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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Telecommunications and Information Society
Subject:	Interoperable Europe Act: PL comments on articles 1-2, 15-19

Delegations will find in the annex the PL comments on articles 1-2, 15-19.

Chapter 1 General provisions

Article 1 (Subject matter and scope)

No comments.

Article 2 (Definitions)

Para 3

This article defines an "interoperability solution" as "technical specification, including a standard, or another solution, including conceptual frameworks, guidelines and applications, describing legal, organizational, semantic or technical requirements to be fulfilled by a network and information system in order to enhance cross-border interoperability."

In the context of the above-mentioned definition it is hard to understand how an "application" (a program or piece of software designed to fulfil a particular purpose) can define legal, organizational, semantic or technical requirements. However, Poland does not propose to remove the word "application" from the above definition - instead it recommends adopting the definitions of two different terms, which is discussed below.

It seems that the proposed definition incorrectly combines the concepts of "interoperability solution" and "interoperability specification" - where such concepts could be understood as:

- "Interoperable solution": a digital public service¹ - including elements enabling its implementation and operation, e.g. processes, data (including algorithms), ICT systems (including documented software source code and technical documentation of the software) or ICT networks - which is or which are compliant with the interoperability specification.
- An "interoperability specification": specification that defines the requirements for an interoperability solution in relation to the legal, organizational, semantic or technical layers of cross-border interoperability.

Perhaps it is a matter of mistake. In the early version of the draft regulation, discussed within the Interoperability of European Public Services expert group², the term "interoperability specification" was defined as follows: "'interoperability specification' for the public sector means a legal, organizational, semantic or technical specification adopted in accordance with this Regulation that an interoperable digital public service meets in fulfillment of the requirements in the European Interoperability Framework."

The difference between an "interoperable solution" and an "interoperability specification" is particularly clear in the context of art. 4 section 1, which refers to the sharing of "interoperability solutions". Requirements set out in art. 4 section 1 does not indicate the sharing of technical specifications – including standards, or another solutions, including conceptual frameworks, guidelines and applications, describing legal, organizational, semantic or technical requirements to be fulfilled by a network and information system in order to

¹ According to art. 1 section 1 of the regulation ("Subject matter and scope"), which is about fostering the development of interoperable trans-European digital public services infrastructure.

² Webpage: <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupID=3714>

enhance cross-border interoperability. Instead "solutions" (and therefore not "specifications") are required to be made available with the technical documentation and, where appropriate, with documented source code.

This leads to the conclusion that the draft regulation should have separate concepts of "interoperability solution" and "interoperability specification" - or only "interoperability solution" - in line with the definitions given above.

This issue requires clarification.

Para 5

In the draft regulation "data" means data as defined in Article 2, point (1), of Regulation (EU) 2022/868 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act).

According to the abovementioned definition "data" means "any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audiovisual recording, including in the form of an audio, visual or audiovisual recording" (Article 2(1) of the DGA).

In the context of this definition the following questions arise:

- What is meant by the "representation" mentioned above?
- What is a digital representation of "actions"?

Moreover - what is the justification for using the plural of the term "data" and not the singular "datum" in the above definition? This approach makes impossible to indicate a single datum of an object - for example the phrase "E-mail address is personal datum" cannot be used.

How can "data" be the representation of "information"? It is important not to confuse the terms "data" and "information". In the literature on the subject there's a distinction between these terms, for example:

"Data represents facts. In computer-aided management systems data is encoded using appropriate symbols. They can be recorded, processed and sent. Data is sent to the recipient's consciousness in the form of a message, so each message contains data. Although the data themselves have no meaning or purpose, the selection of appropriate symbols may impose or suggest their specific interpretation.

Information is the data contained in the message, interpreted by the recipient, having meaning for him/her and bringing to his awareness an element of novelty, i.e. reducing his ignorance. In order for the data to become information, it is necessary for the recipient to decide, firstly, whether he wants to interpret the data, and secondly, whether they are understandable to him/her and to what extent. Then the data becomes a message to the recipient. Next the recipient determines whether the message is a repetition of something he/she already knows, or whether it is an element of novelty for him/her, if so, the message becomes information. Since information depends on the recipient's interpretative abilities, it is subjective."

Therefore Poland proposes the following definition of "datum":

"datum - the value of an object's property expressed quantitatively or qualitatively."

Chapter 4 Governance of cross-border interoperability

Article 15 (Interoperable Europe Board)

Section 4

The draft regulation states:

"The Interoperable Europe Board shall have the following tasks:

(a) support the implementation of national interoperability frameworks and other relevant national policies, strategies or guidelines"

In Poland's opinion it should be clarified **what will be nature and scope of this support for the implementation of the national interoperability framework and other relevant national policies, strategies or guidelines.**

The draft regulation also indicates:

"The Interoperable Europe Board shall have the following tasks:

(n) provide advice to the Commission on the monitoring and reporting on the application of this Regulation"

In the opinion of Poland reporting obligations expected by the draft (articles 12, 14 and 15) should put the minimal required burden on the member states public administrations by:

- **limiting their frequency,**
- **standardization of the scope of data and automation (as far as possible) of providing the EU institutions with the necessary data,**
- **reuse of existing data held by the Commission (in particular data available from other reporting mechanisms).**

Such an approach is consistent with the provisions of art. 20 section 1 of the regulation.

The scope of Interoperable Europe Board tasks is very extensive and affect many areas of common policies - including those of the existing large-scale EU information systems. In Poland's opinion it is worth considering inviting representatives of EU agencies directly involved in the implementation of ICT systems (e.g. ENISA and euLISA) to the Interoperable Europe Board as observers.

Article 16 (Interoperable Europe Community)

No comments.

Article 17 (National competent authorities)

Para 2

The draft regulation indicates:

"The competent authority shall have the following tasks:

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

In Poland's opinion the existing reporting mechanisms should be used, including information from the "Digital Public Administration factsheet" (in particular the chapter "Interoperability State of Play") and "eGovernment Benchmark" - in accordance with the comment submitted to art. 15 para 4.

Article 18 (Interoperability coordinators for institutions, bodies and agencies of the Union)

No comments.

Article 19 (Interoperable Europe planning and monitoring)

No comments.