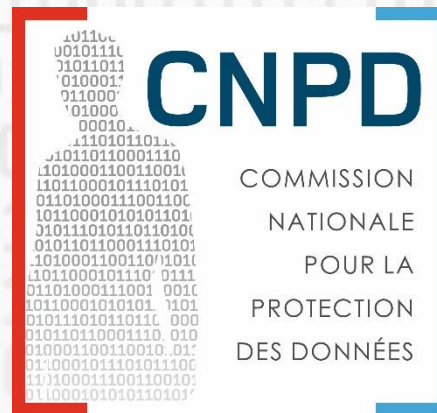


CNPD Course: Data Protection Basics

The rights of data subjects



Esch-sur-Alzette

4-6 July 2017

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Legal department

Programme

1. Introduction
2. Basic concepts
- 3. The rights of data subjects**
4. The role of the CNPD
5. The obligations of controllers
6. Main innovations introduced by the new European data protection regulation

The rights of data subjects

- I. The right to be informed
- II. The right to be informed in case of automated processing
- III. The right of access
- IV. The right to rectification
- V. The right to object
- VI. The right to delisting



From 25 May 2018:

- VII. The right to data portability
- VIII. The right to be forgotten
- IX. The right to be notified in case of a personal data breach

The right to be informed

(Art. 26 of the Act)

- You have the right to know **if** your personal data is processed, **by whom** and **why**:
 - Controller ;
 - Purpose(s) ;
 - Recipient(s) ;
 - Whether answering the questions is compulsory or voluntary and possible consequences;
 - Right of access ;
 - Right to rectification.
- The controller needs to inform the data subject by using **clear and plain language** at the time of collection of the data or at the latest when the data is recorded (or: when data is disclosed to a third party).
- This right is restricted in certain cases.



Example

Contractual clause:

« The information collected by this form is registered by a computer readable file by Kopic S.A. for advertising purposes.

The information will be kept for one year and will be sent to our marketing and commercial department.

In accordance with the Amended Act of 2 August 2002, you can exercise your right of access to your personal data and you can ask their rectification by contacting: Kopic S.A., La Direction, 22, Rue Esch, L-3311 Abweiler. »

- Identity of the controller : KAPIC S.A.
- Specified and explicit purpose of the collection of the data : ADVERTISING
- The recipient: MARKETING AND COMMERCIAL DEPARTMENT
- Information as to whether answering the questions is compulsory or voluntary, as well as possible consequences of failure to answer: ####
- Information in relation to the right of access to the data : OK
- Information in relation to the right to rectification of the data: OK

The right to be informed in case of automated processing

(Art. 28 (1) (d) and 31 of the Act)



- You have the right to know the **logic involved** in any automatic processing of data concerning you.
- **Especially** if the automated processing of your data results in an **individual decision** producing **legal effects** on you.

The right to be informed in case of automated processing

- In such a case, the controller or processor needs to provide you with the possibility to **state your point of view** and, as the case may be, **to challenge the decision**.

Examples

- Approval of a consumer credit application or an insurance contract.

The right to object

(Art. 30 of the Act)

- You have the right to object, for **compelling and legitimate reasons**, to the processing of your personal data, except if such processing is specifically provided for in the applicable law.
- You can object, **without having to provide any justification**, to the use of your personal data for **advertising** purposes.

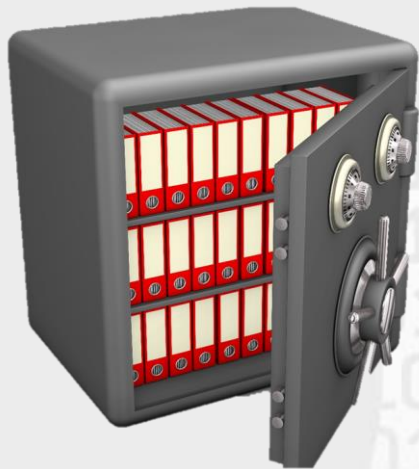


Examples

- Canvassing (political parties, labour unions, religious group etc.).
- An advertising e-mail.

The right of access

(Art. 28 of the Act)



- You can ask the controller **directly** and **free of charge**:
 - to state whether or not data relating to you are being processed
 - to send you all of your personal data **within a reasonable time frame**.

The right of access

- The personal data undergoing processing and the source of such data shall be disclosed in an **intelligible form**.
- In relation to certain types of data processing activities, your right of access is restricted.

Examples

- I want to know the personal data held by my operator.
- I bought a product online. I would like to know what kind of data the website kept in relation to me.
- My employer registers my clock in/clock out data. I would like to know the details.
- I want to have access to the videos/images in relation to me.
- What kind of personal data does my bank keep in relation to me?

The right to rectification

(Art. 28 of the Act)

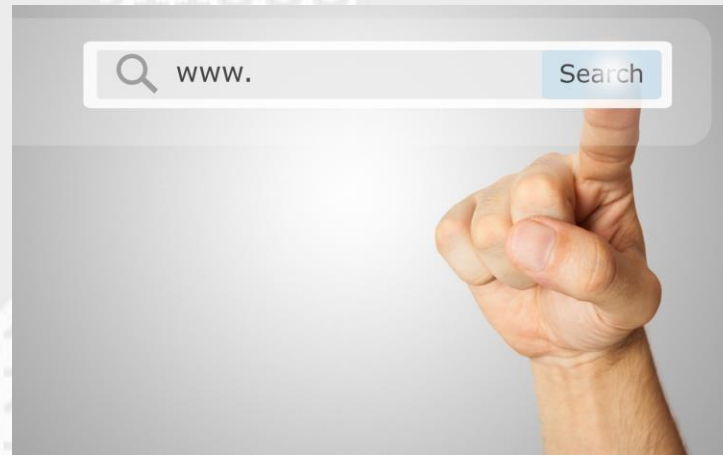
- You can request rectification if personal data concerning you prove to be **incorrect** or **incomplete**.
- This right helps to prevent a controller from processing or publishing wrong information about you.



data

The right to delisting

(Judgment CJEU: C-131/12, 13 May 2014)



- You can request a search engine (Google, Bing, Yahoo etc) to remove a result displayed following a search made on the basis of the **combination of your first name and surname**, if the information in that link is affecting your privacy rights significantly.

The right to delisting

- **Note:** the deletion of such search result does not lead to deletion of the information on the source website.
- The **public's right to information** can prevent the deletion in certain cases.



Examples

- When typing your first name and surname into Google's search field, you find an old CV of yours.
- When typing your first name and surname into Yahoo's search field, you find a picture of yourself with an article containing allegations against you that prove to be unfounded suspicions.
- When typing your first name and surname into another search engine's search field, you find a blog that displays defamatory statements or sensitive data (p.ex. religious belief, sex life etc) concerning your child.

From **25 May 2018**, the new GDPR will grant more rights to citizens:



- The right to data portability
- The right to be forgotten
- The right to be notified in case of a personal data breach

Thank you for your attention!

Questions?



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