

June 2017



Call for Papers

Practical Implementation of the Right to Data Portability – Concepts for Standards for the Implementation of Art. 20 GDPR

In 2017, Stiftung Datenschutz (Foundation for Data Protection) examines how the new right to data portability can be implemented in practice. The aim is to provide recommendations for the standardisation of its practical application.

Details and background can be found here: www.stiftungdatenschutz.org/dataportability

Therefore, the German federal foundation invites representatives from research (university chairs or other academic institutions), industry (companies, associations, consulting institutions), data protection authorities and society (consumer organisations, NGO, etc.) to submit their suggestions, which could consist of concepts / statements / expert opinions or lists of requirements.



Please submit your input until 31 August 2017. Please send it to mail@datenportabilität.de and enclose a declaration of approval by which you authorize Stiftung Datenschutz to publish it.

For longer submissions, please include a short abstract. Submissions should be no longer than approx. 15 pages (50,000 characters); you will find further instructions regarding the format in chapter C.

Subject to capacity, the submissions will be published in an edited volume in November 2017. For this purpose, we cooperate with the publisher Erich-Schmidt-Verlag in Berlin (www.esv.info) who publish the series *DATENDEBATTEN* ("Data Debates") (www.ESV.info/17491).

In addition, some of the submissions which will be selected by the foundation can be presented by their authors at the foundation's public event for the project in November 2017 ("*DATENTAG* Berlin – Congress on Data Portability").

The most outstanding of the submissions reaching our foundation from the areas young science/young researchers will be selected by a panel of experts and awarded a prize by the federal foundation. The award winner/s will be presented at the project event in November. Further details in this regard will be announced during summer.



A. Current Situation

With the General Data Protection Regulation, which will be effective from May 2018, a new legal instrument is introduced in order to complement rights already known from current legislation such as the rights of access, correction and deletion. This instrument constitutes an important novelty in data protection law: The Right to Data Portability (Art. 20 GDPR).

For the first time, the European General Data Protection Regulation gives every person the "right to receive the personal data concerning him or her, which he or she has provided to a controller, in a structured, commonly used and machine-readable format".

The aim is to give data subjects the possibility to transmit the released data to another organisation without being prevented to do so by the first organisation. The new data protection regulation on portability has been developed to give the concerned persons better control over their personal data. However, it has not been specified yet how this theoretically plausible portability should be implemented in practice.

B. Subject Matter of the Invitation / Key Questions

Stiftung Datenschutz plans to develop recommendations for a general procedure with which the requirements indicated in Art. 20 GDPR can be implemented in a practice-oriented way. In this context, legal as well as information technology aspects are relevant.

Taking into account legal and technical aspects, we will also examine which formats could in practice be considered "machine-readable, commonly used and interoperable" in terms of the regulation.

This interdisciplinary invitation to submit concept suggestions and requirements has the purpose to provide a sound basis for our recommendations and to give us a pool of expertise to draw from. Different approaches to the topic are very welcome as is highlighting different aspects. The structure of the submissions can be based on the following key questions. Depending on the respective discipline and orientation of the participating institutions, the papers can also be limited to certain issues.

The industry-specific questions under c) are intended for trade associations/companies.

a) General questions

1. How narrowly or broadly should the aspect of the "provision of data" be interpreted?
2. Is it possible to actually improve protection of data privacy ("informational self-determination") for consumers with this new regulation?
3. Which aspects will have to be taken into account in a data privacy management system?



b) Technical questions

1. Which specific requirements must be laid down for a compatible format?
2. How should cases of de facto impossibility be distinguished from cases of illegitimate obstruction of the data transmission with respect to the provision "where technically feasible"?
3. Which measures should be taken in case a supplier provides a "commonly used format" but data transfer is still not possible because the recipient uses another format which is also "commonly used"?
 - Should the concerned persons have the right to request a certain format?
 - How can interoperability between different "commonly used" formats be achieved?
4. Are there any benefits to industry-specific formats in comparison to cross-sectoral formats?
5. How could a cross-sectoral integration of different services be reflected in the data format (e.g. automotive industry/insurance industry: transfer of vehicle/driver data and insurance data)?

c) Industry-specific data

The following questions are intended for companies which have to find technical solutions for the demand for data portability. The aim is to identify the respective differences as well as similarities for a number of industries and applications. This could make it easier to develop a practice-oriented procedure description for the implementation of data portability.

1. Feasibility:

- A) Can the fulfilment of the requirements for data portability in your industry and from your point of view be automated and implemented with deterministic processes?
- B) In which fields do you believe this is difficult or even impossible?
- C) How important is it for your company or your industry to have standardised, reliable and automatable format and content specifications for the implementation of portability?
- D) How likely would the next service provider be able to use the data in the process of a mostly automated import?

2. Industry:

- E) How clearly can your industry be distinguished from other/related industries? Where does it overlap with other industries? Is it in any way a "meta" industry which mostly relies on classic industries as a service provider?
- F) How many suppliers are there in your industry (general description of the industry structure) (typical large/medium/small industry participant)? How many customers does a typical large/medium/small industry participant have?
- G) Is there a dominance structure in the industry (monopoly/oligopoly)?



3. Representation of customers in information technology:

- H) Is there a kind of "basic data set" in the industry which is largely consistent or at least similar for all market operators?
(incl. outline of the characteristics of the "basic data set")
- I) Is there an existing data exchange standard for customer data? (outline the type and application as well as standard denominations)
- J) How are the individual variations characterised? What are the differences between the market operators?
- K) In which part of the industry/market segment is customer data very unique or diverse with respect to format, semantics or content?
- L) Are you independent in the creation of the data structure and profile or is there a technical standard or (de facto) industry standard you are following or are there any processes and specifications from clients you have to comply with?

4. Standardisation of data transfer

- M) Which data ranges could be included in a possible industry standard for the portability requirement according to your opinion or your experience in the industry?
- N) In which data ranges do you think such standardisation would be difficult or even impossible?

5. Differentiation between provided and processed data

In most companies, customer data is subject to enhancement and/or processing. This includes for example integration (missing data, spell checking, verification of account data or similar), combination with infrastructure, network or geographical data (e.g. for TC, energy, logistics), further processing in aggregated calculations (resource planning, expected values, etc.), recording and storage (e.g. for accounting purposes, data retention obligations, etc.) and in some cases communication of data to relevant industry/market partners.

Should there be a differentiation between provided customer data and processed data (and how should it be differentiated)? Would this be a very clear or rather vague differentiation? How would you describe this differentiation?

6. Underlying IT systems

Data always has to be transferred from the IT systems of the previous supplier/service provider. Over the last decades, the different industries have often developed industry-specific system architectures which can make it possible or easier to establish a transfer gateway for the end customer but can also make this difficult.

- O) Are there typical system architectures or one typical system architecture in your industry? (short description)
- P) Are there explicit industry standards for system architectures or any implied/de facto industry standards in this regard?



- Q) Do the already existing architectures provide interfaces for a structured data export or transfer?
- R) Do the existing architectures (if any) support or hinder the development of a portability requirement?
- S) Would certain market operators be at a disadvantage with respect to the creation of such a gateway or even unable to cope with it?

C. Format of the Submissions

- The submissions should be no longer than approx. 15 p./50,000 characters.
- For each submission, 3 to 5 keywords should be indicated.
- For typesetting/layout reasons, the submissions should be structured as follows and should not be subdivided further, if possible:

Heading I. Subheading 1. 1.1 1.1.1 II. Subheading
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- References to literature and court rulings should on principle be indicated in footnotes and not in the main text.
- A separate list of references at the end of the submissions is not required.
- Recommended citation style / footnotes is Chicago Style.

Author's first name Last name, <i>Title in Italics</i> , Number ed. (City of Publication: Publisher, Year), page number/margin number <p style="text-align: center;">Michael E. Kraft, <i>Environmental Policy and Politics</i>, 4th ed. (New York: Pearson, 2007), 123.</p>

- Font: "Arial" (normal), font size 11.
- Any images or diagrams should be printable in black-and-white and have at least 300 dpi. Please also include them as a separate file (.JPEG or .TIFF).

If you have any questions, please do not hesitate to contact
 Dr. Nikolai Horn (n.horn@stiftungdatenschutz.org).

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Project team members: Dr. Nikolai Horn, Prof. Dr. Anne Riechert



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