



THE GUARANTEED METHOD
OF GDPR IMPLEMENTATION

A Data Subject's Rights

according to GDPR

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Lawyers at Legal Partners have developed the **Guaranteed Method of GDPR Implementation** based on their knowledge from GDPR trainings and dozens of GDPR implementations in enterprises of various sizes and hundreds of hours dedicated to GDPR. The Method enables a highly effective allocation of the effort and time necessary for full implementation of GDPR among the *client* (organisation), a specialized lawyer, and an IT specialist. As a result, professional GDPR implementation becomes affordable for anyone, regardless of whether the method is used *offline*, i.e., directly with Legal Partners, or *online* using the implementation service at GDPRset.com.

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The new regulation of protection of *personal data*, introduced by Regulation (EU) of the European Parliament and of the Council 2016/679 on personal data protection (hereinafter also referred to as the “**Regulation**” or “**GDPR**”) is certainly a breakthrough legislation.

The European legislature has bound *controllers* and *processors* with numerous obligations that must be complied with by **25 May 2018**.

An overwhelming majority of organisations bound by GDPR, however, will not be able to meet this deadline and will not have implemented GDPR in time. Nevertheless, **it is important to start as soon as possible** and to be able to demonstrate to the supervisory authority at least the fact that your organisation is already working on the implementation and that you seek to respect and protect personal data in your organisation.

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We want to provide you with clear and comprehensible guidance so that you are able **to deal with GDPR by yourself** (not using expensive IT and legal advisors). If you want to achieve this quickly, effectively, at a reasonable price and using specialized lawyers, the **Guaranteed Method of GDPR Implementation** is the right solution for you.

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The **Guaranteed Method of GDPR Implementation** has been incorporated, in cooperation with the technology company DuPonti, in an easy *GDPR implementation service*, available at GDPRset.com.

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This document brings information on the rights of natural persons (= data subjects) arising from GDPR.

Contents

1. Right to be forgotten.....	5
2. Right to data portability	5
3. Right of access by the data subject	6
4. Right to rectification.....	6
5. Automated individual decision-making, including profiling	6
6. Right to restriction of processing.....	6
7. Right to object	7

1. Right to be forgotten

One of the most discussed provisions of GDPR is the right to be forgotten as it gives data subjects (= natural persons) the right to request from the controller the erasure of personal data concerning him or her. **The controller's duty is only established when one of the following conditions is fulfilled:**

- The **personal data are no longer necessary** in relation to the purposes for which they were collected or otherwise processed
- The data subject **withdraws consent** on which the processing is based, and where there is no other legal ground for the processing
- The data subject **objects to the processing** (where objection is permissible according to GDPR);
- The personal data have been **unlawfully processed**;
- 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;
- The personal data have been collected in relation to the offer of information society services to **children**

However, the right to be forgotten is not absolute. **In certain cases, the erasure request can be rejected.** Among those cases, in particular, are:

- Archiving purposes in the public interest, scientific or historical research purposes or statistical purposes
- Exercising the right of freedom of expression and information
- Compliance with a legal obligation
- Reasons of public interest in the area of public health
- Establishment, exercise or defence of legal claims

2. Right to data portability

This right enhances the control of the data subjects over their personal data. A data subject has 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.

The data transfer is to be made available when both of the following conditions are met:

- The processing is based on consent or on a contract

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- The processing is carried out by automated means

3. Right of access by the data subject

This right gives data subjects the right to **obtain** from the controller **confirmation** as to whether or not personal data concerning him or her are being processed. If a result of the enquiry is positive, data subjects have the right to access the personal data and information related to that personal data. In short, the information given to the data subject includes the purpose of the processing; categories of personal data concerned; recipients or categories of recipients to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations; the personal data storage period; the data subject's rights; the right to file a complaint with a supervisory authority; the source of personal data; the existence of automated decision-making, including profiling. An example would be a request of a given data subject to access his or her medical records and all of the information in it.

Other data subject's rights are arising more or less out of this right, as is the case of the right to rectification of inaccurate personal data or the right to restriction of processing.

4. Right to rectification

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

5. Automated individual decision-making, including profiling

The data subject has the right not to be subject to decisions based solely on automated processing, including profiling, which produces legal effects concerning him or her or bears a similarly significant effect on him or her. However, this right does not apply in all cases. For example, when such decision is necessary for entering into, or performance of, a contract between the data subject and a data controller, such right does not apply.

6. Right to restriction of processing

Where it is not possible for the data subject to request personal data erasure or the data subject does not wish to request it for various reasons then the right to restriction of processing can be exercised. This **imposes the duty on the controller to restrict the processing**, i.e. to restrict the operations performed on personal data. This right is recognized in **the following cases**:

- The data subject **contests the accuracy** of the personal data, for a period enabling the controller to verify the accuracy of the personal data

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- 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

7. Right to object

The data subject has the right to object to processing of personal data concerning him or her. This right arises especially when the processing is carried out in the **public interest or in the exercise of official authority vested in the controller**, or when the **processing is based on the legitimate interests of the controller**. After receiving the objection, the controller should 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.

Where personal data are processed for **direct marketing purposes**, the data subject has the right to **object at any time to processing of personal data** concerning him or her for such marketing, which includes profiling to the extent related to such direct marketing. Where a data subject objects to processing for direct marketing purposes, the personal data should no longer be processed for such purposes.

At the latest by the time of the first communication with a data subject, the right to object is to be explicitly brought to the attention of the given data subject and shall be presented clearly and separately from any other information.

Where personal data are processed for scientific **or historical research purposes or statistical purposes**, the data subject, on grounds relating to his or her particular situation, should have the right to object to processing of personal data concerning him or her. The exception in this case occurs when the processing is necessary for the performance of a task carried out for reasons of public interest.

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