From:
Estonian Data Protection Authority

To:
Key Provisions Subgroup
Technology Subgroup

Dear [Redacted],

I would like to send you our comments on data portability examples provided to the Technology Subgroup by the Key Provisions Subgroup.

We agree with examples of cases where data portability applies and does not apply. But in our opinion portability should also apply in most of the cases described as “need to be discussed further”.

As we see it, call history of a mobile phone, emails and instant messages are not different from transactions on an individual’s bank account or personal collection of photos of family and friends - all these data include data of other people.

Also contents and purchases made on digital platforms are not different from purchases made using loyalty card or books purchased by an individual from an online bookstore.

What concerns data about things in shared use (smart metering by the electricity company, GPS monitoring on business cars, smart connected cars, homes, equipment) - we do not support the idea of obtaining consents from all other people concerned. In our opinion these data should also be portable.

It’s no use to demand consents from other people or to deny right to portability in previously mentioned cases, where one can anyway obtain the same data. For example I can download and save, print, forward data from my bank account via internet bank, same with electricity consumption data and call history of a mobile phone in service provider’s self-service portal and e-mails. I do not need anyone’s consent for seeing or downloading these data.

Employer can also see and download vehicle monitoring data (usually in service provider’s online system) and does not need employee’s consent for this (another question in which cases employer is entitled to use such monitoring systems at all).

We cannot expect total privacy what concerns data about things shared in one household or family. Living as a member of a family itself inevitably means that you share many aspects of your private life with your family members. Starting to collect consents from the rest of the family, it means that someone has to give consent also in the name of children (who also live in the same household and drive in the same car).

Kind regards,