



## FutureLearn Course “Understanding the General Data Protection Regulation”

Below, we would like to list all the rights you have been introduced to. This list could serve as a useful overview containing all necessary elements of those rights.

### Right to access

One of the first significant rights data subjects have is **the right to access**, found in [Article 15 GDPR](#). In this respect, data subjects have the right to obtain from controllers a confirmation regarding the fact whether or not personal data in relation to them are being processed and, when it is indeed the case, to access these personal data and such relevant types of information as:

1. The purposes of the processing;
2. The categories of personal data in question;
3. The recipients or categories of recipient to whom the personal data have been or will be disclosed, such as recipients in third countries or international organisations;
4. If it is possible, the period for which controllers are planning to store the personal data or, if it is not possible, the criteria used to determine that period;
5. 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;
6. The right to lodge a complaint with a supervisory authority;
7. If the personal data are not collected from the data subject, any available information as to its source;
8. The existence of automated decision-making, including profiling, and, at least, meaningful information in these cases about the logic involved, the significance of this processing for the data subject and the envisaged consequences.

When data subjects exercise their right to access, controllers are required to provide **a copy of the personal data** that are being processed. If the request from the data subject has been made by **electronic means**, information is provided to him or her in a commonly used electronic form (unless he or she specifically requests otherwise). For any additional copy of the personal data, controller may charge **a reasonable fee** on the basis of administrative costs. Importantly, this right to obtain a copy may not adversely affect the rights and freedoms of others.

### Right to rectification

In addition, another important provision of the GDPR, [Article 16 GDPR](#), contains an essential right. If controllers store personal data of individuals, these persons are further entitled to **the right to rectify** without any undue delay inaccurate information concerning them. Considering the purpose of the processing, any data subject has the right to have his or her personal data **completed**, such as, for instance, by providing a supplementary statement.



## Right to erasure

The following right is **the right to erasure** laid down in [Article 17 GDPR](#) or the right to be forgotten, as it is sometimes not entirely correctly called. Data subjects have the right to obtain from controllers the erasure of personal data concerning them without undue delay. In this regard, controllers are obliged to erase these personal data without undue delay if one of the following grounds is applicable:

1. Personal data are not necessary anymore in relation to the purposes for which they have been collected or processed;
2. Data subjects withdraw their consent and there is no other legal ground for processing;
3. Data subjects object to the processing and there are no overriding legitimate grounds for this processing;
4. Personal data have been unlawfully processed;
5. Personal data must be deleted in order to comply with a legal obligation in the European Union or the law of EU Member States to which controllers are subjected;
6. Personal data have been collected in relation to the offer of information society services to children.

This is, however, **not applicable** when the processing is necessary:

1. For the exercise of the right to freedom of expression and information;
2. For compliance with a legal obligation of a controller that requires the processing by the European Union or the of EU Member States and for the performance of a task carried out in the public interest or in the exercise of official authority vested in a controller;
3. For reasons of public interest in the area of public health;
4. For achieving purposes in the public interest, scientific or historical research purposes or statistical purposes;
5. For the establishment, exercise or defence of legal claims.

[The judgment](#) in **the case of Google Spain** brought before the CJEU indicated the existence of this right. The judgement was given on 13 May 2014 and dealt with the right to be forgotten in the context of the previous Directive 95/46.

## Right to restriction of processing

In [Article 18 GDPR](#), one can find **the right to restriction of processing**. Data subjects have the right to obtain from controllers restriction of processing when one of the following conditions applies:

1. Data subjects contest the accuracy of their personal data, for a period enabling the controller to verify the accuracy of this data;
2. The processing is unlawful and data subjects oppose the erasure of their personal data and request the restriction of the use of these data instead;
3. Controllers no longer need personal data for the purposes of the processing, but these data are required by data subjects for the establishment, exercise or defence of legal claims;



4. Data subjects object to the processing pending the verification whether the legitimate grounds of controllers override those of data subjects.

When one of the above-mentioned conditions apply and the processing is restricted, personal data may still be stored but may further be processed only **(1)** with the consent of data subjects and for a number of purposes: **(2)** the establishment, exercise or defence of legal claims; **(3)** for the protection of the rights of other natural or legal persons; or **(4)** for reasons of important public interest of the European Union or its Member States.

When the restriction of processing has been obtained, controllers need **to inform** data subjects before this restriction is lifted.

### Right to data portability

Following [Article 20 GDPR](#), data subjects have **a right to receive personal data** concerning them that had been provided by them to controllers. These data must be provided in **a structured, commonly used and machine readable format**. Moreover, data subjects have **the right to transmit their personal data** to other controllers. This right exists when the processing is based on **consent or a contract** and the processing is carried out **by automated means**. In addition, data subjects who exercise their right to data portability may have their personal data **transmitted directly** from one controller to another if this is technically possible.

This right can be exercised without prejudice to the right to erasure. It also **does not apply** to the tasks carried out in the public interest or in the exercise of official authority by the controller. Finally, it cannot be invoked to adversely affect the rights and freedoms of others.

### Right to object

We should also not forget that there is **a right to object** that is conferred to data subjects by [Article 21 GDPR](#). Namely, there can be grounds relating to persons' particular situations that can justify the exercise of this right in relation to the processing of their personal data when this processing is necessary for the performance of tasks in **the public interest** or is required in **the exercise of official authority** by the controllers or when this processing must be carried out for **the purposes of the legitimate interests** pursued by the controllers or third parties. This right also exists when there are **profiling activities** carried out in these situations.

What is highly relevant to all of us nowadays, is the fact that this right can also be exercised when personal data of individuals are processed in the context of **direct marketing or profiling related to such marketing**. It can be done at any time and when data subjects object their personal data may not be processed anymore for direct marketing.

At the time of the first communication with data subjects, the existence of the right to object as addressed earlier must be indicated to data subjects in a clear manner and separately from



other information. This right can be exercised by data subjects – when we deal with the use of information society services – by automated means using technical specifications.

Importantly, the right to object also exists when individuals' personal data are processed for **scientific or historical research and statistical purposes**. This is, however, not the case if the processing is carried out for **the reasons of public interest**.

### **Right not to be subjected to automated individual decision-making**

Given that we live in a technologically advanced society, many decisions can be taken by the systems in an automatic manner. [Article 22 GDPR](#) grants to all of us **a right not to be subject to a decision that is based only on an automated processing**, which includes profiling. This decision must **significantly affect** an individual, for example, by creating certain **legal effects**.

It is, however, not always possible to make use of this right: in certain situations, it **does not apply**. This is the case when such an automated individual decision is needed for entering into a contract or performing a contract between the data subject and a controller. Also, the law of the European Union or its Member States can authorise taking such a decision. In this regard, it must also provide for appropriate safeguards for the protection of rights, freedoms and legitimate interests of data subjects. Finally, when such a decision is based on an explicit consent of data subjects, this right does not apply. In the first and second types of situations, data controllers play an important role in safeguarding the rights, freedoms and legitimate interests of data subjects: they need to ensure the right to implement human intervention on the part of the controllers, to express points of view or to contest the decision.

These three types of decision, to which the right not to be subjected does not apply, may not be based on **the special categories of personal data**, as discussed before, unless persons' consent has been obtained or the processing is required for reasons of substantial public interest. There should also be measures that aim at safeguarding data subjects' right, freedoms and legitimate interests.

### **Right to lodge a complaint with a supervisory authority**

Every data subject has **a significant right to lodge a complaint with a supervisory authority** if he or she believes that the processing of his or her personal data infringes the GDPR, as laid down in [Article 77 GDPR](#). This can be done in the Member States of habitual residence, places of work and places of alleged infringements. Then the supervisory authority will be **required to inform** data subjects who file their complaints about the progress and the outcome of their complaints.



## Right to an effective judicial remedy against a decision of a supervisory authority and against a controller or processor

Further, it is possible for certain persons to have a **right to effective judicial remedies against decisions of supervisory authorities** as provided in [Article 78 GDPR](#). In this regard, the provision grants this right to not only **natural** but also **legal persons**. The judicial remedy that they must have is required to be effective in order to address legally binding decisions given by supervisory authorities in relation to them.

Additionally, data subjects have the right to an effective judicial remedy when supervisory authorities **fail to address their complaints** or **do not inform** data subjects about the progress of the outcome of the complaints.

One should remember that the effective judicial remedy as meant here can be obtained from **the courts** of the Member States where the supervisory authority in question is located.

Also, there is a **right to an effective judicial remedy against controllers and processors**, in accordance with [Article 79 GDPR](#). When data subjects feel that their rights protected by the GDPR are violated as a result of the processing of their personal data, they may initiate proceedings against a controller or a processor in question before a court of the Member State of the establishment of these controllers or processors. As an alternative, data subjects can also start proceedings in the Member State where they have their habitual residence unless the controller or the processor is a public authority of the Member State and exercises its public powers.

## Right to be represented by organisations and others

Ex [Article 80 GDPR](#), it is possible for data subjects to allow **not-for-profit bodies, organisations or associations** to lodge complaints on their behalf and to exercise rights discussed above and addressed in Articles [77](#), [78](#) and [79](#) of the GDPR on their behalf. These provisions concern – as we have already discovered – the right to lodge a complaint with a supervisory authority and the rights to an effective judicial remedy against decisions of supervisory authorities and controllers or processors.

Depending on the legislation of Member States, such bodies, organisations and associations may also have the right to lodge complaints with the supervisory authority **independently of a data subjects' mandate** and to exercise rights ex Articles [78](#) and [79](#) GDPR concerning the rights to an effective judicial remedy if they think that the rights of a data subject have been violated as a result of the processing of personal data.

## Right to compensation

[Article 82 GDPR](#) states that persons that have suffered **material or non-material damage** as a result of an infringement of the GDPR have **the right to receive compensation** from the controller of the processor in question. In this regard, it is of importance to establish **liability**



of the involved persons and entities. Any controller that is involved in the processing is liable for such damage. A processor is only liable when it has not complied with its obligations under the GDPR addressed to it or has acted outside lawful instruction of a controller or contrary to them. If, however, they are not responsible for the events giving rise to the damage, they will not be liable.

As provided in [Article 80 GDPR](#), this right can also be exercised by **bodies, organisations and associations** mentioned above on behalf of data subjects. Proceedings for exercising the right to compensation should be brought before **the courts** that are competent under the law of a Member State in question.