulation applies to **institutions, bodies and agencies of the Union and** public sector bodies of		This applies to almost every (national) authority, which is why

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	Member States ~~and~~ ~~institutions, bodies and agencies of the Union~~ that **regulate,** provide**,** ~~or~~ manage ~~network or information systems that enable public services to be delivered or managed electronically~~ **or implement trans-European digital public services, or contribute to such regulation, provision, management or implementation.**		it is important to specify some of the specific administrative services for which interoperability of information systems is particularly useful.
Article 1 – 3.	**3. This Regulation does not regulate the definition, provision, management or implementation of trans-European digital public services and shall apply ~~is~~ without prejudice to the Member States' responsibility for safeguarding national security and their power to safeguard other essential State functions, including ensuring the territorial integrity of the State and maintaining law and order.**	**3. This Regulation […]** **[…] is without prejudice to the Member States' responsibility for safeguarding national security** or their power to safeguard other essential State functions, including ensuring defence, national security, public security, or law enforcement. 3a. This Regulation does not apply to public sector bodies of Member States and institutions, bodies and agencies of the Union that provide or manage network or information systems in the areas of defence, national security, public security, or law enforcement, including the investigation, detection and prosecution of criminal offences. 3b. Member States may exempt specific entities that provide or manage network or information systems which carry out	The addition might be misleading, because Article 2 (1a) contains a definition of trans-European digital public services. Moreover, the Regulation introduces a (binding) interoperability assessment, which might affect the "management" of public services. In order to ensure the functioning of national security authorities, the exception clause 3a is necessary. Furthermore, we would suggest including healthcare or digitalization tools such as the TI (for example, one could refer to EHR systems based on the EHDS

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		activities and or provides services in the areas of defence, national security, public security or law enforcement, including activities relating to the prevention, investigation, detection and prosecution of criminal offences, or which provide services exclusively to the public administration entities referred to in paragraph 3a are not obliged to comply with the obligations laid down in this Regulation as regards those activities or those services.	draft) in the catalog of excluded areas. After consulting with the BDBOS, we see a connection between the exception provision of Article 1(3)(a,b) and the Data Governance Regulation as a feasible way. We are open to discuss a more concise wording, but it should contain an explicit exclusion of national and public security as well as defence. A similar exclusion is currently under discussion in the context of NIS2 Directive https://data.consilium.europa.eu/doc/document/ST-10193-2022-INIT/x/pdf. Such an exclusion is to been seen mandatory as well in order to safeguard national security interests specifically when it comes to governmental communication infrastructure and technology that is either used in the areas of defence,

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			national security, public security, or law enforcement such as Public Safety Digital Radio or the Federal Network (Netze des Bundes) for common communication used by all federal agencies.
Article 2 – (1)	(1) 'cross-border interoperability' means the ability of **organisations to interact, involving the cross-border sharing of information and knowledge through digital or digitizable processes and addressing the legal, organisational, semantic and technical requirements of the cross-border interaction** ~~network and information systems to be used by public sector bodies in different Member States and institutions, bodies, and agencies of the Union in order to interact with each other by sharing data by means of electronic communication~~;		
Article 2 – (1a)	**(1a) 'trans-European digital public services' means digital or digitizable services provided by Union entities or public sector bodies of Member States either to one another, or to natural or legal persons in the Union, and primarily aiming at interaction across Member States borders or between Member States and Union entities;**	**(1a) 'trans-European digital public services' means digital ~~or digitizable services~~ provided by Union entities or public sector bodies of Member States ~~either to one another,~~ or to natural or legal persons in the Union, and primarily aiming at interaction across Member States borders or between Member States and Union entities;**	In order to clarify the scope of the IEA, it would be helpful to list some "trans-European digital public services" as (not exhaustive) examples. Thereby, national entities could easier identify whether they are affected by the IEA or not. The

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		Such services include, in particular, the following: (…)	examples should be linked to the specific administrative services for which interoperability of information systems is particularly useful (e.g. health services). It might help to consult the respective authorities to list the services which they identify as most relevant in this context.
Article 2 – (2a)	~~**(2a) 'cross-border services' means data exchange between information systems by dedicated functions and procedures across national jurisdictions in the Union in support of the provision of public services;**~~		
Article 2 – (2b)	~~**(2b) 'public services' means services provided by public sector bodies of Member States or institutions, bodies or agencies of the Union either to one another, or to natural or legal persons in the Union.**~~	(2b) 'public services' means services provided by public sector bodies of Member States or institutions, bodies or agencies of the Union ~~either to one another, or~~ to natural or legal persons in the Union.	"Public service" should be interpreted clearly as public administrative services in the strict sense. Public services within the administration would include a substantial number of administrative services with cross-border aspects, where the main focus is however national. Thus, a lot of administrative burden would be created if these intra-administrative services would need to undergo interoperability assessments

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			without hardly any additional benefits.
Article 2 – (3)	(3) 'interoperability solution' means a **reusable asset** ~~technical specification, including a standard, or another solution, including conceptual frameworks, guidelines and applications,~~ ~~describing~~ **concerning** legal, organisational, semantic or technical requirements to ~~be fulfilled by a network and information system in order to enhance~~ **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**;		
Article 2 – (3a)	**(3a) 'Union entity' means institutions, bodies or agencies of the Union;**		
Article 2 – (4)	(4) 'public sector body' means a public sector body **of Member States** as defined in Article 2, point (1), of Directive (EU) 2019/1024;		
Article 3 – 1.	1. Where a **Union entity or a** public sector body ~~or an institution, an agency or body of the Union~~ intends to set **binding requirements** ~~**for one or several**~~ ~~up a new or significantly modify an existing~~ ~~network and information systems that enables public services to be delivered or managed electronically~~ **that impact on the cross-border interoperability of one or several trans-European digital public services**, it shall carry	Where a Union entity or a public sector body intends to set **binding requirements of legal, organisational, semantic or technical nature** that impact on the cross-border interoperability of one or several trans-European digital public services, it shall carry out an assessment of the expected impacts.	The term "requirements" is very vague. One could specify it in line with the definition in Article 2 (1). Even then it would be a very broad scope. Another idea would be to introduce a definition of "requirements" in Article 2.

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	out an assessment of the **expected** impacts ~~of the planned action on cross-border interoperability~~ ('interoperability assessment') in the following cases:		In addition, it is unclear what type of **causality** must exist between the requirement and the impact on interoperability. Are also indirect impacts covered? Who decides whether there is a relevant impact?
Article 3 – 1.(a)	(a) ~~where the **requirements** intended set-up or modification affects one or more network and information systems used for the provision of cross-border services across several sectors or administrations;~~ **for Union entities, prior to the adoption or implementation of any initiative that intends to set the above mentioned requirements; or**		
Article 3 – 1.(~~b~~)	~~(b) where the **requirements** intended set-up or modification will most likely result in procurements for network and information systems used for the provision of cross-border services above the threshold set out in Article 4 of Directive 2014/24/EU; **or**~~		
Article 3 – 1.(b)	(~~b~~c) ~~where the~~ **for public sector bodies, prior to the adoption or implementation of the above mentioned requirements** ~~intended set-up or modification concerns a network and information system used for the provision of cross-border services and~~ **where they have not been set up at Union level or implemented by solutions provided by Union entities, or where**	(b) for public sector bodies, prior to the adoption or implementation of the above mentioned requirements where they have not been set up at Union level or implemented by solutions provided by Union entities,	Here, two different points are merged into one. Perhaps it would be better to separate them? It would serve the comprehensibility.

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	the interoperability assessment of such requirements is a condition of funding Union programmes.	(c) for public sector bodies, where the interoperability assessment of such requirements is a condition of funding Union programmes.	
Article 3 – 2.	The **Union entity or** public sector body ~~or the institution, body or agency of the Union~~ concerned shall publish a report presenting the outcome of the interoperability assessment on ~~its website~~ **a public location, and at least in a website. The report shall not reveal defence-related or security-related issues**. **In addition, the report shall be transmitted to the Interoperable Europe Board, for the fulfilment of the task referred in article 15(4)(e).**		
Article 3 – 3.	3. ~~The national competent authorities and the interoperability coordinators shall~~ **Union entities and public sector bodies may decide which body** provide**s** the necessary support to carry out the interoperability assessment. The Commission ~~may~~ **shall** provide technical tools to support the assessment.		
Article 3 – 4.	4. The interoperability assessment shall ~~contain at least:~~ **be done in accordance with the checklist included in the Annex, in order to reflect the interoperability impact of the proposed binding requirements.**		
Article 3 – 4.(~~a~~).	~~(a) a description of the intended operation and its impacts on the cross-border interoperability of one or several network and information systems concerned,~~		

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	~~including the estimated costs for the adaptation of the network and information systems concerned;~~		
Article 3 – 4.(~~b~~).	~~(b) a description of the level of alignment of the network and information systems concerned with the European Interoperability Framework, and with the Interoperable Europe solutions, after the operation and where it has improved compared to the level of alignment before the operation;~~		
Article 3 – 4.(~~c~~).	~~(c)~~ **~~when applicable,~~** ~~a description of the Application Programming Interfaces that enable machine-to-machine interaction with the data considered relevant for cross-border exchange with other network and information systems.~~		
Article 3 – 5.	5. The **Union entity or** public sector body~~, or institution, body or agency of the Union~~ concerned ~~shall~~ **shall endeavour to** consult recipients of the services **directly** affected or their representatives ~~on the intended operation if it directly affects the recipients~~. This consultation is without prejudice to the protection of commercial or public interests or the security of such systems.	5. The public sector body, or institution, body or agency of the Union concerned ~~shall~~ may consult recipients of the services directly affected or their representatives. This consultation is without prejudice to the protection of commercial or public interests or the security of such systems.	We think mandatory consultation of recipients of the services might in certain cases create too much of a burden on the respective public sector bodies, institutions and bodies or agencies of the Union and thus suggest to make the consultation voluntary.
Article 3 – 6.	6. The Interoperable Europe Board shall adopt guidelines **on** ~~on the content of~~ the interoperability assessment by ... at the latest [one year after the entry into force of this Regulation]~~, including practical check lists~~.		

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Article 3 – 7.	**7. Where an interoperability assessment has already been carried out in relation to specific requirements, the Union entity or the public sector body~~, or institution, body or agency of the Union~~ concerned shall not be required to perform a new interoperability assessment in relation to those requirements.**	7. Where an interoperability assessment or a comparable assessment of cross-border interoperability requirements set by other Union legislation has already been carried out in relation to specific requirements, **the Union entity or the public sector body, or institution, body or agency of the Union concerned shall not be required to perform a new interoperability assessment in relation to those requirements.**	Some public sector bodies are already subject to cross-border interoperability requirements by other Union legislation. For example, legal, organizational, semantic and technical interoperability in the scope of the coordination of social security systems is exhaustively regulated by Regulations (EC) No. 883/2004 and No. 987/2009 with reference to electronic data exchange under EESSI. Public sector bodies underlying such existing interoperability regulations should therefore be explicitly exempted from the interoperability assessment.
Article 4 – 1.	1. A **Union entity or** public sector body~~ or an institution, body or agency of the Union~~ shall make available to any other such entity that requests it, interoperability solutions that support ~~the public services that it delivers or manages electronically~~ **a trans-European digital public service**. The shared content shall include the technical documentation and, where applicable, the	1. A **Union entity or** public sector body~~ or an institution, body or agency of the Union~~ shall make available to any other such entity that requests it, interoperability solutions that support ~~the public services that it delivers or manages electronically~~ **a trans-European digital public service**. The shared content shall include the technical documentation and, where	A provision should be made that makes fraudulent requests more difficult or prevents them. It should be clarified how the requesting public body identifies and authenticates itself and that the requesting public body must demonstrate a legitimate

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	documented source code. ~~This~~ **The** obligation to share shall not apply to any of the following interoperability solutions:	applicable, the documented source code. ~~This~~ **The** obligation to share shall not apply to any of the following interoperability solutions. In doing so, the requesting public sector body shall declare a legitimate interest in the interoperability solution by specifically proving that the interoperability solution supports public services that it provides or manages electronically. In addition, the requesting public sector body shall prove that the processes supported by the interoperability solution are within the scope of the public tasks of the public sector bodies or Union institutions, bodies or agencies concerned, as defined by law or other binding rules or, in the absence of such rules, as defined in accordance with normal administrative practice in the Member State or Union administrations concerned, provided that the scope of the public tasks is transparent and verifiable.	interest in an interoperability solution.
Article 6 – 2.	2. The EIF shall provide a model and a set of recommendations on legal, organisational, semantic and technical interoperability, 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 carried out in accordance with **Article 3.**		

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Article 8 – 1.(h)		(h) other functions defined by the Interoperable Europe Board.	The Board should have the possibility to create additional functionalities of the portal.
Article 11 – 5.	5. The Commission, after consulting the Interoperable Europe Board and, where the regulatory sandbox would include the processing of personal data, the European Data Protection Supervisor, shall upon joint request from at least three ~~participating~~ **participants** ~~public sector bodies~~ authorise the establishment of a regulatory sandbox. This consultation should 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 network and information systems which are used to provide or manage public services to be delivered or managed electronically by one or more institutions, bodies or agencies of the Union, ~~eventually~~ **including** with the participation of public sector bodies, no authorisation is needed.	The Commission, after consulting the Interoperable Europe Board and, where the regulatory sandbox would include the processing of personal data, the European Data Protection Supervisor, shall upon joint request from at least ~~three~~ two participants authorise the establishment of a regulatory sandbox. Where the regulatory sandbox would include the processing of personal data, the [European Data Protection Supervisor/Commission] shall inform the competent national data protection.	We think it would also be sufficient if the establishment of a regulatory sandbox is requested by only two participating public sector bodies. As the national data protection supervisory authorities are included in the operation of Regulatory Sandboxes acorrding to para. 2, they should at least be informed on the intention of establishing a regulatory sandbox.
Article 12 – 1.	1. The participating public sector bodies **or institutions, bodies, and agencies of the Union** shall ensure ~~that~~, to the extent the ~~innovative interoperability solution~~ **operation of the regulatory sandbox requires** ~~involves~~ the processing of personal data or otherwise falls under the supervisory remit of other national authorities providing or supporting	(…) GovTech ecosystem such as national or European standardisation organisations, notified bodies, research and experimentation labs, innovation hubs, relevant stakeholders, civil society organisations, Third Parties entities supporting government entities in their function	For the broad participation of all relevant organisations, the public bodies involved should also have the possibility to involve relevant stakeholders and civil society organisations.

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	access to data, **that** the national ~~data protection~~ **supervisory** authorities and those other national authorities are associated to the operation of the regulatory sandbox. As appropriate, the ~~participating~~ **participants** ~~public sector bodies~~ may allow for the involvement in the 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. ~~Cooperation may also be envisaged with third countries establishing mechanisms to support innovative interoperability solutions for the public sector.~~	and companies wishing to test innovative interoperability solutions.	
Article 12 – 3.(g)	(g) where personal data are processed, an indication of the categories of personal data concerned, the purposes of the processing for which the personal data are intended and the actors involved in the processing and their role.	(g) where it is necessary to process personal data and without prejudice to Articles 12 to 15 of Regulation (EU) 2016/679, an indication of the categories of personal data concerned, the purposes of the processing, ~~for which the personal data are intended and~~ the actors involved in the processing and their role and the legal basis for the data processing.	
Article 12 - 6.	6. Personal data **lawfully collected for other purposes** may be processed in the regulatory sandbox subject to the following cumulative conditions:	6. The development, testing and validation of interoperability solutions shall, wherever possible, be conducted by using non-personal, anonymized or synthetic data. In specific cases,	It should be clarified whether national data protection regulations also apply to the living laboratories. We kindly ask

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		where a certain interoperability solutions requires the processing of personal data, ~~P~~personal data ~~lawfully collected for other purposes~~ may be processed in the regulatory sandbox subject to the following cumulative conditions:	to clarify the relationship between the regulatory sandboxes, the GDPR and the national data protection regulations. The insertion of EWG 27a does not provide clarity. We are critical of the addition of "lawfully collected for other purposes". In particular, the legal basis would no longer allow the collection and processing of new data in the regulatory sandbox, which could significantly reduce the benefits of the sandboxes for the participating authorities.
Article 12 - 6. (d)	(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 authorised persons have access to that data;		It should be stated who the authorized persons are.
Article 12 - 6. (g)	(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;		If possible, it should be stated how long the retention period is. If the retention period is specified by an implementing act of the Commission at a later

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			date, this should also be included in the Article or at least in a recital-
Article 12 – 8.	8. The Commission shall ensure that information on the regulatory sandboxes is available on the Interoperable Europe portal.	The Commission shall ensure that information on opportunities to establish and participate in the regulatory sandboxes and on their key outcomes is available on the Interoperable Europe portal.	The Commission should provide easily accessible information to encourage the establishment of regulatory sandboxes and to allow public sector bodies and stakeholders to learn from completed projects.
Article 15 – 1.	1. The Interoperable Europe Board **('the Board')** is established. It shall facilitate strategic cooperation and ~~the exchange of information on cross-border interoperability of network and information systems which are used to provide or manage public services to be delivered or managed electronically in the Union~~ provide **guidance for the application of this Regulation**.	The Interoperable Europe Board **('the Board')** is established. It shall facilitate strategic cooperation **between the EU Member States** and provide guidance for the application of this Regulation **as well as for the joint digital transformation in the public administration.**	Beyond providing guidance for the application of this Regulation, the Advisory Board could provide guidance also for interoperability and digital transformation in the EU in a more general sense, setting standards among member states in regular exchanges at strategic level.
Article 15 – 2 (a)	The Interoperable Europe Board shall be composed of: (a) one represenative of each Member State	The Interoperable Europe Board shall be composed of: (a) one represenative of each Member State. **To ensure strategic direction and enforcement of the advisory board, representation at the CIO level is recommended**;	In the context of the informal CIO network meeting, a stepping up of cooperation between the member states was proposed. The Advisory Board offers the CIO's of the EU member states the opportunity to intensify their exchange, to develop common

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			standards, thereby decisively advancing the digital transformation in Europe.
Article 15 - 4.	4. The ~~Interoperable Europe~~ Board shall have the following tasks:		
Article 15 – 4.(a)	(a) support the implementation of ~~national~~ interoperability frameworks **in ~~Member States and institutions, bodies and agencies of the~~ Union entities and public sector bodies,** and other relevant **Union or** national **~~or~~** policies, strategies or guidelines;	~~(a) support the implementation of national interoperability frameworks and other relevant national policies, strategies or guidelines;~~	The implementation as well as decisions on supportive measures for the implementation of national interoperability frameworks and other relevant national policies, strategies or guidelines should remain under the sole responsibility of the respective Member State.
Article 15 – 4.(b)	(b) adopt guidelines on ~~the content of~~ the interoperability assessment referred to in Article 3(6) **and update them if necessary**;		
Article 15 – 4.(da)	**(da) based on a report made by the secretariat, analyse the information provided by the interoperability assessments referred to in Article 3, extract conclusions from the outcomes and provide recommendations, in order to improve trans-European digital public services interoperability;**		
Article 15 – 4.(j)	(j) propose to the Commission to set up policy implementation support projects**,** ~~and~~ innovation measures and other **relevant** measures**,** ~~that the~~		

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	~~Interoperable Europe Community may propose~~ **including Union funding support**;		
Article 15 – 4.(p)	(p) propose measures to collaborate with international bodies that could contribute to the development **on** ~~of the cross-border~~ interoperability, especially international communities on open source solutions, open standards or **technical** specifications and other platforms ~~without legal effects~~;		
Article 15 – 4.(r)	(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** ~~cross-border interoperability of network and information systems~~.		
Article 16 – 1.	1. The Interoperable Europe Community **('The Community')** ~~is established. It~~ shall contribute to the activities of the ~~Interoperable Europe~~ Board by providing expertise and advice**, when requested by the Board**.		
Article 16 – 4.(c)	(c) participate in the ~~peer reviews~~ **support measures set out in Chapter 3**.		
Article 17	**National competent authorities and single point of contact**		
Article 17 – 1.	1. ~~By ... at the latest [the date of application of this Regulation],~~ ~~e~~**E**ach Member State shall designate one or more competent authorities as responsible for the application of this Regulation. Member States ~~may~~ **shall** designate ~~an existing authority to that effect~~ **one**		

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	single point of contact from among competent authorities.		
Article 17 – 2.(b)	(~~c~~**b**) support public sector bodies within the Member State to set up or adapt their processes to do interoperability assessment referred to in Article 3;	~~(b) support public sector bodies within the Member State to set up or adapt their processes to do interoperability assessment referred to in Article 3;~~	We suggest the deletion of this point, since both the responsibility and the knowledge to set up or adapt their processes should lie within the respective public sector bodies themselves and a supporting mechanism would be difficult to set up and maintain especially in large states with federal structures.
Article 17 – 2.(e)	(~~f~~**e**) coordinate and encourage the active involvement of a diverse range of national entities ~~in the Interoperable Europe Community and their participation~~ in policy implementation support projects ~~as referred to in Article 9~~ and innovation measures referred to in ~~Article 10~~ **Chapter 3**;		
Article 17 – 3.	3. The Member States shall ensure that the competent authority has adequate competencies and resources to carry out, in an effective and efficient manner, the tasks assigned to it.	The Member States shall ensure that the competent authority ~~has adequate competencies and resources to~~ can carry out, in an effective and efficient manner, the tasks assigned to it.	For Germany, it is important that the budgeting procedures at national level are not prejudiced. Therefore, this paragraph should be adapted in such a way that it does not result in a requirement for the allocation of corresponding financial resources.

Reference	Presidency 3rd compromise text	Drafting Suggestions	Comments
Article 18	**Interoperability coordinators for ~~institutions, bodies and agencies of the~~ Union entities**		
Article 18 – 1.	1. ~~All institutions, bodies and agencies of the~~ Union **entities** that **regulate,** provide or manage ~~network and information systems that enable~~ **trans-European digital** public services ~~to be delivered or managed electronically~~ shall designate an interoperability coordinator under the oversight of its highest level of management to ensure the contribution to the implementation of this Regulation.		
Article 19 – 1.	1. After organising a public consultation process through the Interoperable Europe portal that involves, among others, the members of the ~~Interoperable Europe~~ Community **and interoperability coordinators**, the ~~Interoperable Europe~~ Board shall adopt each year a strategic agenda to plan and coordinate priorities for the development of cross-border interoperability of network and information systems which are used to provide or manage public services to be delivered or managed electronically. ('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.	1. After organising a public consultation process through the Interoperable Europe portal that involves, among others, the members of the ~~Interoperable Europe~~ Community **and interoperability coordinators**, the ~~Interoperable Europe~~ Board shall adopt each year a strategic agenda to plan and coordinate priorities for the development within Union programmes and initatives of cross-border interoperability of network and information systems which are used to provide or manage public services to be delivered or managed electronically. ('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.	Taking former recital 35 into account, the prioritisation can only concern programmes financed by the EU. Any prioritisation of national measures in this regard is to be carried out by the Member States alone, as this would otherwise be like prejudicing national budget negotiations.

Reference	Presidency 3rd compromise text	Drafting Suggestions	Comments
Article 22 a.	**a. Article 3 shall apply to ~~institutions, bodies and agencies of the~~ Union entities and public sector bodies at State level from [6 months after the date of entry into force of this Regulation].**	a. Article 3 shall apply to ~~institutions, bodies and agencies of the~~ Union entities and public sector bodies at State level from [~~6~~9 months after the date of entry into force of this Regulation].	
Article 22 b.	**b. Article 17(1) shall apply from [6 months after the date of entry into force of this Regulation];**	b. Article 17(1) shall apply from [~~6~~9 months after the date of entry into force of this Regulation];	

Council of the European Union
General Secretariat

Brussels, 21 August 2023

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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Telecommunications and Information Society
Subject:	Interoperable Europe Act: DE comments of the 3rd compromise proposal (doc. 11287/23)

Delegations will find in the annex the DE comments of the 3rd compromise proposal on IEA (doc. 11287/23).