

Checklist (request according to Art. 15 to 22 GDPR)

Data controllers should have internal policies in place regarding the handling of data subjects' requests when exercising their rights. In accordance with the principle of accountability, provided in Article 5(2) of the GDPR, controllers should be able to demonstrate that they comply with all GDPR requirements in this regard. A record of all requests and how they were handled should be kept. This checklist is not exhaustive but intends to assist you to achieve that level of compliance.

1. Receipt of the request (aim: information about own personal data¹)

- Determine the nature of the request: right of access; right to rectification; right to erasure; right to restriction of processing; right to object?²
- Identity check - is the data subject the person making the request? Where there is a reasonable doubt: ask for additional information for verification.
- As a best practice send a receipt/confirmation to the data subject
- Determine the deadline for reply – in principle within 1 month (Article 12 (3) sentence 1 GDPR)
- Ensure that – irrespective of the channel used by the data subject to submit the request - you have procedures implemented to enable the prompt identification of this kind of request and to forward it to the respective department, in order to comply with the legal deadlines.

2. Preliminary examination

- Is specific legislation applicable such as transparency or freedom of information Acts?
- Is the request excessive or manifestly unfounded? -> inform the data subject about your assessment and your plans regarding the further handling of the request, also of the possible costs
- If necessary, ask the data subject to further specify their request³

3. Fulfilment of data subject rights

- Rectify, erase, stop or limit the processing or retrieve the personal data required for the fulfilment of the request
- If your internal procedure to process data subject rights requests foresees a central handling of these requests, request the relevant specialised departments to rectify, erase, stop or limit the processing or to provide the personal data required for the fulfilment of the request

¹ Personal data; Article 4 No. 1 GDPR

² Application for one or more rights.

³ Where the controller processes a large quantity of information concerning the data subject, the controller should be able to request that, before the information is delivered, the data subject specify the information or processing activities to which the request relates (Specification, recital No. 63 sentence 7 GDPR)

4. Specific case: Right of access

4.1. Processing of the request

- Are personal data in relation to the data subject being processed?
- Have all systems and documents been checked, especially registers/databases? In all relevant departments within the organisation?
- If no personal data in relation to the data subject are processed and all systems have been checked -> inform data subject.

4.2 Example examination Article 15 GDPR⁴

If personal data of the data subject is processed:

- What information is being processed?
- What is the purpose of the processing?
- What categories of personal data are processed?
- Who are the recipients or categories of recipients to whom personal data are disclosed or are to be disclosed?
- How long will the personal data be stored and why for this period?
- Has the data subject been informed about the right to rectification, erasure or restriction?
- Has the data subject been informed about their right to complain to the supervisory authority?
- If the personal data was not collected directly from the data subject: Inform the data subject about the origin of the personal data.
- Does automated decision-making, including profiling, take place? -> if yes, inform the data subject (Article 15 (1) (h) GDPR)
- Is or has personal data been transferred to a third country? (Article 15 (2) GDPR)
- Is there any data of other persons that cannot be disclosed to the requesting data subject?
- Are there any (other) obstacles to providing all or part of the data? (Article 15 (4) GDPR⁵, other area-specific obstacles to claims⁶ - observe national laws⁷).

5. Reply sent to data subject

⁴ Recommendations on IMI transparency obligation – No. 7.1 (page 5)

⁵ Article 15 (4) GDPR contains an obstacle (only) to the claim conveyed by Article 15 (3) GDPR

⁶ Example: Threat to public safety

⁷ On Article 23 (1) GDPR protected national restrictions

- Reply to access request or inform the data subject about actions taken on the basis of other data subject rights sent within the deadline.
- In case of the right of access: provide a copy of the personal data concerned, and, if there are any restrictions, provide the data subject with the reasons for these restrictions.
- In case you cannot reply within the one month deadline, taking into account the complexity and the number of the requests, make sure that within that same period you inform the data subject of the prorogation of the deadline and of the reasons for the delay.
- Keep proof of the reply (during the period of liability under national law).

6. Form of provision⁸

- If sent by electronic means: are the means used secure/is the information encrypted⁹?

⁸ Hardcopy, electronic form, online portal

⁹ Encrypted e-mail, letter, password protected data carriers