

NEWS FLASH

DATA PROTECTION

DL no. 2/2025, of 23 January: implementation of the Data Governance Act in the Portuguese legal system

24 JAN 2025

It has been published in Diário da República, [Decree-Law no. 2/2025, of 23 January](#), that ensures the implementation in the internal Portuguese legal order of [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).

The Data Governance Act aims to **regulate the reuse, in the European Union (EU), of certain categories of data held by public sector organisations**, establishing (i) rules applicable to companies that provide data intermediation services, (ii) a framework for data altruism (voluntary registration), (iii) a framework for the creation of a European Data Innovation Board, and (iv) measures to permit the secure flow of non-personal data outside the EU.

Both non-personal data and personal data (that fall outside the scope of [Directive \(EU\) 2019/1024](#) of the European Parliament and of the Council of 20 June 2019 on open data and the reuse of public sector information¹) are covered by the Data Governance Act. The conditions related to the reuse of data should be conceived to ensure effective safeguards for the protection of personal data, in particular, personal data should be anonymised in order to prevent the identification of data subjects².

¹ “Insofar as the access regime excludes or restricts access to such data for reasons of data protection, privacy and the integrity of the individual, in particular in accordance with data protection rules” (cf. recital (10) and Article 3(1)(d) of the Data Governance Act).

² Cf. Article 5(3)(a)(i) of the Data Governance Act.

This Decree-Law appoints:

- The Agency for Administrative Modernisation, I.P. (AMA, I.P.) as the **competent body to support public sector organisations and as the single information point**³;
- The National Communications Authority (ANACOM), the General Secretariat of the Ministry of Finance, the General Inspection of Agriculture, the Sea, the Environment and Spatial Planning, the Food and Economic Safety Authority, the General Secretariat of the Ministry of the Environment and the Shared Services of the Ministry of Health (SPMS), as the **competent authorities for data intermediation services**⁴;
- The General Secretariat of the Government as the **competent authority for the registration of data altruism organisations**⁵; and
- ANACOM as the **representative on the European Data Innovation Board**⁶.

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Reuse requests must be submitted through a form to be made available by AMA, I. P., submitted through the Single Digital Services Portal (gov.pt)⁷. AMA, I.P. will then have two months from the date of receipt of the request to decide⁸.

The reuse of data covered by the Data Governance Act is subject to the payment of fees to cover the costs of such reuse, charged to the reusers by the public sector organisations that allow the reuse of the data. These fees will be defined in an Administrative Order issued by the member of the Government responsible for AMA, I.P., and the member of the Government responsible for finance⁹.

³ Cf. Article 2(1) and (3) of Decree-Law 2/2025 of 23 January and Articles 3(1), 7 and 8 of the Data Governance Act.

⁴ Cf. Article 2(4) to (9) of Decree-Law 2/2025 of 23 January and Article 13(1) of the Data Governance Act.

⁵ Cf. Article 2(10) of Decree-Law 2/2025 of 23 January and Article 23(1) of the Data Governance Act.

⁶ Cf. Article 2(11) of Decree-Law 2/2025 of 23 January and Article 29 of the Data Governance Act.

⁷ Cf. Article 4(1) of Decree-Law 2/2025 of 23 January and Article 7 of the Data Governance Act.

⁸ Cf. Article 4(2) of Decree-Law 2/2025 of 23 January.

⁹ Cf. articles 7 of Decree-Law no. 2/2025, of 23 January.

The Decree-Law defines the sanction framework for non-compliance with the Data Governance Act¹⁰, referring, in case of gaps, to the Legal Framework for Economic Administrative Offences, approved by [Decree-Law no. 9/2021, of 29 January](#), in its current wording.

Sanctions are applicable in the event of a breach of the obligations relating to transfers of non-personal data to third countries and of the notification obligation applicable to data intermediation service providers. Sanctions are also applicable in the event of non-compliance with the conditions for the provision of data intermediation services and the conditions for registration as a recognised data altruism organisation. The fines, applicable to legal persons and depending on whether it is a minor, serious or very serious offence, can amount to 44,890.00 euros.

It should be noted that individuals or corporations, even if irregularly constituted, as well as associations without legal personality, may be held liable for committing the offences identified in this Decree-Law¹¹.

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This News Flash does not dispense the reading of the full text of [Decree-Law no. 2/2025 of 23 January](#) and [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 \(Data Governance Act\)](#).

This News Flash was prepared by the Data Protection team.

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¹⁰ Cf. articles 6 to 8, 10 and 11 of Decree-Law 2/2025 of 23 January.

¹¹ Cf. article 9 of Decree-Law no. 2/2025, of 23 January.