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Workshop: Use the GDPR to help workers and advance union goals

Part 1

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- Leonard Geyer, European Centre for Social Welfare Policy and Research, Vienna
- Training materials are based on GDPowerR – a research project on *‘Recovering Workers’ Data to Negotiate and Monitor Collective Agreements in the Platform Economy’* co-funded by the European Commission on
- GDPowerR was implemented by a consortium of seven research and social partner organisations
- Outputs: 5 country reports, 1 comparative report, research methodology and tools ([link](#))



Today's goals

For all participants to understand how to

1. make a GDPR request,
2. analyse and visualise worker data and
3. use GDPR requests and worker data for workers and trade union goals.

-> Get a feeling for the data recovery process and for what GDPR requests & worker data can and cannot be used.

Tour de table

Please introduce yourself with

- Name
- Organisation
- Any experience with GDPR requests

1. Make a GDPR request

- What is a GDPR requests and what different types of requests exist?
- How to write and submit a request? (*practical exercise*)
- What to do if a company doesn't respond?
- What to consider when helping others make a request?

What is ‘personal data’?

- Art. 4 GDPR Definitions

(1) ‘personal data’ means **any information relating** to an **identified or identifiable natural person** (‘data subject’);

an **identifiable natural person** is one who can be **identified, directly or indirectly**, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

Art. 15 GDPR

Right of access by the data subject

1. The data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the following information:
 - a) the purposes of the processing;
 - b) the categories of personal data concerned;
 - c) the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;
 - d) where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;
 - e) the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;
 - f) the right to lodge a complaint with a supervisory authority;
 - g) where the personal data are not collected from the data subject, any available information as to their source;
 - h) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.
2. Where personal data are transferred to a third country or to an international organisation, the data subject shall have the right to be informed of the appropriate safeguards pursuant to Article 46 relating to the transfer.
3. The controller shall provide a copy of the personal data undergoing processing. For any further copies requested by the data subject, the controller may charge a reasonable fee based on administrative costs.
4. Where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, the information shall be provided in a commonly used electronic form.

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Art. 20 GDPR

Right to data portability

1. The data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a controller, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller without hindrance from the controller to which the personal data have been provided, where:
 - (a) the processing is based on consent pursuant to point (a) of Article 6(1) or point (a) of Article 9(2) or on a contract pursuant to point (b) of Article 6(1); and
 - (b) the processing is carried out by automated means.
2. In exercising his or her right to data portability pursuant to paragraph 1, the data subject shall have the right to have the personal data transmitted directly from one controller to another, where technically feasible.
3. The exercise of the right referred to in paragraph 1 of this Article shall be without prejudice to Article 17. That right shall not apply to processing necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.
4. The right referred to in paragraph 1 shall not adversely affect the rights and freedoms of others.

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4. The right referred to in paragraph 1 shall not adversely affect the rights and freedoms of others.

What do we mean by GDPR or ‘subject access’ request?

- A request by an individual (*‘data subject’*) to another individual or organisation that holds (*‘processes’*) their personal data (*‘data controller’*) to receive a copy of and/or information on this data.
- ‘Personal data’ thereby means any information that can be linked to the data subject.

What requests are possible?

- 'Data access requests' based on Art. 15 GDPR
- 'Data portability requests' based on Art. 20 GDPR
- Combinations of access and portability requests
- Data 'self-checkout' portals voluntarily offered by some companies

Make your own request

- To which company do you want to address the request?
 - What request do you want to make?
 - What information do you want?
 - In which format?
 - How much time and energy can you invest?
 - Where do you submit the request?
- > Use templates!

Pros & cons of different requests

Variation in **ease of use**, **response time**, **content** and **format**

Data self-checkout (in-app download)

- + Easy to use, fast response, easy-to-use format
- (Very) limited information

Data access request (Art. 15)

- + Most comprehensive (All personal data + information on data use and automated decision-making)
- More complex, longer response (max. 90 days) than self-checkout, no requirement for 'machine-readable format'

Data portability request (Art. 20)

- + Covers most data; response must be in machine-readable format
- More complex, longer response (max. 90 days) than self-check-out

Combined request (access & portability)

- + Combine strengths of Art. 15 & 20
- Companies usually have no standardised procedure for combined request

Where to send a GDPR request?

1. See the company's **privacy policy** (*also called 'data protection declaration', 'data privacy statement', etc.*) for instructions.
2. If there are no instructions, try to find and send your request to the company's **Data Protection Officer** (companies processing large amounts of personal data should have one (Art. 37 (1) GDPR).
3. If options 1 and 2 are not available, write to the **general contact** address and ask for the request to be forwarded to those responsible.

Note: Data subjects must not be required to use a specific form of communication or technology, but it's usually easiest to submit requests electronically using the procedures proposed by the company (see chapter 3.1.2 EDPB Guidelines).

Process

Companies ('data controllers') must respond to access and portability requests within 30 days (Art. 12(3) GDPR), but they can

- ask for additional information to confirm the identify of the data subject and
- can extend the response time by two additional months, if they need more time provided, they inform the data subject about the extension within one month after the request was made

What if they don't?

- 😊 Remind them politely in writing to (fully) answer your request
- 😞 File a complaint with the responsible Data Protection Authority (free of charge, usually helps)
- 😡!! Consult a lawyer to file a DPA complaint on your behalf

What to consider when helping others make a request?

- The GDPR grants **rights to individuals**, not organisations. Data requests must therefore be made by the individual 'data subjects' concerned (though individuals may authorise others to request data on their behalf -> [Worker Info Exchange](#))
- If you receive a worker's personal data, you must **handle it in line with the GDPR** (see [GDPower Data Recovery Protocol](#)).
- Requests are often not straightforward (*delays, requests for additional information, incomplete responses*) and workers may require ongoing support during the request process.
- More detailed and encompassing requests *may* result in more comprehensive answers. However, they are also more difficult to understand for workers and can take a lot of energy to ensure each element of the request is answered.

Sources and further information

[General Data Protection Regulation](#) (GDPR)

[EDPB Guideline 01/2022 on Data Subject Rights – Right to access](#)

[GDPRhub](#) – collects and summarises decisions from Data Protection Authorities (DPAs) and courts across Europe

[GDPR Enforcement Tracker](#) – list of GDPR fines imposed

[European Data Protection Board \(EDPB\)](#) – An independent European body composed of the heads of the national data protection authorities

- ensures consistent application of the GDPR by publishing [guidelines](#) and ensures cooperation, including on enforcement
- Provides [links](#) to all national DPAs

[GDPowerR](#) – research project on how to recover worker data to negotiate and monitor collective agreements in the platform economy.

- Data request [templates and submission instructions](#) for several digital labour platforms (Uber, Bolt, Foodora, Lieferando, etc.)
- [Data Recovery Protocol](#) including templates for Data Donation Contracts

Michael Veale researches digital rights and provides a useful [data access request template](#)

Thank you!

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