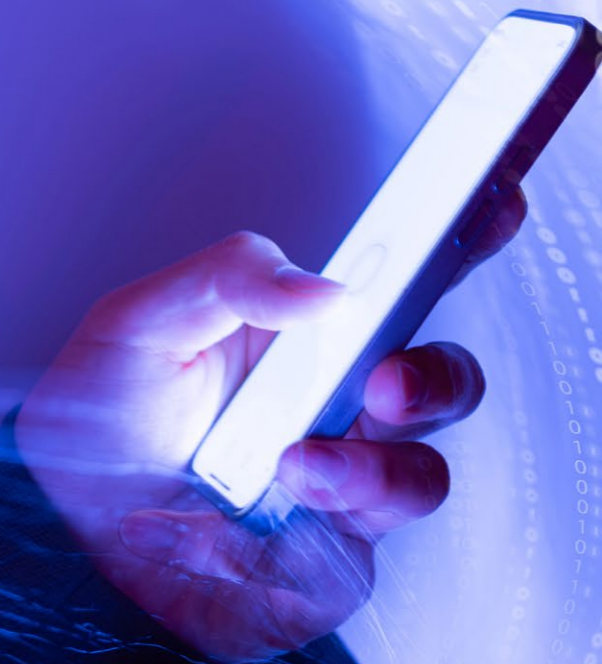


Number Portability

ANACOM approves
new Regulation



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1. Introduction

The new Number Portability Regulation was published on 9 January 2025 with the aim of improving, harmonising and standardising the rules applicable to number portability. The new Regulation maintains the principles already contained in Regulation 58/2005 of 18 August 2005 (and subsequent amendments). However, it introduces the changes necessary to comply with the latest legal requirements and to ensure greater efficiency and consumer protection.

The Number Portability Regulation recently approved by ANACOM reinforces user protection and information.

Portability is a mechanism that allows an end-user who has subscribed to communications services that involve the use of numbers included in the National Numbering Plan (“NNP”) to keep their number if they wish to transfer the subscribed services to another electronic communications operator. Article 141 of the Communications Law establishes the right of users, upon request, to keep their numbers as part of the same service, regardless of the company providing the services, whether they are (i) geographical numbers associated with specific geographical areas, or (ii) in the case of non-geographical numbers, throughout the country. This means that numbers allocated to the following services, among others, can be ported to another operator: (i) publicly available telephone at a fixed location (‘2’ number range); (ii) mobile telephone (‘9’ number range); (iii) nomadic VoIP; (iv) transmission used for the provision of machine-to-machine services and mobile Internet access service; and (v) single tariff per call (‘76’ range).¹

2. Main changes introduced by the new Number Portability Regulation

The Number Portability Regulation now approved maintains the primary objective of ensuring the effectiveness of portability, but introduces rules to ensure greater efficiency, speed and standardisation of procedures. The Regulation approved by ANACOM (the national regulatory authority (NRA) in Portugal for communications) also clarifies the rights of the end-user and the obligations of the companies subject to portability, in line with the 2022 Electronic Communications Law.



¹ Article 3 of the Number Portability Regulation.

A) IN TERMS OF END-USER PROTECTION, THE FOLLOWING CHANGES ARE NOTEWORTHY:

	REGULATION 58/2005	REGULATION 38/2025
Right to portability	<ul style="list-style-type: none"> Provides for the user’s inalienable right to keep their number when changing provider. Provides that the user may not be deprived of access to portability for abusive contractual reasons. 	<ul style="list-style-type: none"> Maintains the fundamental right to portability, reinforcing the idea that no contractual clause can impede this right. Provides that in the event of termination of the contract with the donor provider, and unless expressly waived at the time of deactivation, the end-user retains the right to port NNP numbers to another company for 3 months after termination². Introduces greater clarity as to the cases in which portability may be refused on legally justified grounds.
Free and chargeable portability	<ul style="list-style-type: none"> As a general rule, portability should be free of charge to the end-user, with the exception of residual costs which could be charged in certain circumstances (e.g. calls to helplines). 	<ul style="list-style-type: none"> Strengthens the free nature of portability by making the limiting situations more explicit Explicitly prohibits charging for portability³. Provides that charges may be levied for additional services outside the strict scope of portability (e.g. SIM card replacement, additional equipment or services).
Information and transparency	<ul style="list-style-type: none"> Provides for an obligation for the user to receive clear information on deadlines, costs and possible compensation related to portability (delay, interruption of service, inappropriate portability). 	<ul style="list-style-type: none"> Extends the scope of pre-contractual information to be provided by the donor provider to the end-user requesting portability. The donor provider is obliged to provide clear and detailed pre-contractual information on (i) the agreed term, (ii) the right to portability even after termination, (iii) refunds in respect of pre-paid services and (iv) the prohibition on charging for portability. Provides for communication in an accessible format (digital and/or physical) where appropriate.

	REGULATION 58/2005	REGULATION 38/2025
Time limits	<ul style="list-style-type: none"> Provides for portability to be provided within a maximum of one working day (subject to justified technical exceptions). 	<ul style="list-style-type: none"> The donor provider must ensure that portability and service activation take place on the date expressly agreed with the user (and no later than 1 working day after that date)⁴. Introduces additional rules for weekend and holiday periods, and better defines the “technical exceptions” and the procedures for informing the user.
Refunds/redress/compensation	<ul style="list-style-type: none"> Recognises that the user has a right to compensation in the event of unjustified delay or failure to deliver on the part of the operator. Provides for the possibility of a refund, but does not clearly specify the deadlines, maximum charges or the calculation of costs. 	<ul style="list-style-type: none"> Maintains and extends the compensation system for delay or failure in portability. Introduces additional compensation in the event of failure to carry out previously scheduled technical interventions at the user’s premises, guaranteeing compensation for the inconvenience of having to reschedule or wait for a new visit. Explains the situations that give rise to the right to compensation, defining minimum values or calculation bases (where applicable). Sets deadlines for the payment of compensation to the end user. If the number is part of a prepaid service, the donor provider (DP) is obliged to refund the remaining balance to the end-user upon request. Reimbursement must be made within 10 working days of receipt of the request and a fee of up to EUR 1 may be charged (provided it is based on actual costs)⁵.

² Articles 2(2)(ff), 3(2)(c) (interpreted in the opposite sense), and 19(1), all of the Number Portability Regulation.

³ Article 5(9) of the Number Portability Regulation.

⁴ Article 11(7) of the Number Portability Regulation.

⁵ Article 6(2) and (24) of the Number Portability Regulation.

	REGULATION 58/2005	REGULATION 38/2025
Complaints and dispute resolution	<ul style="list-style-type: none"> Refers to general complaint mechanisms (complaint book, ombudsman, etc.) and allows users to contact ANACOM. 	<ul style="list-style-type: none"> Clarifies the rules for complaints to ANACOM, providing clearer procedures and defined response times, especially when the user alleges unjustified delay or failure or unauthorised portability. Encourages out-of-court dispute resolution, with shorter response times.
Continuity of service	<ul style="list-style-type: none"> Ensures that there is no unreasonable interruption of the user's telephone service during and after the portability process. 	<ul style="list-style-type: none"> Reinforces the obligation to maintain the service, introducing rules for faster technical and administrative transfer to minimise disruption.

As the body responsible for monitoring compliance with the obligations laid down in the Regulation, ANACOM has the power to penalise organisations and failure to comply with the portability rules may constitute a serious or very serious administrative offence.

B) WITH REGARD TO THE OBLIGATIONS OF THE DONOR PROVIDER (DP) AND THE RECIPIENT PROVIDER (RP), THE FOLLOWING CHANGES SHOULD BE HIGHLIGHTED:

	REGULATION 58/2005	REGULATION 38/2025
Duty to cooperate	<ul style="list-style-type: none"> Provides for the RP and DP to exchange information on the portability process in a transparent manner and within the applicable deadlines. Requires validation of customer data by the RP to prevent fraud. 	<ul style="list-style-type: none"> Reinforces the duty of mutual cooperation by providing for standardised electronic communication mechanisms (e.g. common IT platforms) and more robust identity validation to reduce fraudulent portability.
Deadlines for portability	<ul style="list-style-type: none"> Sets a deadline of 1 working day to complete the process, except for technical reasons. Specifies that the RP initiates the request, but the DP must respond quickly. 	<ul style="list-style-type: none"> Maintains the 1 working day deadline and clarifies the circumstances that may determine exceptions to the deadline and the obligations to be respected by the DP and the RP to ensure that there is no excessive delay. Sets deadlines for response and notification between operators.
Identity verification and fraud	<ul style="list-style-type: none"> Requires proof of number ownership (documentation, portability form). 	<ul style="list-style-type: none"> Strengthens the requirement to verify the identity of the user requesting portability in order to prevent fraudulent porting or porting without the consent of the number holder. In particular, the RP must validate the ownership of the contract associated with the number(s) through the Portability Validation Code if the DP does not have the end user's NIF. Introduces the obligation for the RP to keep a record of the validations carried out for audit by ANACOM.
User information	<ul style="list-style-type: none"> Requires the provider to give clear information about the process, any costs and deadlines. 	<ul style="list-style-type: none"> The RP must provide the customer with a summary (in physical or digital form) of the portability conditions.

	REGULATION 58/2005	REGULATION 38/2025
Costs, compensation and redress	<ul style="list-style-type: none"> Establishes that any provider responsible for delays or failures must compensate the user, but without detailed quantification in all cases (some amounts were fixed or referred to complementary legislation). 	<ul style="list-style-type: none"> Sets a maximum price for the wholesale cost of portability that the DP can pass on to the RP (EUR 1) in order to prevent the imposition of excessive charges that could create barriers to competition in the market. Defines liability situations and, in some cases, minimum levels of compensation for portability failures or delays. Sets a fixed deadline for payment under penalty of a fine.
Registration and reporting to ANACOM	<ul style="list-style-type: none"> Requires the establishment and maintenance of an internal register of portability requests for possible inspection. Requires reports to be sent to ANACOM, but does not specify the form and content of the report. 	<ul style="list-style-type: none"> Specifies the form, content and frequency of reports to be submitted to ANACOM on the volume of requests, refusals, average portability times and complaints. Set the frequency of the companies' reporting obligations to ANACOM as annual.
Procedures and notification	<ul style="list-style-type: none"> Specifies that the RP must notify the DP and the end-user of the date set for portability. 	<ul style="list-style-type: none"> Establishes standardised forms and notification deadlines (e.g. 24 hours minimum notice) for each stage of the process. Establishes official electronic channels for the exchange of data between operators, thereby facilitating the traceability of the process.
Continuity of service	<ul style="list-style-type: none"> Provides for the obligation to guarantee the correct activation of the number with the new operator, in order to avoid long service interruptions. 	<ul style="list-style-type: none"> The measures to ensure continuity of service are detailed, including the obligation for prior testing, data back-up and immediate assistance if portability fails due to technical problems (e.g. network or switchboard programming errors).

C) WITH REGARD TO COMPENSATION, THE NEW REGULATION UPDATES THE AMOUNTS SET OUT IN THE FOLLOWING PROVISIONS:

REGULATION 58/2005	REGULATION 38/2025
<ul style="list-style-type: none"> The RP must pay the DP compensation of EUR 100 for each number incorrectly ported for reasons for which the RP is solely responsible, up to a maximum of EUR 5000 per porting request executed in the case of porting of Direct Dial In (“DDI”) ranges. 	<ul style="list-style-type: none"> The RP must pay the DP compensation of <i>EUR 115</i> for each number incorrectly ported for reasons for which the RP is solely responsible, up to a maximum of EUR 5750 per porting request executed in the case of porting of DDI ranges.
<ul style="list-style-type: none"> The RP must pay the subscriber compensation of EUR 20 for each number per day that remains incorrectly ported, up to a maximum of EUR 5000 per portability request. 	<ul style="list-style-type: none"> The RP must pay the end-user compensation of <i>EUR 23</i> for each number and day that it remains incorrectly ported, up to a maximum of EUR 5750 per portability request.
<ul style="list-style-type: none"> In the event of a delay in the implementation of mobile number portability in relation to the specified deadline, the RP must pay the subscriber compensation of EUR 2.50 per number for each day of delay. 	<ul style="list-style-type: none"> The RP must pay compensation of <i>EUR 3 per number for each full day of delay</i> if number portability is delayed beyond the agreed deadline.
<ul style="list-style-type: none"> In the event of interruption of the service provided to the subscriber via the ported number, the RP must pay the subscriber compensation of EUR 20 per number for each day of interruption, up to a maximum of EUR 5000 per porting request. 	<ul style="list-style-type: none"> In the event of interruption of the service provided to the end-user via the number for which portability has been requested in accordance with Article 11(2) of the Regulation, the RP must pay compensation of <i>EUR 23 per number for each day of interruption</i>, up to a maximum of EUR 5750 per porting request.

Failure to comply with the provisions of the Regulation constitutes an administrative offence⁶:

- **Serious**, if it involves the violation of the rights of the end user, of the obligations towards the operators or of the decisions of ANACOM;
- **Very serious**, if it involves failure to provide information to ANACOM or failure to comply with the standards or technical specifications relating to portability.

Given the scale of the new changes, companies subject to the Regulation will need to implement new technical measures and adapt their processes and systems.

3. Final remark

The new Number Portability Regulation strengthens cooperation between electronic communications companies, promotes freedom of choice for users and makes it easier to change operator. Recognising the effort and resources required to implement the new technical and procedural measures, the regulator has provided for a transitional period (10 months) to allow companies to adapt in an organised and efficient manner. As a result, the regulation will not enter into force until 10 October 2025.

⁶ Article 179(2)(mm)(nn) and (3)(ccc) and (ddd) of the Electronic Communications Law.



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