



Instruction: data subject rights

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REVISION HISTORY

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The sections revised in this document are highlighted using the graphic convention shown alongside.



The following matters are considered and formally addressed:

Contents

1.	PURPOSE	3
2.	SCOPE	4
3.	DATA SUBJECT RIGHTS	4
3.1.	Right of access to personal data (Art. 15 GDPR)	4
3.2.	Right to rectification (Art. 16 GDPR)	4
3.3.	Right to erasure or right to be forgotten (Art. 17 GDPR)	4
3.4.	Right to restriction of processing (Art. 18 GDPR)	5
3.5.	Notification obligation regarding rectification or erasure of personal data or restriction of processing (Art. 19 GDPR)	5
3.6.	Right to data portability (Art. 20 GDPR)	5
3.7.	Right to object (Art. 21 GDPR)	5
3.8.	Right not to be subject to automated decision-making (Art. 22 GDPR)	5
3.9.	PROCESS STAGES	6
4.	RESPONSIBILITIES	6

1. PURPOSE

This document describes the procedure for exercising “Data Subject Rights” in compliance with Regulation (EU) 2016/679 (GDPR). The procedure for exercising Data Subject Rights provides guidelines for reviewing processes and organisational practices in accordance with the fundamental principles of Data Protection by Design and by Default and Accountability, in order to safeguard individuals’ rights and freedoms in relation to all processing operations involving personal data.

This guidance document explains the rights that data subjects may exercise against the Controller, together with the relevant management methods and time limits. In particular, data subjects may exercise their rights in relation to the processing of their personal data at any time.

Accordingly, such requests must never be disregarded or answered late.

As a preliminary point, data subjects may exercise their rights through any channel, including, by way of example, ordinary e-mail, registered mail with or without proof of delivery, certified e-mail (PEC), etc. No specific or mandatory method is therefore prescribed for exercising these rights.

Regulation (EU) 2016/679 provides that, where a data subject submits a request electronically (e.g. by e-mail), the Controller shall provide the information electronically where possible, unless otherwise requested by the data subject.

The applicable legislation also sets specific time limits for providing the data subject with a response, depending on the request submitted. In particular:

- › a response must be provided without undue delay and, in any event, no later than one month after receipt of the request;
- › that period may be extended by a further two months where necessary, taking into account the complexity and number of requests. In such cases, the Controller must inform the data subject of the extension within one month of receipt of the request;
- › where the Controller cannot comply with the request, the Controller must inform the data subject within one month of receipt, stating the reasons for not taking action and informing the data subject of the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy.

Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive nature, the Controller may:

- charge the data subject a reasonable fee, taking into account the administrative costs of providing the information;
- refuse to act on the request.

N.B. The Controller bears the burden of demonstrating that the request is manifestly unfounded or excessive. Where the Controller has reasonable doubts concerning the identity of the individual making the request, the Controller may request additional information necessary to confirm the identity of the data subject.

Any such request received must be reported immediately to the relevant area contact so that the type of request and the actions to be taken can be assessed.

To facilitate requests from data subjects, Markas has included contact channels, such as telephone numbers and e-mail addresses, in the privacy notices provided to data subjects before their data are collected. The contact details provided to data subjects are set out below:

- › Quality & transparency Office of Markas S.r.l., Via Macello 61, 39100 Bolzano, Italy, e-mail: it-privacy@markas.com
- › Data Protection Officer (DPO): Renorm S.r.l., Via Antonio Stradivari 4, 39100 Bolzano (BZ), Italy, tel. (+39) 0471 1882777, e-mail: renorm@legalmail.it

Following this essential introduction, the rights that data subjects may exercise against the Controller are described below.

2. SCOPE

This procedure applies at all administrative offices and operational units where Markas provides its services.

3. DATA SUBJECT RIGHTS

3.1. Right of access to personal data (Art. 15 GDPR)

By exercising this right, the data subject may obtain confirmation from the Controller as to whether or not personal data concerning them are being processed and, where that is the case, access to the following information:

- a) the purposes of the processing;
- b) the categories of personal data concerned;
- c) the recipients to whom the personal data have been or will be disclosed;
- d) the envisaged retention period or the criteria used to determine that period;
- e) the existence of the right to request rectification or erasure of personal data, restriction of processing or to object to processing;
- f) the right to lodge a complaint with a supervisory authority;
- g) where the data were not collected from the data subject, any available information as to their source;
- h) the existence of automated decision-making, including profiling, where applicable.

In response to such a request, the Controller provides a copy of the personal data undergoing processing. The right to obtain a copy must not adversely affect the rights and freedoms of others.

3.2. Right to rectification (Art. 16 GDPR)

This right applies where the data subject identifies inaccuracies in personal data processed by the Controller. The data subject may obtain from the Controller, without undue delay, rectification of inaccurate personal data and completion of incomplete personal data.

3.3. Right to erasure or right to be forgotten (Art. 17 GDPR)

The data subject may request that the Controller erase personal data concerning them without undue delay. The Controller must erase the personal data where one of the following grounds applies:

- the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;
- the data subject withdraws the consent on which the processing is based;
- the data subject objects to the processing; in that case, the Controller shall no longer process the personal data unless the Controller demonstrates compelling legitimate grounds for the processing which override the objection (e.g. the establishment, exercise or defence of legal claims);
- the personal data have been unlawfully processed;
- the personal data must be erased to comply with a legal obligation.

The right to erasure does not apply where processing is necessary:

- for exercising the right of freedom of expression and information;
- for compliance with a legal obligation;
- for reasons of public interest in the area of public health;

- for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes;
- for the establishment, exercise or defence of legal claims.

3.4. Right to restriction of processing (Art. 18 GDPR)

The data subject may request restriction of processing where one of the following applies:

- the data subject contests the accuracy of the personal data, for a period enabling the Controller to verify their accuracy;
- the processing is unlawful and the data subject opposes erasure and requests restriction of use instead;
- the Controller no longer needs the personal data for the purposes of the processing, but the data are required by the data subject for the establishment, exercise or defence of legal claims;
- the data subject has objected to processing, pending verification of whether the legitimate grounds of the Controller override those of the data subject.

Where processing has been restricted, the personal data may, with the exception of storage, be processed only with the data subject's consent, for the establishment, exercise or defence of legal claims, or for the protection of the rights of another natural or legal person.

3.5. Notification obligation regarding rectification or erasure of personal data or restriction of processing (Art. 19 GDPR)

The Controller shall communicate any rectification or erasure of personal data or restriction of processing to each recipient to whom the personal data have been disclosed, unless this proves impossible or involves disproportionate effort. The Controller shall also inform the data subject of those recipients (e.g. partners involved in processing data for the performance of an activity or assignment) if the data subject requests it.

3.6. Right to data portability (Art. 20 GDPR)

The data subject has the right to receive personal data concerning them, which they have provided to a controller, in a structured, commonly used and machine-readable format, and may request that the data be transmitted to another controller, where the processing is based on consent or on a contract with the data subject and is carried out by automated means. This right:

- does 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;
- must not adversely affect the rights and freedoms of others.

3.7. Right to object (Art. 21 GDPR)

The data subject has the right to object at any time to the processing of personal data concerning them (e.g. for marketing or profiling). Upon receipt of such a request, the Controller shall no longer process the personal data unless the Controller demonstrates compelling legitimate grounds for the processing which override the interests and rights of the data subject, or where processing is necessary for the establishment, exercise or defence of legal claims.

3.8. Right not to be subject to automated decision-making (Art. 22 GDPR)

The data subject has the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning them or similarly significantly affects them. This right does not apply where the decision:

- a) is necessary for entering into, or performance of, a contract between the data subject and a controller;

- b) is authorised by Union or Member State law to which the Controller is subject and which also lays down suitable measures to safeguard the data subject's rights, freedoms and legitimate interests;
- c) is based on the data subject's explicit consent.

3.9. PROCESS STAGES

Having described the rights that data subjects may exercise and the actions that the Controller must consequently take, the operational process for handling such requests is set out below.

Stage 1: Receipt of the request

As indicated above, the first stage is receipt of the data subject's request by the company. The request may be submitted electronically (e.g. by e-mail) or in paper form. Markas provides various contact channels to facilitate submission of requests:

- Quality & Transparency Office: it-privacy@markas.com;
- Data Protection Officer (DPO): Renorm S.r.l., renorm@legalmail.it or tel. (+39) 0471 1882777.

Upon receipt of a request, the recipient conducts an initial review and forwards it to any other functions involved, where necessary.

Stage 2: Substantive assessment

The substantive assessment of the request is based on the following three elements:

- type of request;
- data subjects concerned;
- actions to be taken.

First, Markas confirms receipt of the request in writing—preferably through the same channel used by the data subject—confirming that the request is being handled and that a substantive response will be provided within the 30-day period prescribed by law.

Where the data subject's request is complex, the deadline may be extended by a further two months. The data subject must be informed of the reasons for the extension (e.g. complexity of the request or difficulty in locating the data).

To ensure full traceability, the Quality & Transparency Office stores every exchange with the data subject and supporting documents in a digital folder.

The Quality & Transparency Office may then consult the relevant company contacts responsible for the requested data and coordinate the analysis required to prepare the final response.

Stage 3: Response to the data subject and internal actions

Once the assessment and retrieval of the data have been completed, the Quality & Transparency Office provides the data subject with a detailed response, using—where possible—the same channel used for the request. The response includes all information required by applicable law and, where necessary, is followed by the technical actions required to implement the request (e.g. restriction, objection or erasure). Where the data subject objects to processing for marketing purposes, the company, in addition to confirming acceptance of the request, promptly updates its management systems. The relevant record must be updated to prevent future marketing communications and ensure that the data are no longer processed for that purpose.

4. RESPONSIBILITIES

Responsibility for the process lies with the Quality & Transparency Office.