

Platis - Anastassiadis & Associates

The associate law firm of EY Greece

Interoperable Europe Act: Promoting Trans-European Digital Public Services and Cross-Border Interoperability for the Public Sector



The better the question. The better the answer. The better the world works.

The Interoperable Europe Act (Regulation EU 2024/903) establishes the framework for the development of trans-European digital public services and the interoperability of the underlying network and information systems of public sector bodies in the EU. The provisions of the Act are relevant for public sector entities, public procurement contractors and gov-tech businesses.

On 11 July 2024, the Regulation (EU) 2024/903 of the European Parliament and of the Council of 13 March 2024 laying down measures for a high level of public sector interoperability across the Union ("Interoperable Europe Act" or "Act") has entered into application. According to the Regulation, all domestic providers of intermediary services, including hosting service providers, must register in the EETT Registry of Intermediary Service Providers ("Registry") by October 22, 2024.

The Interoperable Europe Act has the purpose of strengthening the development of the cross-border interoperability of network and information systems which are used to provide or manage public services in

the EU, in order to allow public administrations in the Union to cooperate and make public services function across borders.

The Act applies to national, regional, and local public sector bodies. Its provisions also have an indirect impact to:

- Private stakeholders and service providers who collaborate with public administrations, particularly in the design and delivery of digital public services.
- Civil society organizations, research institutions, and GovTech startups that contribute to innovation in public service delivery.

Along with the Data Governance Act, the Data Act and other EU data law instruments, the Interoperable Europe Act is expected to facilitate the flow of public sector data across borders and reinforce European common data spaces in strategic sectors of the economy, such as energy, health, education, transport and tourism.

1. Context, Background & Definitions

Public sector interoperability is defined in the Act as the ability of public sector bodies to interact with each other by sharing data, information and knowledge through digital processes in line with the legal, organisational, semantic and technical requirements related to such interaction.

Since the 1990s, the European Commission has launched a series of action plans under the general title of the European Interoperability Framework ("EIF"), in order to support European public administrations to build up national and cross-border interoperability. The EIF sets out procedures, practices, specifications and applications for public administrations to attain organisational, semantic, technical and legal interoperability.

The cross-border interoperability of public services within the EU has an important positive impact on the right to the free movement of goods, persons, services and capital laid down in the EU Treaties. Furthermore, it facilitates, encourages and supports the removal of barriers and incompatibilities to public sector interoperability, as well as the fragmentation of digital public services. In addition, the achievement of cross-border interoperability pre-supposes a comprehensive and sustainable ecosystem of digital infrastructures, with adequate financial support.

Trans-European digital public services are defined in the Act as digital services provided by Union entities or public sector bodies to one another or to natural or legal persons in the Union, and requiring interaction across Member State borders, among Union entities or between Union entities and public sector bodies, by means of their network and information systems.

2. Interoperability Assessments

A major feature of the Interoperable Europe Act is the requirement for mandatory interoperability assessments in relation to binding requirements, i.e. obligations, prohibitions, conditions, criteria or limits of a legal, organisational, semantic or technical nature, concerning one or more trans-European digital public services and which has an effect on cross-border interoperability.

Prior to taking a decision on new or substantially modified binding requirements, public sector bodies shall carry out an interoperability assessment. These assessments shall allow for the discovery of legal, organisational, semantic and technical barriers to cross-border interoperability and ensure that all digital services and tools are designed with cross-border interoperability in mind.

An interoperability assessment shall, in an appropriate manner, identify and assess the following:

- the effects of the binding requirements on cross-border interoperability, using the European Interoperability Framework;
- the stakeholders to which the binding requirements are relevant;
- the Interoperable Europe solutions that support the implementation of the binding requirements.

Competent public sector bodies are required to publish a report on the outcome of the interoperability assessment in a public location designated by the national competent authorities, at least on an official website in a machine-readable format.

The Commission shall release a common check-list and an online tool for the production of interoperability assessment reports.

3. Share and Re-Use of Interoperability Solutions

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

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

When deciding on the implementation of interoperability solutions, Union entities and public sector bodies shall prioritise the implementation of interoperability solutions that do not carry restrictive licensing terms, such as open source solutions, where such interoperability solutions are equivalent in terms of functionalities, total cost, user-centricity, cybersecurity or other relevant objective criteria.

The Commission shall provide support in identifying such interoperability solutions, whereas the Board shall adopt guidelines on the sharing of interoperability solutions.

4. Interoperability Enablers & Support Measures

Public Key enablers to support European interoperability, as stipulated in the Act, are the following:

- **The European Interoperability Framework:** The single point of reference for the EU approach to interoperability in the public service sector, complemented by specialised interoperability frameworks which address the needs of specific sectors, domains or administrative levels. The EIF shall provide a model and a set of recommendations for legal, organisational, semantic and technical interoperability. It will also be taken into account in interoperability assessments.
- **Interoperable Europe Solutions:** Reusable assets 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. The solutions shall adhere to the principles of openness and reuse and meet the criteria of the Act. The solutions will be published on the Interoperable Europe portal.
- **Policy Implementation Support and Innovation Measures:** The Commission will set up measures to support the development and uptake of innovative interoperability solutions in the Union.
- **Interoperability Regulatory Sandboxes:** Controlled environments set up by a Union entity or a 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. The sandboxes will focus on GovTech innovations that can be scaled across the EU.
- **The GovTech incubators.** These initiatives will support startups and innovators in developing solutions that enhance public sector interoperability. Incubators will provide funding, mentorship, and access to public sector data.
- **Training and capacity-building programs:** The Commission shall provide training material on the use of the EIF and on Interoperable Europe solutions, including solutions that are free and open source. Public sector bodies shall provide their staff dealing with trans-European digital public services with appropriate training programmes concerning interoperability issues.

5. Data Protection

Public sector interoperability is dependent on the free movement of personal and non-personal data between public sector bodies.

The Interoperable Europe Act sets out the procedure for the adoption of binding requirements for trans-European digital public services.

According to the Act, binding requirements are required to be in line with the fundamental right to the protection of personal data, as well as the protection of private life and the confidentiality of communications.

The Interoperable Europe Act complements and is without prejudice to Union law on the protection of personal data and privacy, in particular Regulations (EU) 2016/679 ("GDPR") and (EU) No 2018/1725 and Directive 2002/58/EC. In particular, the Act does not provide a legal basis in the meaning of Article 22(2), point (b), of the GDPR or Article 24(2), point (b), of Regulation (EU) 2018/1725.

In addition, not any provision of this Regulation may 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.

6. Governance & Supervision

The Interoperable Europe Act establishes a robust governance structure, with the Interoperable Europe Board at its centre, with the legal mandate to drive, together with the Commission, the further development of cross-border interoperability in the Union, including the European Interoperability Framework (EIF) and other common legal, organisational, semantic and technical interoperability solutions, such as specifications and applications.

The governing institutions of the Act are the following:

- **The Interoperable Europe Board:** This body consists of representatives from each Member State and one representative from the Commission. It is tasked with developing the EIF, adopting guidelines on the sharing of interoperability solutions monitoring the overall coherence of interoperability solutions that share common purposes and coordinating the implementation of the Act.
- **Interoperable Europe Portal:** A single point of entry for information related to cross-border interoperability of trans-European digital public services, electronically accessible to all citizens free of charge.

- **Interoperable Europe Community:** A collaborative platform that brings 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, business and public administration.
- **National Single Points of Contact:** Each Member State must designate a single point of contact from among its competent authority responsible for liaising with the Interoperable Europe Board and coordinating with single points of contact of other member states.

Finally, the Act obliges member-states to designate national competent authorities to oversee its application by 12 January 2025.

7. Next Steps

After the application of the Act, competent authorities and public sector bodies will be required to take the following steps:

- Designate the Greek national authority for the supervision of the application of the Act.
- Engage with the Interoperable Europe Board and Community to share knowledge, best practices, and innovation.
- Distinguish trans-European digital public services and highlight binding requirements for each one of them.
- Align public procurement with the new EIF and implement its rules in existing solutions related to trans-European digital public services.
- Execute interoperability assessments and share interoperability solutions.
- Investing in training and capacity-building to equip competent public sector employees with the digital skills necessary to implement the Act effectively.

The Interoperable Europe Act is available [here](#).

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Especially in our geographical area, we have established an ongoing cooperation with the respective law firms which are associated with EY, in order to offer seamless and consistent regional services to our clients that have cross country operations.

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