GDPR transparency requirements

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GDPR: Various sources that require transparency

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Necessity of transparency from a data protection perspective

- Involved stakeholders need to have all relevant and sufficient information to understand the relevant steps of data processing, the decisions based on the results of the processing, as well as the related risks
  - Which data and to which extend?
  - In which way, using which means?
  - For which purposes and processed by whom?
  - Transfer to other parties and foreign countries?

- Necessary precondition to enable data subject’s rights (e.g. access, rectification...)

- Crucial element of fair and lawful data processing

Scope: Data, systems, processes -> over the whole lifecycle of processing (collection to deletion)
High level examples how transparency can be supported

• Verification of data sources, keeping track of data
• Documentation of IT processes
• Logging of accesses & changes of the data stock
• Versioning of different prototypes/systems
• Documentation of testing
• Documentation of (related) contracts
• Documentation of consent (if applicable: given/refused/withdrawn)
• Consent management possible from a mobile
• Support of data subject’s rights via technology, e.g. easy access, deletion, rectification
Data protection focus for technical specifications I

Categories of personal data

• Typical classes of data, e.g. master record data, location and movement data, call records, communication metadata, logfile data.
• E.g. special categories of personal according to Art. 9 GDPR
  • racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health, data concerning a natural person's sex life or sexual orientation

Support documentation of

• processing purpose(s) + legal ground
• consent exact wording (versioning) and current status, e.g.
  • given – if yes, specific whether explicit or implicit
  • pending / withheld
  • withdrawn
  • referring to the personal data of a minor
  • referring to the personal data of a disabled person in need of specific accessibility provisions to manage consent
Data protection focus for technical specifications II

➢ Support documentation of
  • Involved controller(s)
  • Involved processor(s)
  • Cross-border data transfers and involved countries
    • Data transfer within the European Union
    • Data transfer to a third country and basis for compliance with Art. 44 et seq. GDPR (adequacy decision, appropriate safeguards, binding corporate rules) and where possible a link documenting the latter, e.g. to the Commission’s adequacy decision or the BCR.
    • Other third country

➢ Enforce rules how to handle the data, e.g.
  • User/access activity allowed, like read-only, write, rectify, disclose, deletion
  • Anonymize / pseudonymize / encrypt
  • Time for deletion [delete by...], [delete x month after <event>], etc.
  • Notify [define notification rules e.g. towards data subject, eventually with predefined action time]

➢ Availability of the data to inform of data subjects
For consent management: layered approach instead of text walls

First, top-layer should

>‘always contain information on the processing which has the most **impact on the data subject** and processing which could **surprise** the data subject.’*

Recommendation: Communicate at least

- processing purpose,
- data recipients and
- where/how more in-depth information can be found

Specification must support multi-layered approach, e.g. foresee data fields for several layers of detail

*(Art. 29 WP260 p. 17; supported already by Art. 29 Working Party WP100, 2004)*
Thank you / contact details

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