

06 DATA PORTABILITY

What is needed?

Data portability (Article 18) is the right to move one's data from one service to another. It is a key right to ensure effective control over personal data.

This right will make it easier for users to switch services, effectively preventing "lock-in" effects which are harmful for consumers and competition. For instance, if a user is dissatisfied with the service offered by a social network, they would be free to move their data to a different platform, instead of being forced to delete their profile and start all over again.

Data portability would help to stimulate competition by making market entry easier for new companies, as consumers will be more willing to

try out these services if this is made easier than it is at the moment. It would also create opportunities for innovative new services, such as a service that would analyse a user's electricity usage to work out if another company would be cheaper or to determine how to consume energy more efficiently.

The formats in which data are provided should be interoperable. Otherwise the right to data portability would make little sense because data could not easily be transferred from service to service.

Finally, it should be clarified that data controllers should not store data that are no longer needed only in order to be able to comply with a possible future request to move the data.

negative amendments

Some amendments propose deleting the article on data portability entirely. This is acceptable only under the condition that this right

is transferred to the article on the right to access (Article 15). Amendments that go in this direction include 1495 (S&D) and 1496 (ALDE).

A set of amendments propose vague exceptions that would allow controllers to circumvent this obligation. These include amendments 1497 (ALDE), 1498 (EPP) and 1505 (ALDE).

Requiring the data subject to pay a fee to be able to exercise data portability would create obstacles to exercise this right, thereby undermining its use in practice. Amendment 1500 (EPP) suggests this restriction.

positive amendments

Adding an interoperability criterion and expanding data portability beyond procedures based on contract or consent would allow data portability to be fully applicable. Amendments 1503 and 1511 (ALDE) are positive in this regard.

The Rapporteur also proposed in amendment 143 to clarify that data portability does not interfere with the obligation of deletion.

LAW ENFORCEMENT ACCESS

The companies involved in the PRISM scandal – all large US corporations – have been collecting and transferring the data of EU citizens to US intelligence services.

If European citizens had the possibility to port their data to more secure services,

they would have much more control over their personal data. A strong right to data portability would ensure that EU citizens are not locked into foreign services and are free to use local, privacy-preserving platforms of their choosing.