

Hennemann | Ebner | Karsten | Lienemann | Wienroeder

Data Act

An Introduction



Nomos

Moritz Hennemann | Gordian Konstantin Ebner
Benedikt Karsten | Gregor Lienemann | Marie Wienroeder

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Foreword

Dear Fellow Reader,

In February 2022, the EU Commission released the Proposal for a Data Act. From then on, manifold discussions within the political realm as well as in academia have taken place. In December 2023, a final version was agreed on by the respective EU actors – and the Data Act finally entered into force in January 2024.

Against this background, this volume aims to provide those interested in the Act (but maybe not engaged with this piece of regulation so far) with a concise, but detailed introduction to the new regulation, its articles, and its recitals. The Data Act, its concept, and its instruments are presented, explained, evaluated, and put into context. References to the actual wording of articles and recitals were oftentimes included. Reference is given throughout to the significant share of literature on the Data Act and, if needed to, the proposal(s). Inevitably, being an Introduction, we could not deep dive into every detail of the Data Act.

We like to highlight, however, that this introduction also puts an emphasis on aspects of the Act that have been less discussed so far, for example a deep-dive has been made in Chapter IX with regard to the highly important provisions on switching and interoperability between data processing services (Art. 23-31, 33-35). Furthermore, the bibliography at the end of this volume provides you – as comprehensively as possible – with further literature on the final version of the Act as well as on the draft version(s).

This Introduction to the Data Act is based on and has partly been pre-published in an earlier version (mirroring the legislative process and the proposals of the Data Act) as Hennemann, M. / Karsten, B. / Wienroeder, M. / Lienemann, G. / Ebner, G. (Eds.), *The Data Act Proposal – Literature Review and Critical Analysis, Part I – III (2023) University of Passau IRDG Research Paper Series No. 23-01, 23-02, 23-03*. We have, however, made substantial changes to this earlier version and have updated all parts to the final version of the Act.

This Introduction to the Data Act also builds upon further publications by the authors to the final version of the Data Act (Hennemann, M. / Steinrötter, B., *Der Data Act – Neue Instrumente, alte Friktionen, struk-*

turelle Weichenstellungen, *Neue Juristische Wochenschrift (NJW)* 2024 (1), 1-8; Wienroeder, M., Sind der Data Act und die DSGVO miteinander kompatibel?, *Privacy in Germany (PinG)* 2024 (3), 103-108) as well as to the draft version of the Data Act (Hennemann, M. / Steinrötter, B., Data Act – Fundament des neuen EU-Datenwirtschaftsrecht?, *Neue Juristische Wochenschrift (NJW)* 2022 (21), 1481-1486; Ebner, G., Information Overload 2.0? – Die Informationspflichten gemäß Art. 3 Abs. 2 Data Act-Entwurf, *Zeitschrift für Datenschutz (ZD)* 2022 (7), 364-369; Karsten, B. / Wienroeder, M., Der Entwurf des Data Act – Auswirkungen auf die Automobilindustrie, *Recht Automobil Wirtschaft (RAW)* 2022, 99-105; Hennemann, M., Datenrealpolitik – Datenökosysteme, Datenrecht, Datendiplomatie (2022) *University of Passau IRDG Research Paper Series No. 22-18*; Hennemann, M. / Lienemann, G., The Data Act – Article-by-Article Synopsis of the Commission Proposal (2022) *University of Passau IRDG Research Paper Series No. 22-07*.

We are more than happy to hear your thoughts on this introduction, about what we have missed and – maybe also – what you liked. Please drop us an e-mail to moritz.hennemann@jura.uni-freiburg.de.

We like to thank the entire team at the chair of European and International Information and Data Law and at the Research Centre for Law and Digitalisation (FREDI) at University of Passau Law Faculty for their extremely valuable support in the drafting process and for taking the burden of formatting the document. FREDI and this publication is supported by the Bavarian State Ministry of Science and Culture. We are very grateful for this support.

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Sincerely yours,

Moritz Hennemann, Gordian Ebner, Benedikt Karsten,
Gregor Lienemann & Marie Wienroeder
Freiburg and Passau, February 2024

Contributions by Authors

<i>Hennemann</i>	Chapters I.-III.
<i>Ebner</i>	Chapters I., IV.
<i>Karsten</i>	Chapters I., VI.-VII.
<i>Lienemann</i>	Chapters I., V.-VI., IX.
<i>Wienroeder</i>	Chapters I., IV.-V., VIII., X.-XII.

Contributions by Chapters

Chapter I.	<i>Hennemann/Ebner/Karsten/Lienemann/Wienroeder</i>
Chapter II.	<i>Hennemann</i>
Chapter III.	<i>Hennemann</i>
Chapter IV.	<i>Ebner/Wienroeder</i>
Chapter V.	<i>Lienemann/Wienroeder</i>
Chapter VI.	<i>Karsten/Lienemann</i>
Chapter VII.	<i>Karsten</i>
Chapter VIII.	<i>Wienroeder</i>
Chapter IX.	<i>Lienemann</i>
Chapter X.	<i>Wienroeder</i>
Chapter XI.	<i>Wienroeder</i>
Chapter XII.	<i>Wienroeder</i>

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