



EN

Article 19.

Notification obligation regarding rectification or erasure of personal data or restriction of processing



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The controller shall communicate any rectification or erasure of personal data or restriction of processing carried out in accordance with Article 16, Article 17(1) and Article 18 to each recipient to whom the personal data have been disclosed, unless this proves impossible or involves disproportionate effort. The controller shall inform the data subject about those recipients if the data subject requests it.

General Data Protection Regulation (EU GDPR)

The latest consolidated version of the Regulation with corrections by Corrigendum, OJ L 127, 23.5.2018, p. 2 ((EU) 2016/679). Source: EUR-lex.

Related information Article 19. Notification obligation regarding rectification or erasure of personal data or restriction of processing

Expert commentary

Article 19 includes a notification obligation, which should not be confused with the specific personal data breach notification obligation (article 33). It is a mechanism that gives full effect to other provisions of the *General Data Protection Regulation*, ensuring that third parties are informed about actions taken by the controller regarding personal data (recital 66).

After a person has exercised her/his right to **rectification** (article 16), **erasure** (article 17) or **restriction of processing** (article 18), the controller must inform all parties (“*recipients*”) to whom s/he has disclosed data. The provision should be read as referring to all forms of communication of personal data, like “*disclosure by transmission, dissemination or otherwise making available*” [article 4 (2)]. The recipient identified in the text of the provision comprises natural or legal persons, public authorities, agencies or bodies [article 4 (9)]. They are not limited to external parties, they encompass in-house persons, departments or services.

There is a limit to the general obligation imposed on the controller to inform recipients: her/his responsibility ends where it proves impossible to do so or it involves “*disproportionate effort*” on her/his part. Articles 14 (5) b) and 34 (3) c) of the GDPR uses the same wording (“*disproportionate effort*”), but the Court of Justice of the European Union did not interpret the meaning of the expression yet.

However, the Court of Appeal of England and Wales clarified similar wording in the former domestic *Data Protection Act 1998* [article 8(2)(a)] before the entry into force of the GDPR. The case involved a data access request and the “*disproportionate effort*” exception to refuse to comply with the demand. The judge left it to an appreciation of facts of each particular case to balance the effort involved in finding and supplying the information against the potential benefit it might bring to the person requesting data (*Dawson-Damer v. Taylor Wessing LLP*).

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The “*disproportionate effort*” exception of article 19 should not be read as a way to get around the provisions of the GDPR. It should not be invoked, for example, if the “*disproportionate effort*” results of the number of recipients to whom the controller disclosed personal data. The burden of proving that the request would involve “*disproportionate effort*” should rest on the controller’s shoulders. S/he should demonstrate that s/he took “*reasonable steps*” to inform recipients of personal data, “*taking into account available technology and the means available*” (recital 66).

The controller should not be allowed to invoke inadequate information management systems or poor practices to refuse to inform recipients, as they can be viewed as a breach of her/his obligations under the GDPR to implement data protection by design and by default (article 25).

The goal of the provision may be evaded nonetheless by the recipient as s/he is formerly under no legal obligation to use the controller’s information. The drafters of the European regulation seem to have ignored this scenario, letting recipients decide whether or not they will give effect to the request of the controller.

As the concerned person may ask to be informed about the identity of the recipients, s/he may have to exercise her/his rights to rectification, erasure or restriction of processing by contacting directly each identified recipient. It would be a shift in the notification obligation from the controller to the data subject, although the latter has not decided to share her/his information with other recipients.

Guidelines & Case Law

Case Law

England and Wales Court of Appeal (EWCA), *Dawson-Damer v. Taylor Wessing LLP*, EWCA Civ 74 (2017).
