

Details of the rights and legal remedies related to the control of data for data subjects

It is important for those concerned (**data subjects**) to be aware of their rights and the legal remedies related to the control of data because the data controller processes personal data. All the information by means of which the data subject can be identified is regarded as **personal data**. Therefore not only the name, identification code, but also any information characteristic of his/her physical, mental, etc. identity is considered personal data.¹

According to Chapter III of GDPR (the Regulation (EU) 2016/679 of the European Parliament and of the Council) **data subjects have the following rights** in compliance with the regulations and options specified:

1. the right to transparent information
2. the right of access by the data subject to his/her personal data;
3. the right to the rectification and erasure ('right to be forgotten') of personal data, and the right to the restriction of processing upon request;
4. information on recipients;
5. the right to data portability (if we process your data on the basis of your consent/contract the processing is carried out by automated means;
6. the right to objection based on justified interest or within the framework of data of public interest/public powers given to the data controller;
7. the right not to be subject to a decision based solely on automated processing;
8. the right to legal remedy: in case your rights are violated, you can turn to the data protection officer, to the National Authority for Data Protection and Freedom of Information, or you can sue a claim to the court.

Details concerning the rights of data subjects follow.

You can read the explanation of the rights below:

1. Transparent information, communication and modalities for the exercise of the rights of the data subject (Article 12–14 of GDPR)

With this information sheet, the controller provides the information relating to the processing to the data subject referred to in GDPR. If the data subject asks, further detailed oral information can be given, if the data subject proves his or her identity.

2. Right of access by the data subject (Article 15 of GDPR)

The data subject has 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:

- (a) the purposes of the processing;
- (b) the categories of personal data concerned;
- (c) the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;
- (d) where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;
- (e) the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;
- (f) the right to lodge a complaint with a supervisory authority;
- (g) where the personal data are not collected from the data subject, any available information as to their source;
- (h) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) of GDPR and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

¹ **personal data:** GDPR Article 4., 1. means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

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3. Rectification and erasure (Article 16 of GDPR)

3.1. Right to rectification (Article 16 of GDPR)

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.

3.2. Right to erasure ('right to be forgotten') (Article 17 of GDPR)

Personal data must be erased if:

- (a) the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;
- (b) the data subject withdraws consent on which the processing is based and where there is no other legal ground for the processing;
- (c) data controlling and processing is based upon justified interest or is carried out in the public interest or in the exercise of official authority vested in the controller, and the data subject objects to the processing;
- (d) the personal data have been unlawfully processed;
- (e) the personal data have to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject;
- (f) the personal data have been collected in relation to the offer of information society related services directly for children.

3.3. Right to restriction of processing (Article 18 of GDPR)

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

- (a) the accuracy of the personal data is contested by the data subject;
- (b) the processing is unlawful and the data subject opposes the erasure of the personal data;
- (c) 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;
- (c). data controlling and processing is based upon justified interest or is carried out in the public interest or in the exercise of official authority vested in the controller, and the data subject objects to the processing;

The controller shall provide information on action taken on a request to the data subject without undue delay and in any event **within one month of receipt of the request**. That period may be extended by two further months if necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay. Where the data subject makes the request by electronic form means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

4. Notification obligation regarding rectification or erasure of personal data or restriction of processing (Article 19 of GDPR)

The controller shall communicate any rectification or erasure of personal data or restriction of processing carried out to each recipient to whom the personal data have been disclosed, unless this proves impossible or involves disproportionate effort. The controller shall inform the data subject about those recipients if the data subject requests it.

5. Right to data portability (Article 20 of GDPR)

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 or on a contract; and the processing is carried out by automated means.

In exercising his or her right to data portability, the data subject shall have the right to have the personal data transmitted directly from one controller to another, where technically feasible.

The exercise of this right shall be without prejudice to the right to be forgotten.

6. Right to object (Article 21 of GDPR)

The data subject shall have the right to object, on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her which is based on justified interest, or if the processing is

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necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, including profiling² based on those provisions. The controller shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims.

7. Automated individual decision-making, including profiling (Article 22 of GDPR)

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.

This provision shall not apply if the decision:

- (a) is necessary for entering into, or performance of, a contract between the data subject and a data controller;
- (b) is authorised by Union or Member State law to which the controller is subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests; or
- (c) is based on the data subject's explicit consent.

In this case, the data controller shall implement suitable measures to safeguard the data subject's rights and freedoms and legitimate interests, at least the right to obtain human intervention on the part of the controller, to express his or her point of view and to contest the decision.

8. Legal remedy – alternative possibilities

8.1. Data protection officer (Article 24 of Info Act, Article 39 of GDPR)

If the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy. (Article 12 (4) of GDPR)

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8.2. Investigation of the National Authority for Data Protection and Freedom of Information (Authority) (Article 52-58 of Info Act), 57., 77. Article of GDPR

Any person (i. e. not only the data subject) shall have the right to notify the Authority and request an investigation alleging an infringement relating to his or her personal data or concerning the exercise of the rights of access to public information or information of public interest, or if there is imminent danger of such infringement. The Authority *may refuse* the notification without examination thereof as to merits if the infringement alleged in the notification is considered minor, or the notification is anonymous. You can find further reasons for rejection in Section 53. of the Info Act.

The investigation of the Authority is **free of charge**, the Authority pays the charge of the investigation in advance, and covers the costs. Detailed rules regarding the investigation procedure can be found in Articles 54–58. of the Info Act.

The decision is made as a rule within two months of the notification.

National Authority for Data Protection and Freedom of Information

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8.3. Right to an effective judicial remedy against a controller or processor (Section 22. Of Info Act. Article 79 of GDPR)

² GDPR Article 4. „**profiling**”: means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements

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Each data subject has the right to an effective judicial remedy where he or she considers that his or her rights under GDPR (see above) have been infringed as a result of the processing of his or her personal data in non-compliance with GDPR.

Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has his or her habitual residence, unless the controller or processor is a public authority of a Member State acting in the exercise of its public powers.

In Hungary the data subject may start the proceedings – according to his choice – before a court where s/he is living or where his habitual residence is.

The data subject may request compensation or grievance award from the data controller:

- if the data controller causes damage to somebody by the unlawful handling of the data of the data subject or by violating the requirements of data security, the data controller must pay compensation;
- if the data controller infringes the personal rights of somebody by the unlawful handling of the data of the data subject or by violating the requirements of data security (e. g. forwarding personal data to an unauthorised person, or making it public), the data subject may request a grievance award from the data controller.

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