



### 3. Data Subject Rights (I)

# Right to Information

- the identity and the contact details of the controller
- the purposes of the processing
- the legal basis for the processing
- the recipients or categories of recipients of the personal data
- the intention to transfer personal data to a third country or international organisation
- the period for which the personal data will be stored
- the existence of the DS's rights
- the right to lodge a complaint with a supervisory authority

# Right of Access

The data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the following information:

- the purposes of the processing
- the categories of personal data concerned
- the recipients or categories of recipient
- in particular recipients in third countries or international organisations
- the envisaged period for which the personal data will be stored
- a copy of the personal data undergoing processing

The right to obtain a copy referred to in paragraph 3 shall not adversely affect the rights and freedoms of others.

# Right to Rectification

The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her.

Taking into account the purposes of the processing, the data subject shall have the right to have incomplete personal data completed, including by means of providing a supplementary statement

# Right to Restriction of Processing

The data subject shall have the right to obtain from the controller restriction of processing where one of the following applies:

- the accuracy of the personal data is contested by the data subject, for a period enabling the controller to verify the accuracy of the personal data
- the processing is unlawful, and the data subject opposes the erasure of the personal data and requests the restriction of their use instead
- the controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise or defence of legal claims
- the data subject has objected to processing pending the verification whether the legitimate grounds of the controller override those of the data subject





Date: Last 6 months

+ NEW

## \*\* Marketing purposes

- Where the data subject objects to processing for direct marketing purposes, the personal data shall no longer be processed for such purposes.
- Where personal data are processed for scientific or historical research purposes or statistical purposes pursuant, the data subject, on grounds relating to his or her particular situation, shall have the right to object to processing of personal data concerning him or her, unless the processing is necessary for the performance of a task carried out for reasons of public interest

Average position

25.2

# Multiple choice Q. sample

1. *Which of the following statements best describes the scope of the right to access?*
  - a. The data subject always has the right to obtain information about the processing operations concerning her/his personal data
  - b. The data subject always has the right to obtain a copy of all the personal data concerning his/her personal data processed by the controller
  - c. The data subject had the right to obtain from the controller confirmation about the processing operations concerning her/his personal data, access to the personal data and obtain the main information on the controller and the ongoing processing activities.



# Problem solving exercise

Paul is a doctorate candidate that aims to apply for very competitive positions in some outstanding research centers. Before submitting his applications, he asks for the advice of a professional reputational manager. After a careful inquiry, his consultant finds out some discrediting posts that may negatively affect Paul's applications. Unfortunately, these are not directly accessible entering Paul's identifying information. Anyway, these contents are accessible if you carry out more in-depth research. *According to the GDPR, what would be the best remedy available within the data subject's rights? And do you see any problem about the exercise of this right?*

# Problem solving exercise

Mark applied for an open position to the JobOfLife, a new tech startup now operating on an international scale. The application procedures required to submit a personal resume, a copy of an ID document and a self-certification document where the candidate declares having no criminal pending charges and no personal or family cases of psychiatric disturbs. *According to what you learned while studying the GDPR, what is your opinion about this situation? And which is your suggestion for the data subject in order to defend his rights? (One or two advices)*

# Google Spain

- A news paper article legitimately published
- A data subject presented in light of negative events happened
- A EU located controller and a non-EU located controller
- The data subject claims for the removal of the article
- **Privacy + personal data protection vs. freedom of information and expression**



# Right to Erasure (*'Right to be Forgotten'*)

The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies:

- the personal data are no longer necessary in relation to the purposes
- the data subject withdraws consent
- there are no overriding legitimate grounds for the processing
- the personal data have been unlawfully processed
- the compliance with a legal obligation

[...] the controller, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure



## Right to Erasure (*exceptions*)

shall not apply to the extent that processing is necessary:

- for exercising the right of freedom of expression and information;
- for compliance with a legal obligation which requires processing by Union or Member State law,
- for reasons of public interest in the area of public health
- for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes
- for the establishment, exercise or defence of legal claims

# Multiple choice Q. sample

*Considering the decision of the EUCJ on the Google Spain case, which of the following statements is correct:*

- 1. When there are insufficient legal references, the EUCJ has unlimited power in creating new rights to address the contemporary legal issues related to online personal data protection*
- 2. A legal approach that focuses too much on data protection law categories can have detrimental effects on protecting other fundamental rights equally involved in the digital revolution.*
- 3. Within the EU legal framework, personal data protection law is the primary legal reference for all the issues concerning data regulation since it can always be applied in a flexible and creative way*

# Right to Data Portability

The data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a controller, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller without hindrance from the controller to which the personal data have been provided, where:

- the processing is based on consent
- the processing is carried out by automated means

The data subject shall have the right to have the personal data transmitted directly from one controller to another, where technically feasible.

# Portability (and other rights)

The exercise of the right to data portability shall be without prejudice to [the right to erasure]. That right shall not apply to processing necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

The right to data portability shall not adversely affect the rights and freedoms of others





## automated decision-making process and individuals' rights

The data subject shall have the **right not to be subject** to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.

# EXEPTIONS

necessary within contracts

prescribed by law

- suitable measures to safeguard the data subject's rights and freedoms and legitimate interests

explicit consent

suitable  
measures in  
gdpr

the right to obtain specific information

the right to obtain human intervention

the right to express his/her point of view

the right to obtain an explanation

the right to contest the decision

# Multiple choice Q. sample

*What is the aim of the right to portability?*

- a. The data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed and have the right to communicate those data to another controller
- b. The data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a controller, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller
- c. The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her and, when unsatisfied about them, have the right to communicate those data to another controller

# Problem Solving Sample

The National Medical Association is subject to some denigratory posts on some notorious website, that may have severe repercussions for its reputation. For this reason, the association submits a complaint to the competent data protection authority to exercise its rights based on the GDPR. *According to this piece of legislation, which rights can be potentially exercised and what can be the obstacles to this legal action?*

# Problem Solving Sample

Cause of the current COVID-19 protocols, ABC University allows its students to do the exam online. In this regard, the Dean of ABC decided to adopt new and innovative software to detect possible violations of the ethics code just by capturing the facial expression of the candidates. To take part in the online exams, students must consent to process their personal data. Those suspected of violations will be excluded by the exam session. This initiative is freely launched by the ABC University but is not part of the national mitigation strategy.

*According to the GDPR, which are the problematic elements of this case considering the data subject's position?*