



Chapter V of the Data Act allows public sector bodies, the European Commission, the European Central Bank and Union bodies to access data when there is an exceptional need to use the data.

What are the circumstances under which data must be made available?

- If there is a public emergency or if access to data is the only means to fulfil a task carried out in the public interest that has been provided for by law.
- A public emergency is an exceptional situation that is limited in time, negatively affects the population and substantially and immediately increases the risk of serious and lasting repercussions for living conditions and economic or financial stability.
- Data requests may **not be for criminal prosecution**, customs administration or taxation administration purposes, but must be primarily for statistical purposes.

Public emergencies include natural disasters, cybersecurity incidents, public health emergencies and situations declared as such under national or Union law.

Which requirements must data requests meet?

- A data request must be made in writing and must be understandable, proportionate and justified. It must also specify by when the data is needed and for which purposes and period of time.
- The public sector body must prove that it **cannot obtain the data by alternative means in a timely manner and under equivalent conditions.**

Who must provide which data?

- The obligation to provide data applies to **private businesses, self-employed persons, associations and foundations** as well as **public undertakings and bodies governed by public law** (eg research organisations).
- **Microenterprises and small enterprises** are only required to make data available that is necessary to respond to a public emergency.
- **All the metadata** that is necessary to respond to a public emergency or fulfil a task provided for by law must be made available.
- **Personal data** can **only** be requested to **respond to a public emergency** and **only in pseudonymised form** when it is not possible to anonymise the data and non-personal data is insufficient to respond to the public emergency.
- **Trade and business secrets** must be **preserved**.

What are my rights as a data holder?

- A **data request** can be **declined or modified** if the data holder has no control over the data requested or if the request does not meet the requirements (see above) or if a similar request for the same purpose has previously been submitted and the data holder has not been informed of the erasure of the data collected for the previous request.

Important: A data holder wanting to decline a request or ask for a request to be modified must do so without undue delay and within five working days after receiving the request if it is for data necessary to respond to a public emergency or within 30 working days in other cases.

- A **complaint** can be lodged against the format or content of a data request or against sharing data with third parties.
- Fair **compensation for making data available** can be claimed if the data is needed to fulfil a task carried out in the public interest that has been provided for by law, except for the production of official statistics, and if the purchase of data is allowed by national law.
- Microenterprises and small enterprises are also entitled to fair compensation when they make data available that is necessary to respond to a public emergency.
- The **amount of compensation is calculated in each individual case** and must cover **at least the technical and organisational costs** incurred in making the data available.

Further information:

[bundesnetzagentur.de/1080740](https://www.bundesnetzagentur.de/1080740)

