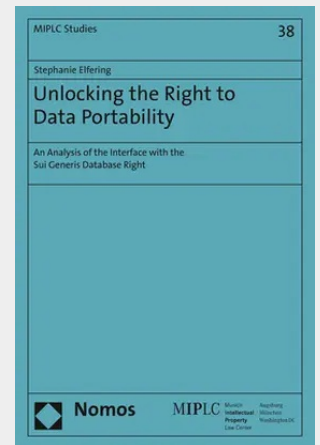


Unlocking the Right to Data Portability

An Analysis of the Interface with the Sui Generis Database Right

The EU data economy could double within the next years if policy and legal framework conditions are put in place in time. The first step has been taken by the EU with adoption of the GDPR, which introduced the right to data portability (RtDP). While the RtDP's primary objective is to provide data subjects with greater control over personal data, it also has a pro-competitive character, as a tool to decrease consumer lock in. The RtDP is, however, not an absolute right, as Article 20(4) GDPR sets forth that it 'shall not adversely affect the rights and freedoms of others'. This arguably encompasses the sui generis database right under the Database Directive, which could represent a claim for controllers to not comply with a portability request. Unfortunately, the Commission's second ex-post evaluation on the Database Directive did not approach such potential conflict. Against this background, this research aims to explore and redefine the interface between the RtDP and the sui generis database right, taking particular account of the data economy's context.



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