

Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA

### *CHAPTER III*

#### ***Rights of the data subject***

##### *Article 12*

#### **Communication and modalities for exercising the rights of the data subject**

1 Member States shall provide for the controller to take reasonable steps to provide any information referred to in Article 13 and make any communication with regard to Articles 11, 14 to 18 and 31 relating to processing to the data subject in a concise, intelligible and easily accessible form, using clear and plain language. The information shall be provided by any appropriate means, including by electronic means. As a general rule, the controller shall provide the information in the same form as the request.

2 Member States shall provide for the controller to facilitate the exercise of the rights of the data subject under Articles 11 and 14 to 18.

3 Member States shall provide for the controller to inform the data subject in writing about the follow up to his or her request without undue delay.

4 Member States shall provide for the information provided under Article 13 and any communication made or action taken pursuant to Articles 11, 14 to 18 and 31 to be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either:

- a charge a reasonable fee, taking into account the administrative costs of providing the information or communication or taking the action requested; or
- b refuse to act on the request.

The controller shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.

5 Where the controller has reasonable doubts concerning the identity of the natural person making a request referred to in Article 14 or 16, the controller may request the provision of additional information necessary to confirm the identity of the data subject.

##### *Article 13*

#### **Information to be made available or given to the data subject**

1 Member States shall provide for the controller to make available to the data subject at least the following information:

- a the identity and the contact details of the controller;

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- b the contact details of the data protection officer, where applicable;
- c the purposes of the processing for which the personal data are intended;
- d the right to lodge a complaint with a supervisory authority and the contact details of the supervisory authority;
- e the existence of the right to request from the controller access to and rectification or erasure of personal data and restriction of processing of the personal data concerning the data subject.

2 In addition to the information referred to in paragraph 1, Member States shall provide by law for the controller to give to the data subject, in specific cases, the following further information to enable the exercise of his or her rights:

- a the legal basis for the processing;
- b the period for which the personal data will be stored, or, where that is not possible, the criteria used to determine that period;
- c where applicable, the categories of recipients of the personal data, including in third countries or international organisations;
- d where necessary, further information, in particular where the personal data are collected without the knowledge of the data subject.

3 Member States may adopt legislative measures delaying, restricting or omitting the provision of the information to the data subject pursuant to paragraph 2 to the extent that, and for as long as, such a measure constitutes a necessary and proportionate measure in a democratic society with due regard for the fundamental rights and the legitimate interests of the natural person concerned, in order to:

- a avoid obstructing official or legal inquiries, investigations or procedures;
- b avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties;
- c protect public security;
- d protect national security;
- e protect the rights and freedoms of others.

4 Member States may adopt legislative measures in order to determine categories of processing which may wholly or partly fall under any of the points listed in paragraph 3.

#### *Article 14*

### **Right of access by the data subject**

Subject to Article 15, Member States shall provide for the right of the data subject 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 and legal basis for the processing;
- (b) the categories of personal data concerned;
- (c) the recipients or categories of recipients to whom the personal data have been 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;
- (f) the right to lodge a complaint with the supervisory authority and the contact details of the supervisory authority;
- (g) communication of the personal data undergoing processing and of any available information as to their origin.

### *Article 15*

#### **Limitations to the right of access**

1 Member States may adopt legislative measures restricting, wholly or partly, the data subject's right of access to the extent that, and for as long as such a partial or complete restriction constitutes a necessary and proportionate measure in a democratic society with due regard for the fundamental rights and legitimate interests of the natural person concerned, in order to:

- a avoid obstructing official or legal inquiries, investigations or procedures;
- b avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties;
- c protect public security;
- d protect national security;
- e protect the rights and freedoms of others.

2 Member States may adopt legislative measures in order to determine categories of processing which may wholly or partly fall under points (a) to (e) of paragraph 1.

3 In the cases referred to in paragraphs 1 and 2, Member States shall provide for the controller to inform the data subject, without undue delay, in writing of any refusal or restriction of access and of the reasons for the refusal or the restriction. Such information may be omitted where the provision thereof would undermine a purpose under paragraph 1. Member States shall provide for the controller to inform the data subject of the possibility of lodging a complaint with a supervisory authority or seeking a judicial remedy.

4 Member States shall provide for the controller to document the factual or legal reasons on which the decision is based. That information shall be made available to the supervisory authorities.

### *Article 16*

#### **Right to rectification or erasure of personal data and restriction of processing**

1 Member States shall provide for the right of the data subject to obtain from the controller without undue delay the rectification of inaccurate personal data relating to him or her. Taking into account the purposes of the processing, Member States shall provide for the data subject to have the right to have incomplete personal data completed, including by means of providing a supplementary statement.

2 Member States shall require the controller to erase personal data without undue delay and provide for the right of the data subject to obtain from the controller the erasure of personal data concerning him or her without undue delay where processing infringes the provisions adopted pursuant to Article 4, 8 or 10, or where personal data must be erased in order to comply with a legal obligation to which the controller is subject.

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- 3 Instead of erasure, the controller shall restrict processing where:
- a the accuracy of the personal data is contested by the data subject and their accuracy or inaccuracy cannot be ascertained; or
  - b the personal data must be maintained for the purposes of evidence.

Where processing is restricted pursuant to point (a) of the first subparagraph, the controller shall inform the data subject before lifting the restriction of processing.

4 Member States shall provide for the controller to inform the data subject in writing of any refusal of rectification or erasure of personal data or restriction of processing and of the reasons for the refusal. Member States may adopt legislative measures restricting, wholly or partly, the obligation to provide such information to the extent that such a restriction constitutes a necessary and proportionate measure in a democratic society with due regard for the fundamental rights and legitimate interests of the natural person concerned in order to:

- a avoid obstructing official or legal inquiries, investigations or procedures;
- b avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties;
- c protect public security;
- d protect national security;
- e protect the rights and freedoms of others.

Member States shall provide for the controller to inform the data subject of the possibility of lodging a complaint with a supervisory authority or seeking a judicial remedy.

5 Member States shall provide for the controller to communicate the rectification of inaccurate personal data to the competent authority from which the inaccurate personal data originate.

6 Member States shall, where personal data has been rectified or erased or processing has been restricted pursuant to paragraphs 1, 2 and 3, provide for the controller to notify the recipients and that the recipients shall rectify or erase the personal data or restrict processing of the personal data under their responsibility.

### *Article 17*

#### **Exercise of rights by the data subject and verification by the supervisory authority**

1 In the cases referred to in Article 13(3), Article 15(3) and Article 16(4) Member States shall adopt measures providing that the rights of the data subject may also be exercised through the competent supervisory authority.

2 Member States shall provide for the controller to inform the data subject of the possibility of exercising his or her rights through the supervisory authority pursuant to paragraph 1.

3 Where the right referred to in paragraph 1 is exercised, the supervisory authority shall inform the data subject at least that all necessary verifications or a review by the supervisory authority have taken place. The supervisory authority shall also inform the data subject of his or her right to seek a judicial remedy.

### *Article 18*

#### **Rights of the data subject in criminal investigations and proceedings**

Member States may provide for the exercise of the rights referred to in Articles 13, 14 and 16 to be carried out in accordance with Member State law where the personal data are contained in a judicial decision or record or case file processed in the course of criminal investigations and proceedings.