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EU DATA LAW: CHALLENGES AND OPPORTUNITIES FOR RESEARCH PROJECTS

JOURNEY OF TODAY

WHAT IS EU
DATA LAW?

CHALLENGES
OF EU DATA
LAW

OPPORTUNITIES
OF EU DATA
LAW



1. WHAT IS EU DATA LAW?

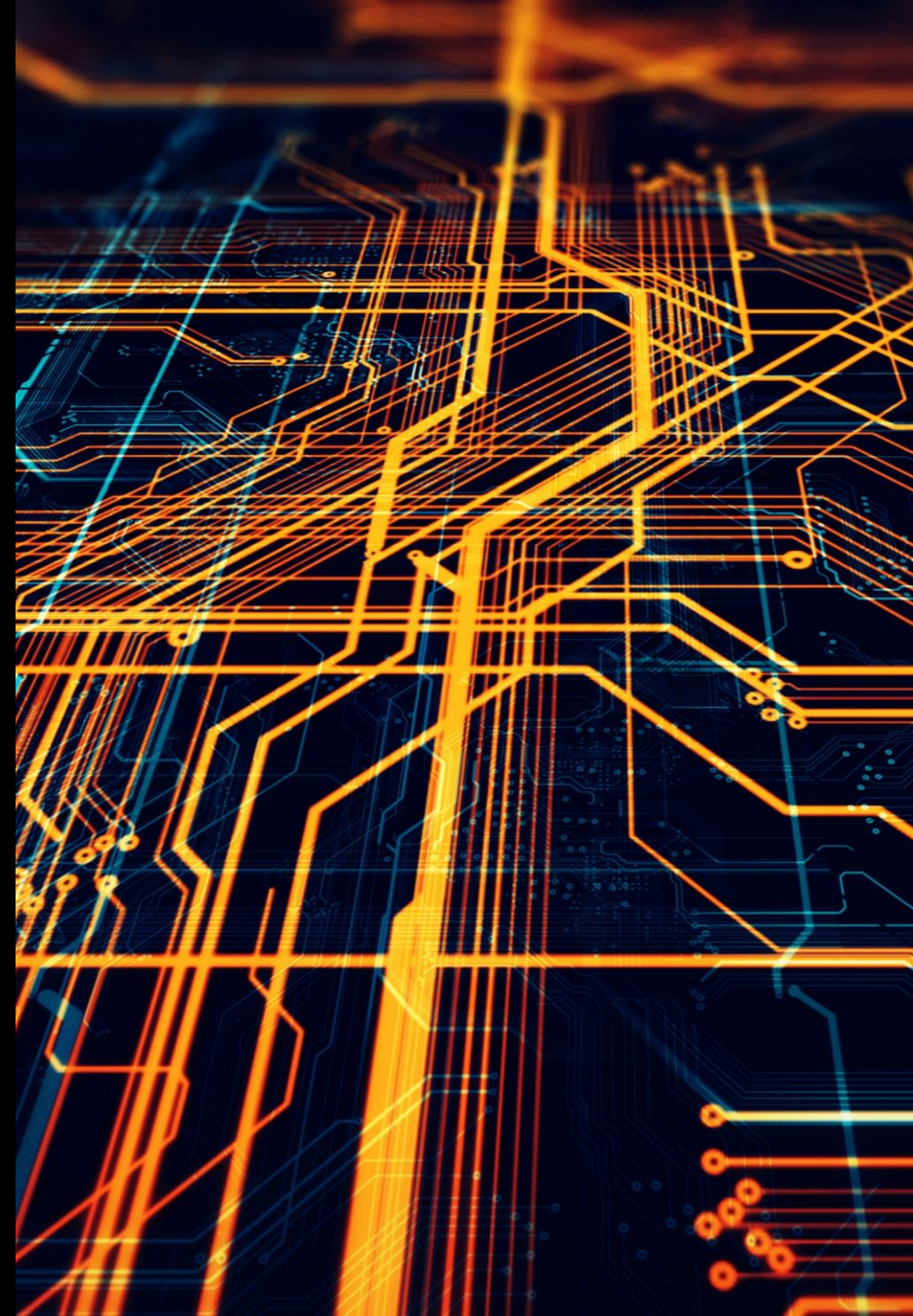
EU DATA PROTECTION LAW

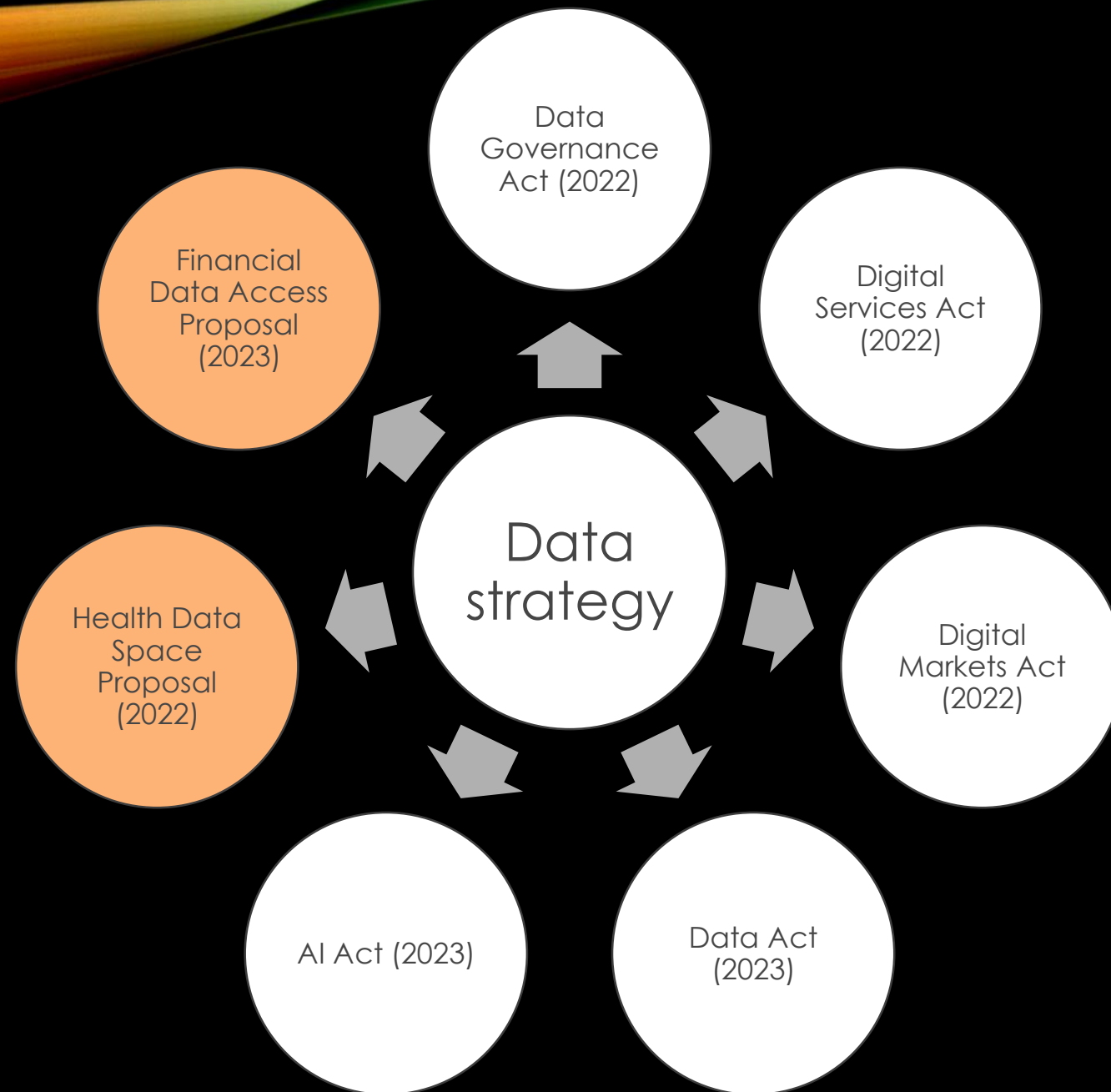
- Objectives:
 - Protection of the fundamental rights and freedoms of INDIVIDUALS in particular the fundamental right to personal data protection
 - Free movement of personal data within the EU/EEA (secondary?)
- EU primary law
 - Article 16 TFEU (legal basis)
 - Article 8 Charter (fundamental right)
- EU secondary law
 - General Data Protection Regulation (2016)
 - Law Enforcement Directive (2016)
 - EU Institution Data Protection Regulation (2018)
 - Data protection provisions for EU agencies and bodies (e.g. Europol Regulation Recast (2022))

EU data protection law – 'super-law'?

EU DATA STRATEGY 2020

- 'The aim is to **create a single European data space** - a genuine single market for data, open to data from across the world - where personal data as well as non-personal data, including sensitive business data, are secure and businesses also have easy access to an almost infinite amount of high-quality industrial data, boosting growth and creating value, while minimizing the human carbon and environmental footprint.'
- 'The value of data lies in its use and re-use. **Currently there is not enough data available for innovative re-use**, including for the development of artificial intelligence. The issues can be grouped according to who is the data holder and who is the data user, but also depend on the nature of data involved (i.e. personal data, non-personal data, or mixed data-sets combining the two).'





EU DATA LAW

Data law 'stricto sensu'

= data (mixed/non-personal) as the core regulatory object

Objective = harness (economic) potential of data)

Legislation:

- New (mixed data sets)
 - Data Governance Act (2022)
 - Data Act (2023)
 - European Health Data Space (Proposal) (2022)
 - Access to Financial Data (Proposal) (2023)
 - ...
- Existing (non-personal)
 - Free Flow of Data Regulation (2018)
 - Open Data Directive (2019)

'Digital Rule Book'

= regulation of digital activities impacts (mixed) data (which not however the direct regulatory object)

Objective = creation of fair digital (data) markets

Legislation (mixed data sets)

- Digital Services Act (2022)
- Digital Markets Act (2022)
- Artificial Intelligence Act (2023)
- Artificial Intelligence Liability Directive (2022)
- ...

Unifying goal: EU SINGLE MARKET FOR DATA

DATA AND OTHER AREAS OF EU LAW



EU IP law (e.g. Digital
Copyright Directive)



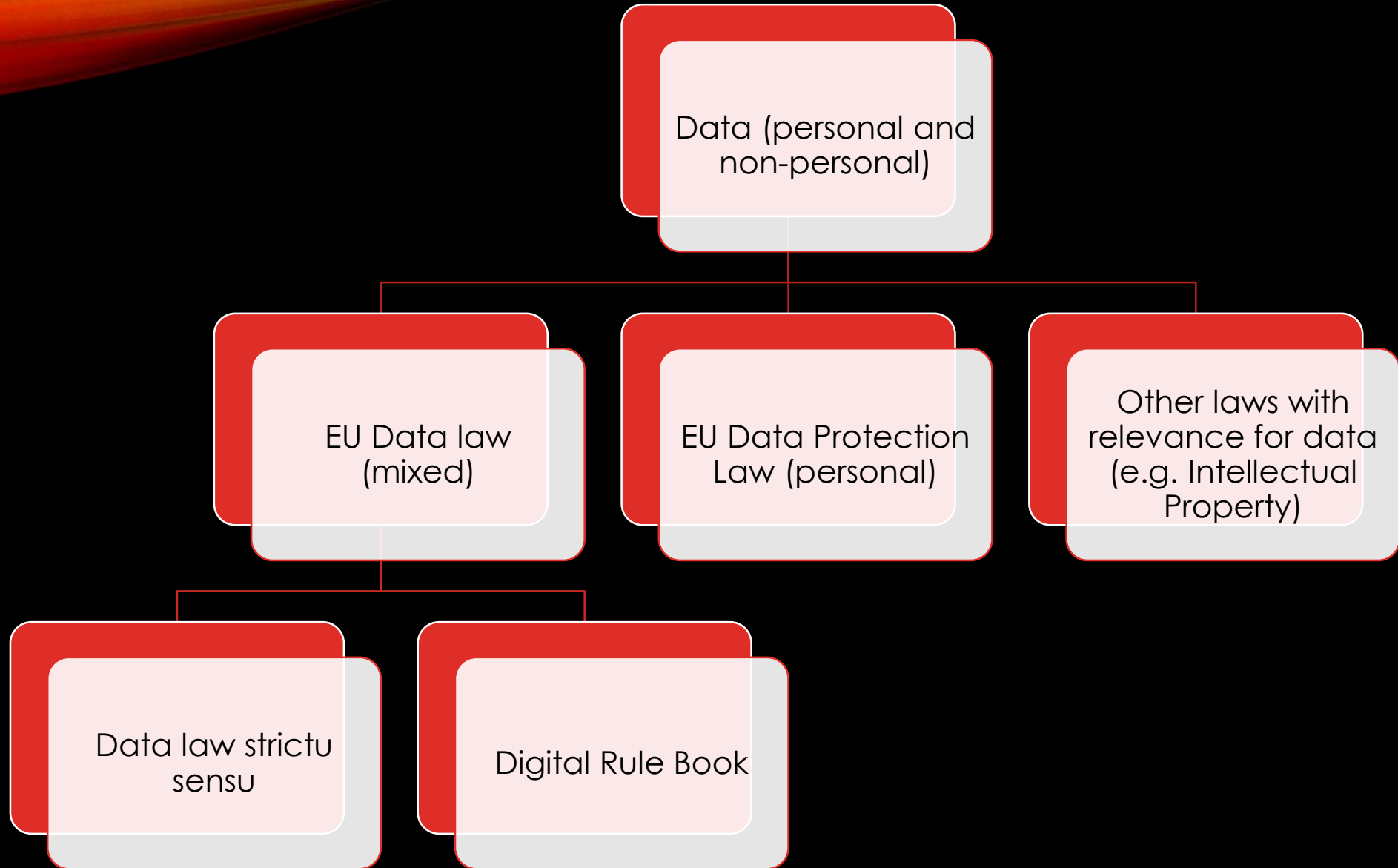
ePrivacy law (e.g.
ePrivacy Directive)



EU Cybersecurity law
(e.g. NIS-II Directive)



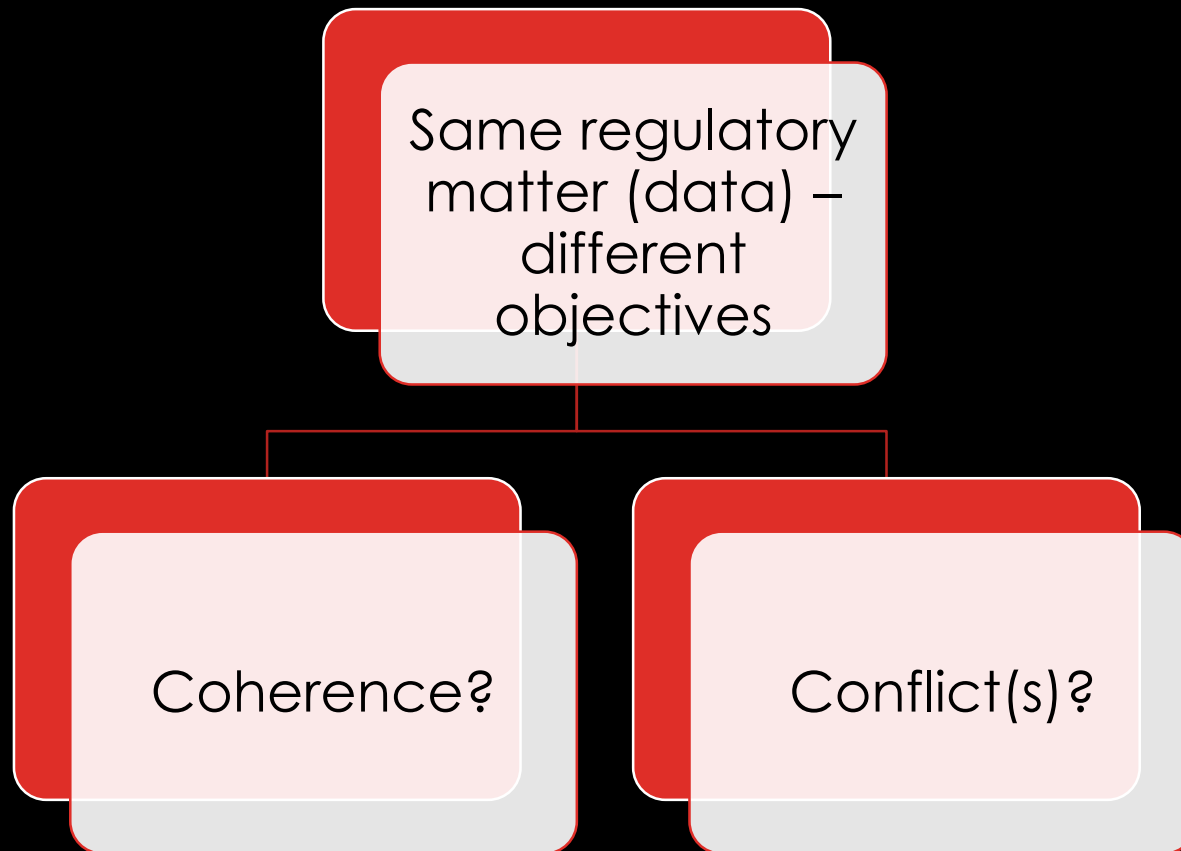
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2. CHALLENGES OF EU DATA LAW

EU DATA LAW x EU DATA PROTECTION LAW



PRINCIPLE OF DATA LAW: SUBSIDIARITY TO EU DATA PROTECTION LAW?

Art. 1(3) Data Governance Act

Union and national law on the protection of personal data shall apply to any personal data processed in connection with this Regulation. In particular, this Regulation **is without prejudice** to Regulations (EU) 2016/679 and (EU) 2018/1725 and Directives 2002/58/EC and (EU) 2016/680, including with regard to the powers and competences of supervisory authorities. **In the event of a conflict** between this Regulation and Union law on the protection of personal data or national law adopted in accordance with such Union law, the relevant **Union or national law on the protection of personal data shall prevail**. This Regulation **does not create a legal basis for the processing of personal data, nor does it affect any of the rights and obligations** set out in Regulations (EU) 2016/679 or (EU) 2018/1725 or Directives 2002/58/EC or (EU) 2016/680.

'INTERPLAYS'

Distinguishing personal from non-personal data

- Anonymisation
- Risk assessment

Data transfers: Data law extends the essential equivalence system to non-personal data

- Mapping data flows
- Risk assessment

Purpose specification/purpose limitation

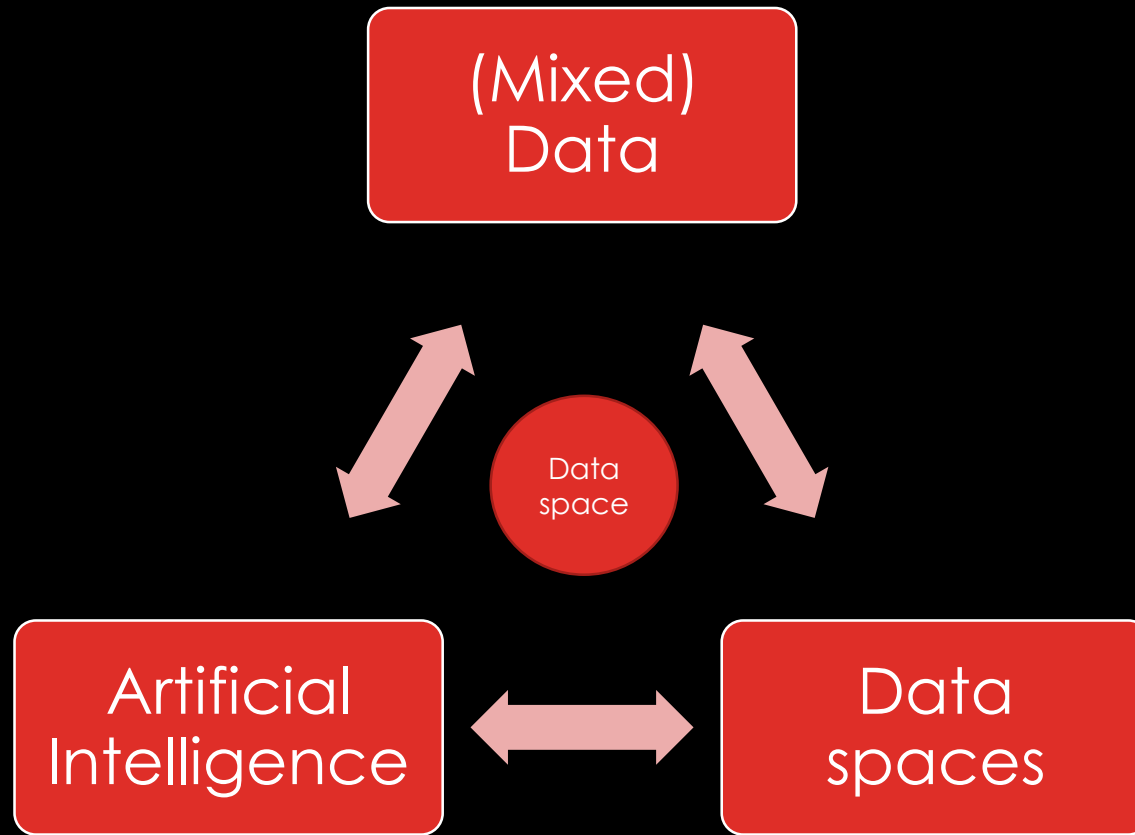
- Tagging purpose to data

Enforcement (different regulators on the same matter)

3. OPPORTUNITIES OF EU DATA LAW



ARTIFICIAL INTELLIGENCE NEEDS (GOOD) DATA → DATA SPACES



- Data governance models/mechanisms
- Interoperability
- More access to data via EU Data law
- Templates for contracts/requirements for contracts

DATA SPACES ENVISIONED BY THE EUROPEAN COMMISSION

European Open
Science Cloud
(EOSC Portal)

Industrial
Manufacturing
Data Space

Green Deal
Data Space

Mobility Data
Space

Health Data
Space
(Proposal)

Financial Data
Space
(Proposal)

Energy Data
Space

Agriculture Data
Space

Public
administration
data space

Skills Data Space

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