

COMP Article 17

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Article 17

Right to ~~be forgotten and to~~ erasure

1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, *and to obtain from third parties the erasure of any links to, or copy or replication of that data, ~~especially in relation to personal data which are made available by the data subject while he or she was a child,~~* where one of the following grounds applies:

(a) the 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 according to point (a) of Article 6(1), or when the storage period consented to has expired, and where there is no other legal ground for the processing of the data;

(c) the data subject objects to the processing of personal data pursuant to Article 19;

(ca) a court or regulatory authority based in the Union has ruled as final and absolute that the data concerned must be erased;

(d) the ~~processing of the~~ data *has been unlawfully processed does not comply with this Regulation for other reasons.*

1a. The application of paragraph 1 shall be dependent upon the ability of the data controller to verify that the person requesting the erasure is the data subject.

2. Where the controller referred to in paragraph 1 has made the personal data public *without a justification based on Article 6(1), it shall take all reasonable steps to have the data erased, including by third parties, without prejudice to Article 77, ~~it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication. The controller shall inform the data subject, where possible, of the action taken by the relevant third parties. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.~~*

3. The controller *and, where applicable, the third party* shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:

- (a) for exercising the right of freedom of expression in accordance with Article 80;
- (b) for reasons of public interest in the area of public health in accordance with Article 81;
- (c) for historical, statistical and scientific research purposes in accordance with Article 83;
- (d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect ~~the essence of~~ the right to the protection of personal data and be proportionate to the legitimate aim pursued;
- (e) in the cases referred to in paragraph 4.

4. Instead of erasure, the controller shall restrict processing of personal data ***in such a way that it is not subject to the normal data access and processing operations and can not be changed anymore***, where:

- (a) their accuracy is contested by the data subject, for a period enabling the controller to verify the accuracy of the data;
- (b) the controller no longer needs the personal data for the accomplishment of its task but they have to be maintained for purposes of proof;
- (c) the processing is unlawful and the data subject opposes their erasure and requests the restriction of their use instead;

(ca) a court or regulatory authority based in the Union has ruled as final and absolute that the data concerned must be restricted;

(d) the data subject requests to transmit the personal data into another automated processing system in accordance with paragraphs ***2a of Article ~~18(2)~~ 15;***

(da) the particular type of storage technology does not allow for erasure and has been installed before the entry into force of this Regulation.

5. Personal data referred to in paragraph 4 may, with the exception of storage, only be processed for purposes of proof, or with the data subject's consent, or for the protection of the rights of another natural or legal person or for an objective of public interest.

6. Where processing of personal data is restricted pursuant to paragraph 4, the controller shall inform the data subject before lifting the restriction on processing.

~~7. The controller shall implement mechanisms to ensure that the time limits established for the erasure of personal data and/or for a periodic review of the need for the storage of the data are observed.~~

8. Where the erasure is carried out, the controller shall not otherwise process such personal data.

8a. The controller shall implement mechanisms to ensure that the time limits established for the erasure of personal data and/or for a periodic review of the need for the storage of the data are observed.

9. The Commission shall be empowered to adopt, *after requesting an opinion of the European Data Protection Board*, delegated acts in accordance with Article 86 for the purpose of further specifying:

(a) the criteria and requirements for the application of paragraph 1 for specific sectors and in specific data processing situations;

(b) the conditions for deleting links, copies or replications of personal data from publicly available communication services as referred to in paragraph 2;

(c) the criteria and conditions for restricting the processing of personal data referred to in paragraph 4.

Recitals

(53) Any person should have the right to have personal data concerning them rectified and a 'right to *erasure and to be forgotten*' where the retention of such data is not in compliance with this Regulation. In particular, data subjects should have the right that their personal data are erased and no longer processed, where the data are no longer necessary in relation to the purposes for which the data are collected or otherwise processed, where data subjects have withdrawn their consent for processing or where they object to the processing of personal data concerning them or where the processing of their personal data otherwise does not comply with this Regulation. ~~*This right is particularly relevant, when the data subject has given their consent as a child, when not being fully aware of the risks involved by the processing, and later wants to remove such personal data especially on the Internet.*~~ However, the further retention of the data should be allowed where it is necessary for historical, statistical and scientific research purposes, for reasons of public interest in the area of public health, for exercising the right of freedom of expression, when required by law or where there is a reason to restrict the processing of the data instead of erasing them. *Also, the right to erasure should not apply when the retention of personal data is necessary for the performance of a contract with the data subject, or when there is a legal obligation to retain this data.*

(54) To strengthen the 'right to *erasure be forgotten*' in the online environment, the right to erasure should also be extended in such a way that a controller who has made the personal data public *without legal justification* should be obliged to *take all necessary steps to have the data erased, including by third parties, without prejudice to the right of the data subject to claim compensation. ~~inform third parties which are processing such data that a data subject requests them to erase any links to, or copies or replications of that personal data. To ensure this information, the controller should take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible. In relation to a third party publication of personal data, the controller should be considered responsible for the publication, where the controller has authorised the publication by the third party.~~*