

# HOW CAN YOU ACCESS DATA ?

Data is the new gold! But in the maze of laws, how do you actually gain access to data, both personal and non-personal? Here's a handy overview of the main legislative tools that allow you to do just that. These include the right to a copy of your data, access to data, and even data portability, making it easier to switch to other services.

- To gain insight into data, it is important to know
- **who holds it:** private or public institutions;
  - **what type of data it is:** personal or non-personal.

This distinction is essential because different laws apply to these data flows.

## FOR EVERYONE REGARDING PERSONAL DATA (G2C, B2C)

According to the **General Data Protection Regulation (GDPR)**, as an individual, you have the right to know which personal data about you is being processed. **Article 15** gives you the right to **inspect and request a copy of your data**. You also have the right to **data portability** under **Article 20**, so you can easily transfer your data between competing service providers, if technically feasible.

In addition to the GDPR, there are numerous other legislations that allow access or the portability of data.

## REGARDING PRIVATE ENTITIES (B2C, B2B)

The **Data Act** regulates the use of data generated by smart products such as cars or fitness equipment. **Articles 4 and 5** give users the right to **access** this data and the possibility to **share it with third parties**. It refers to all raw and pre-processed data generated by the use of the connected product. Finally, **Article 23(c)** also contains a right to **data portability** for cloud and edge service customers.

**Article 6** of the **Digital Markets Act** grants the end-user the right to **portability of and access to the data** (personal and non-personal) from one platform to another.

**Article 16(4)** of the **Digital Content and Digital Services Directive** creates a right to **data portability** for consumers in B2C relationships, after the contract has expired. This applies to any data held by the consumer's trader, that is not personal data, and in the context of the provision of digital content or digital services.

## REGARDING THE GOVERNMENT (G2B, G2C)

The **Open Data Directive** aims to promote the reuse of public sector information by establishing clear rules and harmonising standards. The directive promotes the principle of **'open by design and by default'**, which means that public sector information should be made available for reuse by default, unless there are specific reasons not to do so. This directive is elaborated on in the **Belgian law of 4 May 2016** on open data and the reuse of public sector information, and in the **administrative decree**.

The **Data Governance Act (DGA)** complements the Open Data Directive by providing an optional regime for the **reuse of data held by public sector bodies (PSBs) that are covered by rights of third parties** (such as with trade secrets of private companies). The regulation aims to ensure that this data ultimately benefits society, for example by fostering innovation in the public and private sectors. Should PSBs want to enable the **reuse of such data** (they are not obligated to), then they must comply with the requirements described in **Articles 3 to 9** of the DGA.

The **principle of open government**, as enshrined in **Article 32** of the **Belgian Constitution**, provides the legal basis for citizens' access to public sector information. This principle obliges the government to make documents or information available to the public.

Although the Open Data Directive and the Constitution place a strong emphasis on the **right of access to public sector information**, there are **several limits**. These are motivated by the need to safeguard the privacy of individuals, protect trade secrets, or guarantee the security of the state, for example. In these cases, a request for information may be refused. These kinds of considerations are handled in both **national and European regulations**, which ensure that a **balance remains between openness and protection of sensitive information**.

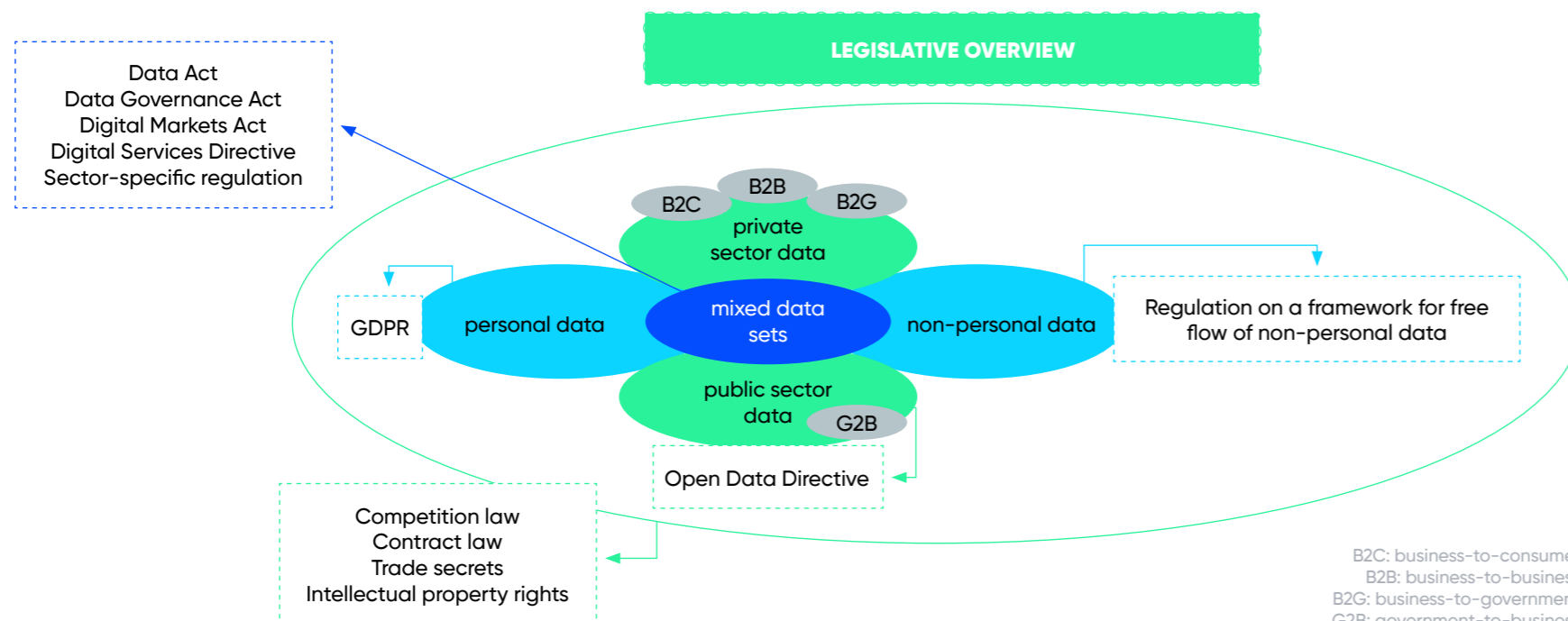
## BY GOVERNMENT (B2G)

The **Data Act** provides the legal framework that determines how public authorities can access companies' data in certain circumstances. This may include data generated by **connected products**, such as cars, medical equipment, etc. **Articles 14 and 15** provide **conditions** for these data exchanges. In exceptional situations, such as natural disasters or major health crises, public authorities can access data held by private companies to make evidence-based and rapid decisions. Crucial data from connected products can sometimes make all the difference in detecting patterns. The **right of access for governments is not unlimited**. The Data Act stipulates that access by public authorities applies mainly **in cases of exceptional need** (such as public emergencies or a specific task of public interest). Outside of public emergencies, public authorities can only request non-personal data from companies.

There are several laws and regulations that allow access to data and its reuse, often focused on specific **sectors**. For example, in the field of health and mobility, there are European directives that ensure the sharing of data, such as in the European Health Data Space and the European Mobility Data Space.

There are also exceptions in the area of **copyright**. For example, a legitimate user can extract and re-use parts of a database, as long as they are not substantial parts. This also applies to teaching, scientific research, and in situations involving public security or legal proceedings (**Database Directive**). Another example is the exception for text and data mining, which allows researchers to use data for their analyses under certain conditions (**Article 4** of the **Directive on Copyright in the Digital Single Market**).

In addition, **competition law** can provide a route to access important data or files, for example through the application of **Articles 101 and 102** of the **Treaty on the Functioning of the European Union (TFEU)**, as in the famous **Magill case**. In conclusion, there are many ways in which regulations allow companies and institutions to share and reuse data, while simultaneously putting limits and protections in place to ensure rights.



Knowledge Centre Data & Society (October 2024). How can you access your data? brAlnfood of the Knowledge Centre Data & Society, Brussels: Knowledge Centre Data & Society.

This brAlnfood is available under a [CC BY 4.0 license](https://creativecommons.org/licenses/by/4.0/).



**Knowledge Centre Data & Society**

