

## Article 40 DSA: Frequently Asked Questions

These FAQs have been provided to assist applicants applying for vetted researcher status in understanding the process that will be undertaken by Coimisiún na Meán. It is not legal advice; it is not binding on Coimisiún na Meán and it is not intended to have any impact on how any law is interpreted or applied. You are advised to obtain your own independent legal advice on the relevant legislative provisions. These FAQs may be updated and amended by Coimisiún na Meán as considered necessary and appropriate and, subject to its obligations under applicable law, Coimisiún na Meán reserves the right to amend its processes as it sees fit.

### What is the Digital Services Act (DSA)?

The Digital Services Act (DSA) is a set of rules that regulates the responsibilities of online intermediaries, including platforms such as social media networks and online marketplaces. The aim of the DSA is to create a safer digital space where the fundamental rights of all users are protected. The transparency and reporting obligations in the DSA create opportunities for stronger public oversight of online intermediaries, with a special set of obligations for those Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs).

### Why is the DSA relevant to researchers?

The DSA includes a provision granting researchers unprecedented access to the data of VLOPs and VLOSEs under certain conditions (Article 40). The aim is to enable research that contributes to a deeper understanding of the systemic risks posed to society as a result of the design and functioning of VLOPs and VLOSEs or the use of their services and assessment of risk mitigation measures adopted by the relevant VLOP or VLOSE, as well as support effective oversight of DSA compliance. Before the DSA, access to this type of data was dependent on voluntary initiatives by the online platform providers. This resulted in limited research possibilities.

### What is a Digital Services Coordinator (DSC) and what is their role in helping researchers obtain access to data?

Digital Services Coordinators (DSCs) are independent authorities that have been appointed by each EU Member State to perform functions under the DSA. One of their responsibilities is to assess researchers' applications to obtain the status of vetted researchers and access data held by VLOPs and VLOSEs, pursuant to Article 40(4) DSA. DSCs will also act as intermediaries between the researchers, VLOPs and VLOSEs in connection with these applications.

### Which platforms and search engines does Article 40 apply to?

Data access obligations apply to providers of designated VLOPs and VLOSEs – platforms or search engines that have more than 45 million active users per month in the EU (or approximately 10% of the population of the EU).

The list of designated VLOPs and VLOSEs is available here <https://digital-strategy.ec.europa.eu/en/policies/list-designated-vlops-and-vloses>.

## **What access is provided to researchers under Article 40 of the DSA?**

For researchers who want to conduct research that contributes to the detection, identification and understanding of systemic risks in the European Union stemming from the design or functioning of a VLOP/VLOSE or the use made of their services and the assessment of risk mitigation measures adopted by that VLOP/VLOSE, Article 40 DSA provides for different access possibilities:

### **1) Publicly Accessible Data (Article 40(12))**

A researcher who meets the relevant conditions can apply for access to publicly accessible data directly from a VLOP/VLOSE (e.g. access to a content library or API of public posts).

### **2) Data to which access is restricted to a specific group of researchers, also known as 'vetted researcher(s)' (Article 40(4)-(11)).**

A researcher, who has been vetted or assessed by a DSC to have met the conditions as set out in Article 40(8) DSA and related requirements set out in the Delegated Act, can have a reasoned request for access to data held by a VLOP/VLOSE submitted on their behalf by the DSC.

## **How can I access publicly accessible data under the DSA (Article 40(12))?**

To request access to publicly accessible data you should apply directly to the VLOP/VLOSE you wish to obtain data from. Information on how to do this should be available on the VLOP/VLOSE's own website. A DSC cannot make a data access request, relating to Article 40(12) DSA, on a researcher's behalf.

## **What are the conditions to be fulfilled by researchers to get access to publicly accessible data?**

To be entitled to access publicly accessible data, pursuant to Article 40(12) DSA, researchers must: 1) Be independent from commercial interests. 2) Disclose the funding of their research. 3) Be able to fulfil data security and confidentiality requirements and to protect personal data. 4) Be able to show that access to the data is necessary and proportionate to carry out their research for the purposes of contributing to the detection, identification and understanding of systemic risks as laid out in Article 34(1) DSA. 5) Use the data solely for performing such research.

## **What is a vetted researcher?**

A vetted researcher is a researcher who:  
submits an application for vetted researcher status to a Digital Service Coordinator (DSC);  
is deemed by a competent DSC to have demonstrated that they met the relevant conditions that are set out in Article 40(8) DSA and related requirements set out in the Delegated Act;  
has a reasoned request for access to data held by a VLOP or VLOSE submitted by the DSC on their behalf to enable them to perform the research outlined in their application.

## **How can I access data under DSA (Article 40(4)-(11))?**

You can submit an application to be granted vetted researcher status and for a reasoned request for access to data held by a VLOP / VLOSE to be submitted on your behalf by the relevant DSC via the DSA Data Access Portal.

## **What is the DSA data access portal?**

The [DSA Data Access Portal](#) is the main tool to support this new data access process provided for in the DSA. It provides researchers with relevant information, and the system researchers use to submit their application to the relevant DSCs.

The DSA Data Access Portal also contains details of the dedicated points of contact for DSCs and VLOP/ VLOSEs.

## **What are the requirements for submitting a Vetted Researcher Data Access application?**

To be granted access to data held by a VLOP / VLOSE under Articles 40(4)-(11) DSA, you must submit a detailed application for vetted researcher status to a Digital Services Coordinator which demonstrates that you meet the conditions set out in Article 40(8) DSA and the related requirements set out in the Delegated Act via the [DSA Data Access Portal](#).

In this application you will need to demonstrate:

- 1) You are affiliated to a research organisation as defined in Article 2, point (1), of Directive (EU) 2019/790;
- 2) You are independent from commercial interests;
- 3) You have disclosed the funding of the research;
- 4) You can fulfil the specific data security, data protection and confidentiality requirements that correspond to the requested data and have described the appropriate legal, technical and organisational measures that have been, and/or will be put in place;
- 5) Your access to the data and the time frames requested are necessary for, and proportionate to, the purpose of your research;
- 6) The planned research will be carried out for the purposes of contributing to the detection, identification and understanding of systemic risk as set out in Article 34(1) DSA and the assessment of risk mitigation measures adopted for the purpose of Article 35(1) DSA;
- 7) You are committed to making your research results publicly available free of charge, within a reasonable period after the completion of the research.

## **Do researchers have to work for a University?**

### **Can I access data as an independent researcher?**

### **Can NGO researchers apply for access?**

### **Can journalists apply for access?**

### **Can private sector researchers working in R&D divisions apply?**

Anyone can apply for access. However access to data held by a VLOP/VLOSE under Articles 40(4)–(11) DSA is restricted to vetted researchers. To become a vetted researcher an applicant must be able to demonstrate that they are affiliated with a recognised ‘research organisation’, (as this term is defined in the Copyright Directive - <https://eur-lex.europa.eu/eli/dir/2019/790/oj/eng> - and which may include, for the purpose of the DSA, civil society organisations that are conducting scientific research with the primary goal of supporting their public interest mission) and meet the other conditions set out in Article 40(8) DSA and related requirements set out in the Delegated Act.

However, researchers who are not affiliated with such a research organisation can access publicly accessible data under Article 40(12) DSA, provided they meet the applicable conditions, such as independence from commercial interests, transparency about funding, and safeguarding data security.

## **If a researcher has previously been funded by or worked on a project with a platform, is this an issue for making an application about this platform or another platform?**

### **Is independence from commercial interests required, or is transparency sufficient?**

An applicant submitting an application for vetted researcher status must be able to demonstrate, among other things, that they are independent from commercial interests and that their application discloses the funding of the research they describe in the application. Merely being transparent about commercial interests that exist would not suffice. The applicant must be able to demonstrate independence from commercial interests.

### **Do researchers have to apply to Ireland for VLOP/VLOSEs based in Ireland? Can researchers apply to DSC in their own EU country?**

Researchers can submit their application for vetted researcher status to one of the following DSCs:

- the DSC of the EU Member State where their affiliated research organisation is based, or
- the DSC of the EU Member State where the provider of the VLOP/VLOSE has its main establishment in the EU, or where its legal representative resides or is established (also referred to as the 'DSC of establishment').

In either case, the DSC of establishment is responsible for the decision of whether to grant the researcher vetted researcher status and submit a data access request to the VLOP/VLOSE on behalf of the researcher.

### **How can I submit a Vetted Researcher Data Access application? Where do researchers apply?**

Applications for vetted researcher status can be submitted through the dedicated DSA Data Access Portal. A researcher who wishes to access data from a VLOP/VLOSE that has its main establishment or legal representative in the EU in Ireland can follow two possible routes:

**Route 1:** A researcher may submit their application to the Digital Services Coordinator of the EU Member State where the research organisation to which they are affiliated is based. This DSC will conduct an initial assessment and if the VLOP/VLOSE's main establishment or legal representative in the EU is in Ireland, they will forward the application, together with the supporting documents submitted by the respective researcher(s) and the initial assessment, to Coimisiún na Meán, for a final assessment.

**Route 2:** A researcher can apply directly to Coimisiún na Meán (DSC of establishment). Due to the high volume of applications expected for VLOPs/VLOSEs with their main establishment in the EU in Ireland, we would encourage EU based researchers to follow Route 1.

### **Do researchers first have to apply to become vetted researchers and can only then submit data access requests?**

An application for vetted researcher status includes an application for a reasoned request to be submitted by the DSC of establishment to the relevant VLOP/VLOSE on behalf of the researchers, if they are granted vetted researcher status.

It is not necessary to submit a separate application for vetted researcher status first, before submitting a data access request.

### **Can a researcher/team submit multiple applications at once?**

### **Are there limits on how many applications a researcher can make?**

### **Can a researcher be part of different teams applying for different forms of data?**

A researcher or team of researchers can submit more than one application for vetted researcher status at a time.

There is no express limit on how many applications for vetted researcher status a researcher can make. A researcher intending to submit more than one application should bear in mind they will need to be able to demonstrate they meet all of the conditions and requirements for each application. A researcher can be part of different teams who submit different applications. They will need to be able to demonstrate they meet all of the conditions and requirements for each application.

### **Is it necessary to send one application per platform or can one application cover different platforms?**

The DSA Data Access Portal is not designed to facilitate a single application for access to data held by more than one VLOP/VLOSE. An applicant who wishes to request access to data held by more than one VLOP/VLOSE should submit separate applications for each VLOP/VLOSE in which they are interested. Where the applications all relate to the same research project, the contents of the applications may be similar, to the extent appropriate.

For each application in which they participate, a researcher will need to be able to demonstrate that they meet all of the conditions and requirements for that application.

### **How can I prepare for submitting a Vetted Researcher Data Access application?**

#### **What do I need to prepare?**

A researcher can prepare by assembling the information and materials they will need to provide in order to demonstrate that they meet the conditions and requirements. Researchers should discuss their applications with their research organisations in the first instance.

### **How long will the process for assessing an application take?**

#### **How long will it take between the submission of a request and a response?**

The Delegated Act requires that within 80 working days from the submission of an application for vetted researcher status via the DSA Data Access Portal, the DSC of establishment will either:

- formulate a reasoned request, submit it to the VLOP/VLOSE and notify the principal researcher of the submission of the reasoned request, OR
- inform the principal researcher of the reasons why the reasoned request could not be formulated.

Where the DSC of establishment needs more than 80 working days to formulate a reasoned request, it should notify the principal researcher as soon as possible and indicate the reasons for the delay as well as a new date for the process to be completed.

The reasoned request will include a specified date from which the VLOP/VLOSE is required to give access to the requested data.

If a VLOP/VLOSE wishes to seek an amendment to a reasoned request in accordance with Article 40(5) DSA, it must submit an amendment request to the DSC of establishment within 15 days of receiving the reasoned request.

### **Can the period of time for access to data be extended?**

The DSA and the Delegated Act do not expressly provide for a procedure for the DSC of establishment to amend a reasoned request after it has been issued to the VLOP/VLOSE (except to deal with an amendment request made by the VLOP/VLOSE in accordance with Article 40(5) DSA). If the researcher would like to continue to have access to data after the period covered by a reasoned request made on behalf of that researcher, then they will need to submit a new application for vetted researcher status.

**What happens if the research team changes?**

**Can a new team member be given access?**

**If someone leaves the research team what happens to their access?**

**Are there limits to how many people can be on an application?**

The DSA and the Delegated Act do not expressly provide for a procedure for the DSC of establishment to amend the researchers on an application while that application is being assessed, or those referenced in a reasoned request after it has been issued to the VLOP/VLOSE. Furthermore, the DSA Data Access Portal does not currently have this functionality.

If a researcher would like new team members to be given access to data where they were not covered by the original reasoned request, then a new application for vetted researcher status for those new team members will be required.

There is no limit on how many researchers can be included in a single application for vetted researcher status. Each applicant researcher must meet the conditions set out in Article 40(8) DSA and related requirements set out in the Delegated Act.

**What kinds of data can be requested?**

**Are there any types of data that cannot be requested?**

Any type of data may be requested, provided that it meets the conditions set out in Article 40(8) DSA.

Examples of data likely to be relevant to research into systemic risks and mitigation measures are set out in Recital 13 of the Delegated Act.

A VLOP/VLOSE may request an amendment to be made to any reasoned request if (a) they do not have access to the data; or (b) giving access would lead to significant vulnerabilities in the security of their service or the protection of confidential information, in particular trade secrets.

Under the Delegated Act, VLOPs and VLOSEs are required to make available a DSA data catalogue, which describes the data assets to which vetted researchers may request access, as well as their data structure and metadata. While these indicate the data likely to be available, they are not exhaustive and they do not limit the data that may be requested in an application for vetted researcher status.

**Will platforms provide codebooks?**

**Will there be standardised datasets?**

Under the Delegated Act, VLOPs and VLOSEs are required to make available a DSA data catalogue, which describes the data assets to which vetted researchers may request access, as well as their data structure and metadata.

VLOPs and VLOSEs are also required to provide vetted researchers with any additional information needed to access and understand the requested data, such as codebooks, changelogs and architectural documentation.

The DSA and the Delegated Act do not expressly refer to standardised datasets.

**How will researchers access the data once their request has been approved?**

**What will the access look like – are files sent to the researchers?**

**How is the access decided?**

**Are there specific ways to access data (e.g. via API)?**

The DSC of establishment will specify in the reasoned request sent to the VLOP/VLOSE the so-called 'access modalities,' that are the specific conditions that the VLOP/VLOSE is required to use when providing the vetted researchers with access to the requested data. Access to data may take place, for example: Through data transmission to the vetted researchers via an interface or Secure File Transfer Protocol (SFTP); or via a secure processing environment operated by the VLOP/VLOSE or by a third-party provider.



**Can the researcher suggest how they want to receive data?****Can the researcher request data in a specific format (CSV, JSON, etc.)?**

In an application for vetted researcher status, a researcher is required to include a description of the legal, technical and organisational measures that have been and will be put in place to fulfil the specific data security and confidentiality and, if applicable, personal data protection requirements corresponding to the requested data. These should include a description of the suggested 'access modalities' regarding how the researcher will be given access to the data by the relevant VLOP/VLOSE.

A researcher can include in their application a request that data be made available to them in a specific format. A researcher should consider details made available by the VLOP/VLOSE in its DSA data catalogue when doing so. It is a matter for the DSC of establishment to determine what details, if any, should be specified in a reasoned request regarding the format in which data is to be provided.

**Where will the data be stored?****Will data be stored on the Data Access Portal?****Will the data be held by Comisiún na Meán or the European Commission?**

The storage arrangements for any data to which a vetted researcher is given access under a reasoned request will depend in part on the access modalities specified in the reasoned request:

1. If the reasoned request specifies access modalities that require the VLOP/VLOSE to make the data available to the vetted researcher in a way that does not enable the vetted researcher to extract the data (e.g. in a secure processing environment hosted by the VLOP/VLOSE or a third party) then the vetted researcher will not be able to store the data.
2. If the access modalities enable the vetted researcher to store the data, then it will be the vetted researcher's responsibility to make storage arrangements that comply with the researcher's obligations to meet the conditions set out in Article 40(8) DSA, the requirements of the Delegated Act and any further requirements included in the access modalities.

No. Data made accessible to a vetted researcher by a VLOP/VLOSE in accordance with a reasoned request cannot be stored on the DSA Data Access Portal.

No. Data made accessible to a vetted researcher by a VLOP/VLOSE in accordance with a reasoned request will not be held on the vetted researcher's behalf by Coimisiún na Meán or the European Commission.

**Is it possible for a vetted researcher to share the data with:**

- a. other researchers?**
- b. reviewers?**

Vetted researchers may not share the data to which they are given access under a reasoned request with any other researchers who are not within the scope of the same application for vetted researcher status and reasoned request.

Vetted researchers may not share the data to which they are given access under a reasoned request with reviewers.

**Can a researcher use a same dataset for two separate research projects?****Will the researcher have to submit two different applications?**

No. A vetted researcher may use data to which they are given access under a reasoned request only for the purpose of the research within the scope of that reasoned request.

If a vetted researcher wishes to use data to which they are given access under a reasoned request for the purpose of a different research project, they must submit a new application for vetted researcher status.

**What happens if a VLOP or VLOSE does not want to provide the data as specified in a reasoned data access request from a DSC?****Can a platform appeal a successful request for data?****Can a platform refuse access to data?**

A VLOP or VLOSE can submit an amendment request to the DSC who issued the reasoned request on the grounds and in accordance with the procedure set out in Article 40(5) DSA. Amendment requests need to be supported by specified reasons. The DSA and the Delegated Act set out procedures to be followed for the consideration of an amendment request, the decision to be made by the DSC in relation to such a request and dealing with any disagreement that arises in relation to such a decision.

The DSA and the Delegated Act do not expressly provide for a right for a VLOP/VLOSE to appeal a reasoned request issued to them by a DSC, or to refuse to provide access to data within the scope of a reasoned request.

**What happens if the application is rejected?****Will rejection explanation be provided?**

If an application for vetted researcher status is rejected by Coimisiún na Meán in its capacity as the DSC of establishment, then the relevant researcher(s) will be notified and provided with the reasons for this, and the relevant researchers will not obtain access to the data within the scope of that application. A researcher can submit a new application for vetted researcher status if a previous application in which they were involved was rejected.

**Will it be possible to see the outcomes of other researchers' data access requests?**

Yes, an overview of each reasoned request submitted to a VLOP/VLOSE, including any amendments and updates to the overview, will be made publicly available in the DSA Data Access Portal by the DSC who submitted the reasoned request.

Details of applications for vetted researcher status that were rejected will not be published on the DSA Data Access Portal.