

Transparency



“Honesty and transparency make you vulnerable. Be honest and transparent anyway.”

Mother Theresa of Calcutta

Article 5 of the General Data Protection Regulation sets out a number of principles with which data controllers must comply when processing data and which form the core of the obligations of the data controller to process the data:

“lawfully, fairly and in a transparent manner in relation to a data subject”

While the existing EU Data Protection Directive does include a specific requirement with regard to the idea of transparency, this is now considerably strengthened under the GDPR.

Elements of transparency

Article 14(1) of the GDPR lists the information to which the data subject is entitled:

- Identity and contact details of the controller, his representative and data protection officer.
- Intended purposes of processing, as well as the legal basis of the processing and the legitimate interests pursued by the controller or by a third party.
- The storage period for the data.

- The existence of the right to access, the right to rectification or erasure, and the right to object to processing.
- The right to lodge a complaint with the national data protection authority and its contact details.
- The recipients to whom the data will be disclosed.
- Any intentions to transfer the data to a third country and information about the level of control afforded by that country.

Any further information necessary to render the processing fair.

When the information has not been obtained from the data subject

Article 14a applies when the personal data have not been obtained from the data subject directly, but from a third party, and provides for additional information that should be provided to the data subject:

- The existence of the right to data portability.
- The existence of the right to withdraw consent at any time.
- From which source the personal data originate, and if applicable, whether it came from publicly accessible sources.

- The existence of automated decision making including profiling and meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

Making language fit for purpose

The controller must provide this information using plain language, adapted to the data subject, even if it is a child, and is obliged to provide the information either: (i) at the time the personal data are obtained from the data subject; or, (ii) if the data is not collected from the data subject, at the time it is recorded or within a reasonable period after collection.

Exemptions

A controller is exempt from the duty to provide information if the data subject already possesses it.

Standardising transparency

Under the GDPR, the Commission has the power to lay down standard forms for providing the information, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary.



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