

A new right requires
guidance
Article 29 working party
guidelines on data portability

Geoffrey Delcroix Innovation and Foresight CNIL @geoffdelc gdelcroix@cnil.fr





Independant Public Authority for personal data protection

- Protect personal data
- Accompany innovations
- Preserve civil liberties

ADVISING AND REGULATING

1976

AUTHORISATIONS

54000

TRANSFER

SIMPLIFIED

FORMALITIES

3078

ADOPTED DECISIONS AND DELIBERATIONS OF WHICH:

190

AUTHORISATIONS

145

REQUESTS FOR AN OPINION

ACCOMPANYING COMPLIANCE

102629

FORMALITY FILES

PRIV

PRIVACY SEALS DELIVERED

14734

DECLARATIONS
PROCESSED REGARDIN
VIDEO SURVEILLANCE

316

BIOMETRIC SYSTEM AUTHORISATIONS

7370

DECLARATIONS
PROCESSED REGARDING
GEOLOCATION DEVICES

17725

ORGANISATIONS
HAVE APPOINTED
A DATA PROTECTION
OFFICER

PROTECTING

7703

COMPLAINTS, OF WHICH:

33% relate to prospecting

410

COMPLAINTS following the refusal of a request to be de-listed by search engines 7909

CARRIED OUT

4379

surveillance files.

ACCESS to police files.

REQUESTS FOR

FICOBA, etc.

NIVESTIGATING

430

100
online investigations

94
INVESTIGATIONS
REGARDING VIDEO
SURVEILLANCE

WP29

Since February 2014, the CNIL's Chair has presided over WP29, the working party which brings together the 28 European data protection authorities. In particular, the working party develops the guidelines which unify and clarify the interpretation of the regulation's essential provisions.

RENDERING ORDERS AND ISSUING SANCTIONS

82
ORDERS RENDERED

13
SANCTIONS ISSUED:

9 WARNINGS

4 FINANCIAL SANCTIONS

THE CNIL WORKFORCE

195 63% 37% male







Missions

- Inform & Advise
 - Guidelines, tutorials, recommendations
 - data protection officers trainings
 - certifications, ...
- Control & sanctions
 - Prior formalities (authorizations, ...)
 - Controls on site and on line
 - Sanctions (financial, ...)



Explore / Exchange / Experiment





Explore et share



Privacy towards 2020



The body as a new connected object



Data, muses and frontiers of cultural creation



Share!

Cahiers IP

A collection of publications around data ethics and digital trends









Explore et share

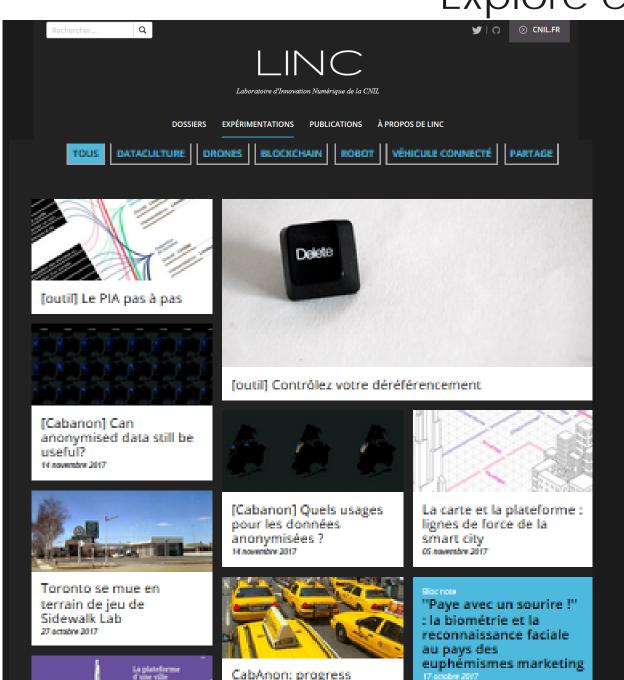
https://linc.cnil.fr

A media to share our analysis, ou points of view and tell the stories of our experiments

150 articles in 18 month (video, itw.)

#Drones #AI #SmartCity #AutonomousCar #Blockchain #Robot #Algorithms #Ethics #Design

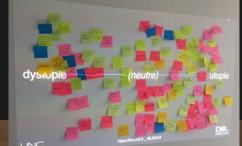
LINC





Exchange and open CNIL to the world

Espace LINC



- Conferences
- Workshops





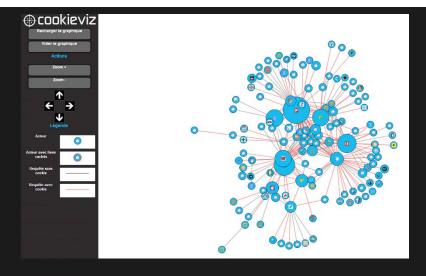








Experiment



Cookieviz

Visualization tool to measure the impact of cookies and other trackers during your own browsing.



L'Oracle du Net

An Interaction Design Project made "in residence LINC" by Victoria Duchatelle A add-on for Chrome allowing users to explore the ways in which algorithms handle them.

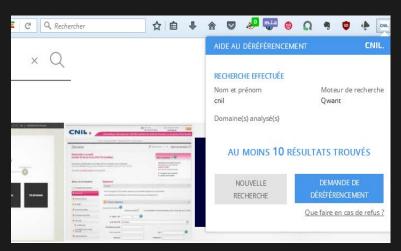


Mobilitics

Understand the ecosystem of smartphones and lift the veil on these "black boxes" that are our smartphones.



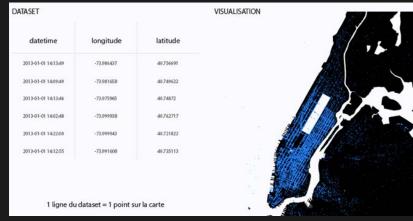
Expérimenter



[tool] Check your delisting (RTBF)

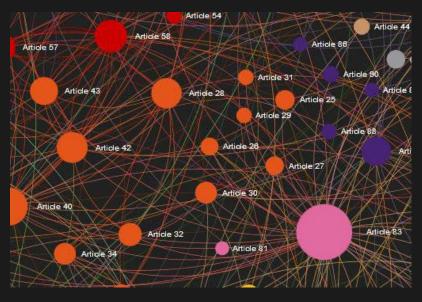
How to monitor the progress and effectiveness of a right to be delisted request?

A tedious process if done by hand, but for which LINC has developed an open source browser add-on to automatize.



[Cabanon] Can anonymised data still be useful?

Does anonymisation make a dataset worthless? The datavisualisations of our use case scenarios show that it does not necessarily jeopardise the quality of the results.



GDPR DataViz

Linc looked into the core of Cnil's activity by designing a datavisualization of the GDPR.





More rights for your personal data!

Data to take away!

I can get back the data I provided to an organisation or online-service and transmit those to other ones (social networks, Internet service provider, online streaming supplier, etc.)



Better transparency

I know what is done with my data and it's easier for me to exercice my rights.



Child protection

Online services must obtain the parents' consent before registering any child under 16 or less if provided by national laws.



One-stop-shop

In case of problems with how my data is handled, I can contact my national data protection authority, whatever the country where the organisation is

processing my data.



Bigger sanctions

Bigger sanctions

When infringing the regulation, the organisation at fault can be fined up to 20 000 000 € or 4% of its annual



The European data protection regulation



I can ask search engines to delist a web page that affects my privacy negatively or ask a website to erase an information, under certain circumstances.







Right to data portability





2 misconceptions around GDPR data portability

- Seeing it as a mere extension of right of access « right of access under stéroïds »
- Confuse it with other competition / consumer laws related portability (as the one for phone number)

Ein 1200 Seiten-pdf bekam Max von Facebook A 1200 pages pdf Max got from Facebook ************* *************** **************** ************** *************** --------------------***************** *************** **************** **************** 111111111111111111111111 **************** ***************** !!!!!!









The right to data portability in a nutshell

- Basically, portability is about making the personal data "usable" directly by the individual or under his control and at his initiative beyond the control of the controller who collected it.
- It therefore offers people the opportunity to recover (part of) their "data" for their own purposes.
- Technically the concept of portability refers to being able to transfer data from one information system to another easily.
- Beyond the empowerment of the individual, portability must:
 Allow to avoid the effects of "lock in" (enclosure) of the consumers in a service to the detriment of the competing services and thus to facilitate the change of service provider ("switching")
 Encourage innovation by enabling data reuse in a new context without going through file interconnection.

Why does it matter?



For data subjects

- Make the individual an actor of the use of data, not a simple "product"
- Reduce his/her dependency to data holders
- Allow him/her to switch service providers
- Enable him/her to adopt decentralized systems, even to self-host data and services.



For data controllers

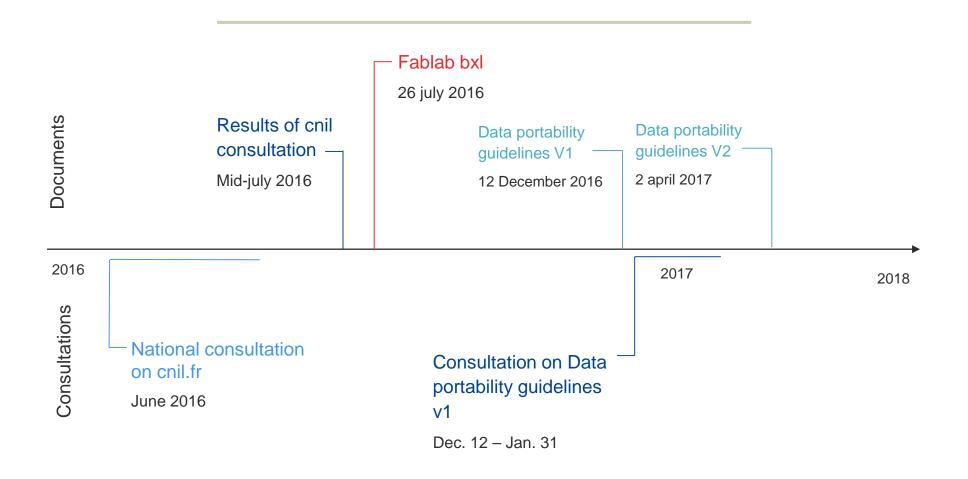
- Foster new services based on personal data without requiring them to collect them indirectly (via data broker...)
- Allow for the creation of a viable ecosystem of personal decentralized solutions (personal cloud, PIMS, ...)
- Promote competition between similar services



For DPAs

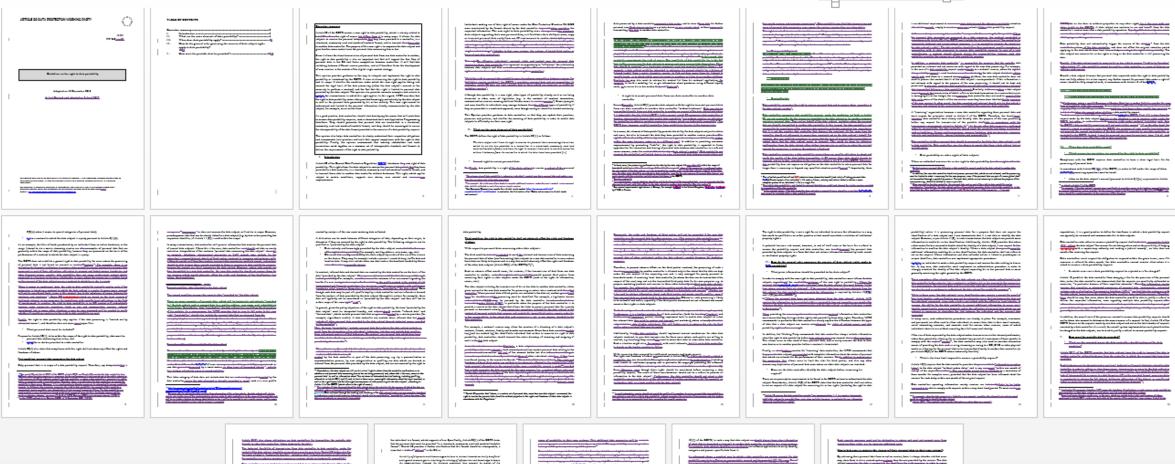
- Complementing the range of data subjects rights by a right having a different purpose than mere information / protection
- Embody the principle of informational self-determination concretely
- Give practical examples showing that the only solution for doing services with very high added value is not necessarily the centralization / concentration of personal data (the big data)

Article 29 working party guidelines process



WP 29 consultation (December 2016 – February 2017)

Mainly EU Several USA Around 90 comments received, for member a total of more than 600 pages... From? states 3 Japan 1 NZ Who? Several DPAs and « privacy pros » Which sectors? Betxeen a third and the half Banks from bsuiness federations Telcos and lobbies (MS and EU) Infosec / IT Several lawyers office Around 20 Marketing, Ad (barrister) companies in Software / digital their own name Some players individuals... Insurances Who's not there?



2 7 0 0 10 12 17

entraged manus parts tenting the leading of affirmation at tenting to the call of a superior to an experience of the superior to the superior to the superior of the subsequent of the subsequen to the second such such as the second state of primarile and the same property of the same and the presenting of the same and the presenting of the same and The form "American", "Commandy and" and "American Contribution" on a set of white the explanation that should be their the interspectivity of the bits formed provided by the thin substitute the state of "American", assuming a set of the state of materials are qualified to the first contribution of the state of th After the class containing only changes store the last described, without these will found requests being recovered to the containing. Secret Andrews Bulleting Street Secretaries The statement of the st For influence, or ill forest of the harden in the second section of the second section in the second section in the second section in the second section of the second section sec And the production option is an administrative or solved in programming and updated and described in a contractive or solved in the contractive of and the second which is provide the present date, the determinants about a months have fire format and important that is included by the property of the first and the second on a date of the contract of the important contract is the other object appearing the problem format of the present date of the Carlo Manage, the terroristic of present this is the date of god any of a return near security and the second of the state and the parties from parties of the second o Since the orbit range of potential texts ignorthed model to present the authorized text (the BETS since or improve specific accommodate to make beaut of the present date is in-provided. We make appropriate beautiful this course in the course of the present feature for THE story commence requester below belong absolute and back TTE dragh command companies below taking delethed and take considered as a land companies of the second companies of the secon As this point the size of possess that and of the elements against the determinant in the size of the determinant of the size Said States in Their report of the season process on the or of the latest and the same of the s The second secon Personal dels and according to the controlled to become their beauty of the beauty of their artificial for the controlled to the controlle $\underline{\quad \quad }$ The state of the large energy traperty of the orbital state of the state To 1875 day and replace has been the destings of repeating when a large day attacks, a margin what destinates as a first between these companions that and a property for the continuous and the second continuous and analysis of the continuous and the second continuous and the se According to the Community of the Commun Paramon, in the second limit to include the second limit to be appointed to the product of the paramond of the second limit to

2 rights (and a half)

1. A right to receive data

2. right to transmit those data to another controller *without hindrance*

(and a right to direct transmission from RT1 to RT2 where technically feasable)

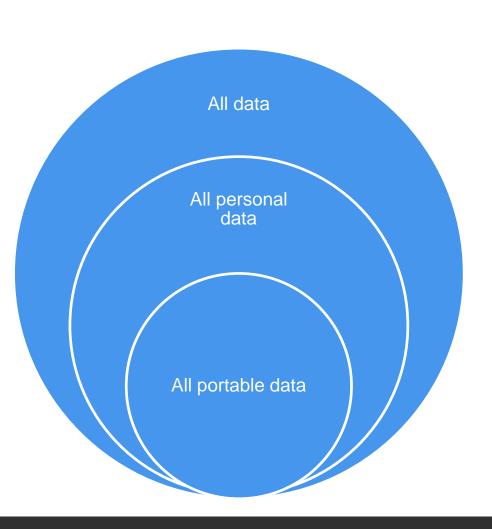
Portable data scope is limited

A subset of a data processor data

What personal data must be included?

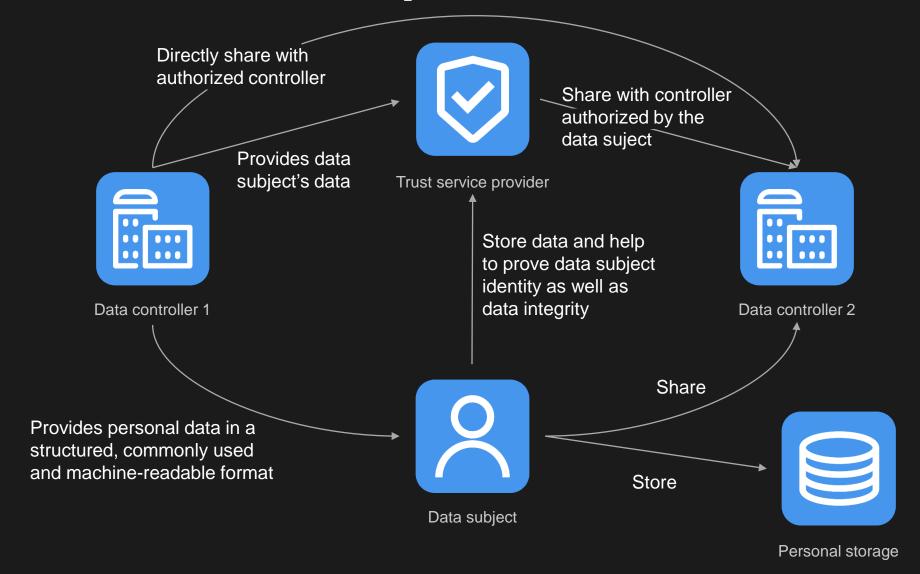
- Data actively and knowingly provided by the data subject
- Observed data provided by the data subject by virtue of the use of the service or the device

inferred data and derived data are created by the data controller on the basis of the data "provided by the data subject



- Consent
- Contract
- Legal obligation
- Protection of vital interests
- Public interest mission
- Legitimate interest

In practice





Eligible data

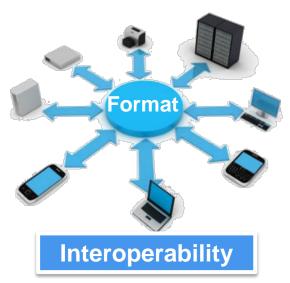
1	2	3	4	5
Is it personal data concerning the data subject?	Is the data processing carried out by automated means?	Is the legal basis for data collection consent or contract ?	Is it data provided by the data subject?	Would the portability adversely affect the rights and freedoms of others?

If yes to all, then the data are portable



Structured, commonly used and machine readable » + interoperability

 data controllers should provide personal data using commonly used open formats (e.g. XML, JSON, CSV,...) along with useful metadata at the best possible level of granularity



WP29 strongly encourages cooperation between industry stakeholders and trade associations to work together on a common set of interoperable standards and formats to deliver the requirements of the right to data portability.

RT providing portable data



« when technically feasible »

"Can occur when communication between two systems is possible, in a secured way, and when the receiving system is technically in a position to receive the incoming data"



Other data processor



« without hindrance »

"any legal, technical or financial obstacles placed by data controller in order to refrain or slow down access, transmission or reuse by the data subject or by another data controller.



User

(...) fees asked for delivering data, lack of interoperability or access to a data format or API or the provided format, excessive delay or complexity to retrieve the full dataset, deliberate obfuscation of the dataset, or specific and undue or excessive sectorial standardization or accreditation demands"

DPAs as part of a self data / MyData community



GLOBAL NETWORK DECLARATION FOUNDERS LOCAL HUBS MEETINGS CONTAC



SELFDATA LE PILOTE AUTRE

MYDATA GLOBAL NETWORK

MesInfos

« If I (an organization) can use your data, you can too… however you please. » With this particular idea in mind, Fing and its partners launched the MesInfos pilot project in 2012.

MyData is both an alternative vision and guiding technical principles for how we, as individuals, can have more control over the data trails we leave behind us in our everyday actions. The core idea is that we, you and I, should have an easy way to see where data about us goes, specify who can use it, and alter these decisions over time.

The MyData Global Network is a lightweight organisation to give structure and empower the movement that is growing from the international meetups and conferences and other interactions. The founding members are ambassadors for the movement and the action takes place in the