

Lawful bases for processing data

Controllers need to ensure they have a legal basis for processing all personal data in their possession. There are different legal bases for Personal and Special Category Data.

Definitions:

Consent of the Data Subject means any freely given, specific, informed and unambiguous indication of the Data Subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.

Controller means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.

Data Subject means an identified or identifiable natural person.

Personal Data means any information relating to an identified or identifiable natural person.

Processing means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means.

Special Category Data means racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited.

Conditions for Processing Personal Data:

1. Consent of the Data Subject.
2. The performance of a contract with the Data Subject or to take steps to enter into a contract.
3. Compliance with a legal obligation.
4. To protect the vital interests of a Data Subject or another person.
5. The performance of a task carried out in the public interest or in the exercise of official authority vested in the Controller.
6. The purposes of legitimate interests pursued by the Controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the Data Subject.

Data security

Personal data must be processed in a manner that ensures appropriate security of that data, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage, using appropriate technical or organisational measures.

Accountability

The controller is responsible for, and must be able to demonstrate, compliance with the Data Protection Principles.

Conditions for Special Category Data:

1. Explicit Consent of the Data Subject.
2. Processing is necessary for carrying out obligations under employment, social security or social protection law, or a collective agreement.
3. Processing is necessary to protect the vital interests of a Data Subject or another individual where the Data Subject is physically or legally incapable of giving consent.
4. Processing carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes) and provided there is no disclosure to a third party without consent.
5. Processing relates to Personal Data manifestly made public by the Data Subject.
6. Processing is necessary for the establishment, exercise or defence of legal claims.
7. Processing is necessary for reasons of substantial public interest on the basis of Union or Member State law which is proportionate to the aim pursued and which contains appropriate safeguards.
8. Processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of Union or Member State law or a contract with a health professional.
9. Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of healthcare and of medicinal products or medical devices.
10. Processing is necessary for archiving purposes in the public interest, or scientific and historical.

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