



## PROGRAMME MANUAL

# COMPLYING WITH THE GENERAL DATA PROTECTION REGULATION

Programme cofinancé par le Fonds Européen  
de Développement Régional (FEDER)

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## FORWARD NOTE

The new European Union [General Data Protection Regulation](#) (EU-GDPR) was enforced on 25<sup>th</sup> May 2018, producing new rules for Interreg Programmes and the projects regarding the management of private data collected for various purposes and in different stages of their implementation.

As a general principle, the new regulation gives citizens the rights to access and control their private data obliging data keepers to implement a certain number of measures to meet such requirements. The Interreg MED Programme and the Project Partners are data controllers and processors<sup>1</sup>, and therefore are required to abide by the GDPR.

It is however important to highlight that the Regulation did not substantially change the core concepts and principles of the data protection legislation put in place back in 1995.

This means that the vast majority of controllers and processors will not need to make major changes to their data processing operations to comply with the Regulation provided that they are already in compliance with the existing EU data protection laws.

This factsheet briefly presents the GDPR regulation and its consequences for the Programme and projects. It aims to answer the questions raised by projects about this topic during their implementation.

However, the Interreg MED Programme holds no responsibility or liability whatsoever regarding the personal data collected and processed by the Project Partners.

## KEY QUESTIONS

- WHAT IS CONSIDERED AS PERSONAL DATA?

Personal data relates to any information about a natural person or 'Data Subject', which can be used to directly or indirectly identify the person. It can be anything from a name, a photo, an email address, bank details, and posts on social networks, medical information, or a computer IP address.<sup>2</sup>

- WHO IS CONCERNED BY THE GDPR IMPLEMENTATION?

The GDPR applies to organisations based in the EU and outside, if these organisations collect data from EU citizens. Therefore, the Interreg MED projects collecting data from IPA countries are also concerned by this regulation.

- WHAT RIGHTS DO DATA SUBJECTS HAVE?

Data subject, e.g. someone registering for a project event or newsletter has the right to access the information defined as personal data, receive it "in a structured, commonly used and machine-readable format" rectify it, erase it, asks the restriction of its processing, etc.<sup>3</sup>

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<sup>1</sup> See definition of « data controller » and « data processor » as stated in the GDPR Regulation (CE) n° 2016/679, Chapter 1, article 4(7)(8).

<sup>2</sup> See definition in the GDPR Regulation (CE) n° 2016/679, Chapter 1, article 4 (1) .

<sup>3</sup> For a full description of the « data subject » rights, please check Chapter 3 of the GDPR Regulation (CE) n° 2016/679.

- WHAT IS A DATA CONTROLLER AND PROCESSOR(S) ?

“ ‘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 [...]”.

“A ‘processor’ means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.”<sup>4</sup>

In the case of an Interreg MED project, any partner falling under the definition of “data controller” and “data processor” established by the regulation can be considered as such.

- WHAT ARE THE RESPONSABILITIES OF THE DATA CONTROLLER?

The controller “shall implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with this Regulation.”<sup>5</sup>

Therefore, the data controller must ensure that institutions managing personal data implement systems that enable the inventory of databases, allow interested people to access their personal data, change it or deleted it.

These databases must be kept safe of any data breach. In the event such incident occurs, institutions have the obligation to communicate it within 72 hours to the national data protection authority.

**The data controller and data processor(s) must appoint where necessary<sup>6</sup> a data protection officer (DPO)** that will “inform and advise the controller or the processor and the employees who carry out processing of their obligations pursuant to this Regulation [...]; monitor compliance with this Regulation [...]; provide advice where requested [...]; cooperate with the supervisory authority; act as the contact point for the supervisory authority on issues relating to processing [of personal data]”<sup>7</sup>, etc.

“Data subjects may contact the data protection officer with regard to all issues related to processing of their personal data and to the exercise of their rights under this Regulation.”<sup>8</sup>

Please note that Public Bodies must appoint a DPO.

- WHAT PENALTIES IN THE CASE OF INFRINGEMENT?

Organisations failing to comply with the GDPR can be fined up to 4% of annual global turnover or €20 Million (whichever is greater). This is the maximum fine that can be imposed for the most serious infringements e.g. not having sufficient consent to process data or violating the core of Privacy by Design concepts.<sup>9</sup>

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<sup>4</sup> Definition of a “data controller” and “data processor” according to the GDPR Regulation (CE) n° 2016/679, Chapter 1, article 4(7)(8).

<sup>5</sup> Regulation (CE) n° 2016/679, Chapter 4, article 24(1).

<sup>6</sup> Please check the GDPR Regulation (CE) n° 2016/679, Chapter 4, article 37 to see in which cases a DPO must be appointed.

<sup>7</sup> For the detailed list of the DPO tasks, please see the GDPR Regulation (CE) n° 2016/679, Chapter 4, article 39.

<sup>8</sup> See GDPR Regulation (CE) n° 2016/679, Chapter 4, article 38(4).

<sup>9</sup> For detailed information, please refer to the GDPR Regulation (CE) n° 2016/679, Chapter 8, article 83.

- WHO IS RESPONSIBLE FOR THE DATA COLLECTED IN PROJECTS WEBSITES AND BY OTHER MEANS?

The **Programme Managing Authority (Provence-Alpes-Côte d’Azur Region)** is only responsible (**Data controller**) for the data collected by the Joint Secretariat and stored in the Programme website and other IT or non IT systems, for the legal obligations to be fulfilled by the Programme (accounts data, project partner’s contacts, webmasters lists, etc.).

The Interreg MED Programme cannot be held responsible for the information contained on a project’s website and Privacy Policy page.

**All data collected and stored by the projects**, collected either through the Interreg MED web platform via the registration forms or surveys, or through any other softwares and applications, are the responsibility of the project data controller.

## SUBJECT CONSENT

Please note that **not all data is subject to consent**. Absolute consent is needed in case of sensitive and risky data. If the data is collected under the framework of a legal contract or in compliance with legal regulations, the consent might not be necessary. However, in this regard, project partners have a duty of transparency and for that matter; they must explain for what purposes they use the information. In addition, they must grant consultation rights for a claimant requesting access to their own data.

**As far as Newsletter contacts/mailings are concerned**, the GDPR requires the express consent of the recipients. To do this, project partners must ask for the express agreement of their targets and grant them the right to access, change or delete their personal data. Some project partners used contact data collected without the consent of their targets. In this case and in any other cases, the JS recommends to send them an email to obtain their consent thus giving them the opportunity to exercise their rights.

Data subjects should always have the possibility to exercise their rights. An opt-out option should therefore always be available for newsletters and similar communication tools.

## WHAT DO PROJECT PARTNERS NEED TO DO – CHECK LIST

Several actions must be undertaken, in order to comply with the GDPR:

- First and foremost, project partners must organise a meeting to appoint the partner institution that will act as the project data controller. As for the projects starting after 2018, this appointment will have to be made during the first Steering Committee at the latest.
- The data controller together with the data processor(s) must then appoint a DPO for the project. The Joint Secretariat strongly recommends appointing a DPO within the data controller institution. As a consequence, the institution elected as data controller must

have the capacity to take such responsibility and preferably already count with a DPO within its structure.

- The data controller must review regularly all the protection measures of the project partner databases and make an inventory to prevent data breaches;
- Have ready a personal data management system, to be able to quickly respond to any demands of access, deletion, modification or even complaints.
- Have a privacy policy page on your website, in full compliance with the GDPR. The Programme prepared a template to be used only as a guidance. It is not intended to address the specific circumstances of any particular project or entity.

In no case, this template can be considered as a professional legal document.

All project websites already count with the “Privacy Policy” template.

- Adapt the template provided by the Programme to your project specificities or where necessary, draft a new one. Please note that this template has been updated on 28<sup>th</sup> December 2019, so check whether your text is consistent with the latest version.
- Add the contact of your DPO and your website manager;
- As for the registration forms and surveys, project partners need to add:
  - A paragraph informing about the purpose of the data collection and guaranteeing that the data is collected and processed in compliance with the GDPR;
  - A paragraph stating that anyone registering for an event or filling in a survey / form confirm having read the excerpt on GPDR and that by clicking on the “SUBMIT” button they give [ACRONYM'S] project partners their explicit consent for collecting and using your personal data.

The registration and form templates provided in the example site already count with those new paragraphs. They can be used as example.

## REFERENCES

[Privacy policy of the Interreg MED Programme](#)  
[EU GDPR web site](#)