

GDPR Best Practices for Employee Mobility





What Is Personal Data



DEFINITION

Any information that can lead to a direct or indirect identification of a living person



COMPLEXITY

Regulation 2018/1807 of the European Parliament and of the Council:

“Where personal and non-personal data in a data set are **inextricably linked**, this Regulation shall not prejudice the application of Regulation (EU) 2016/679.”

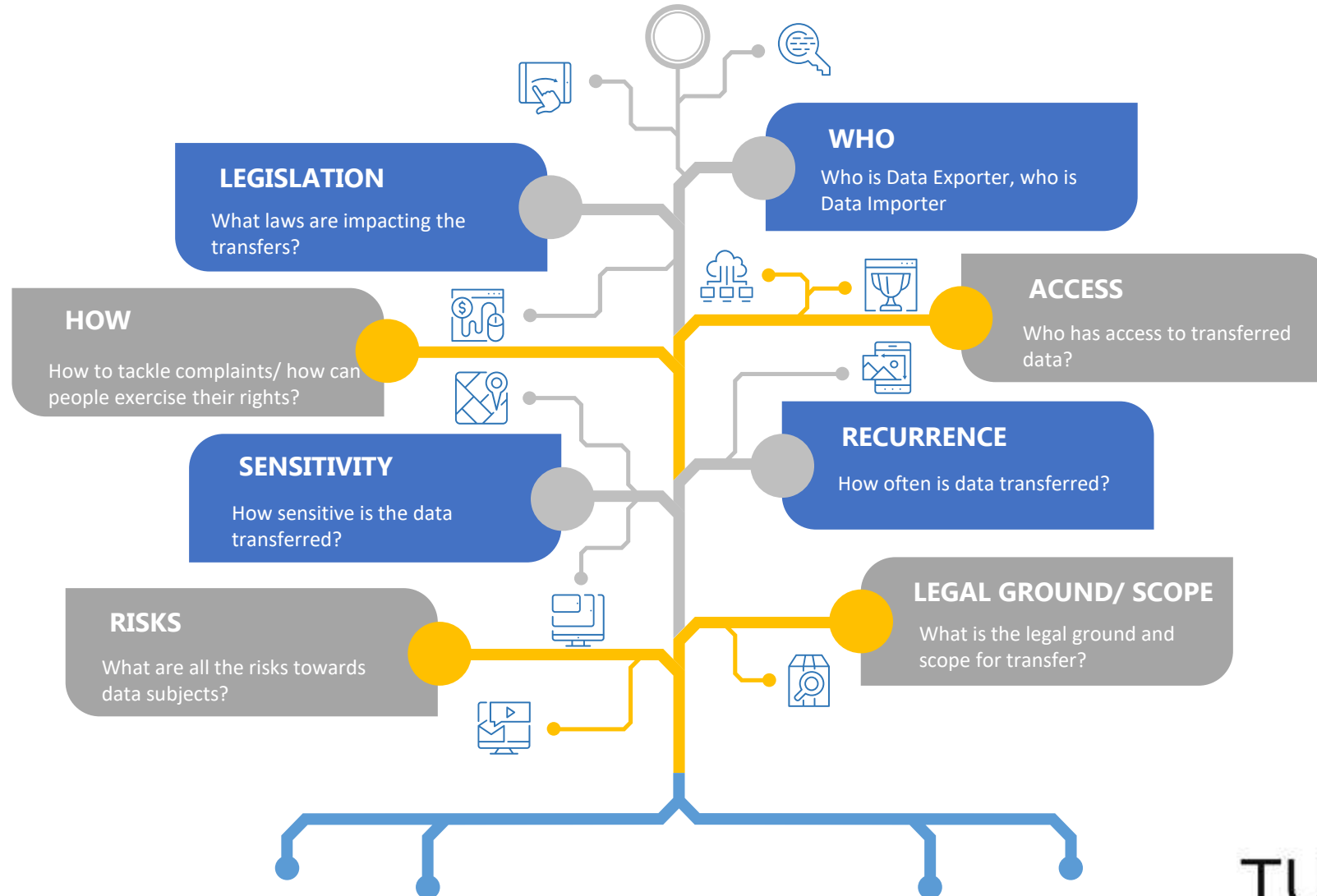


ADDING TO THE COMPLEXITY

“If the non-personal data part and the personal data parts are **‘inextricably linked’**, the data protection rights and obligations stemming from the General Data Protection Regulation fully apply to the whole mixed dataset, also when personal data represent only a small part of the dataset.”



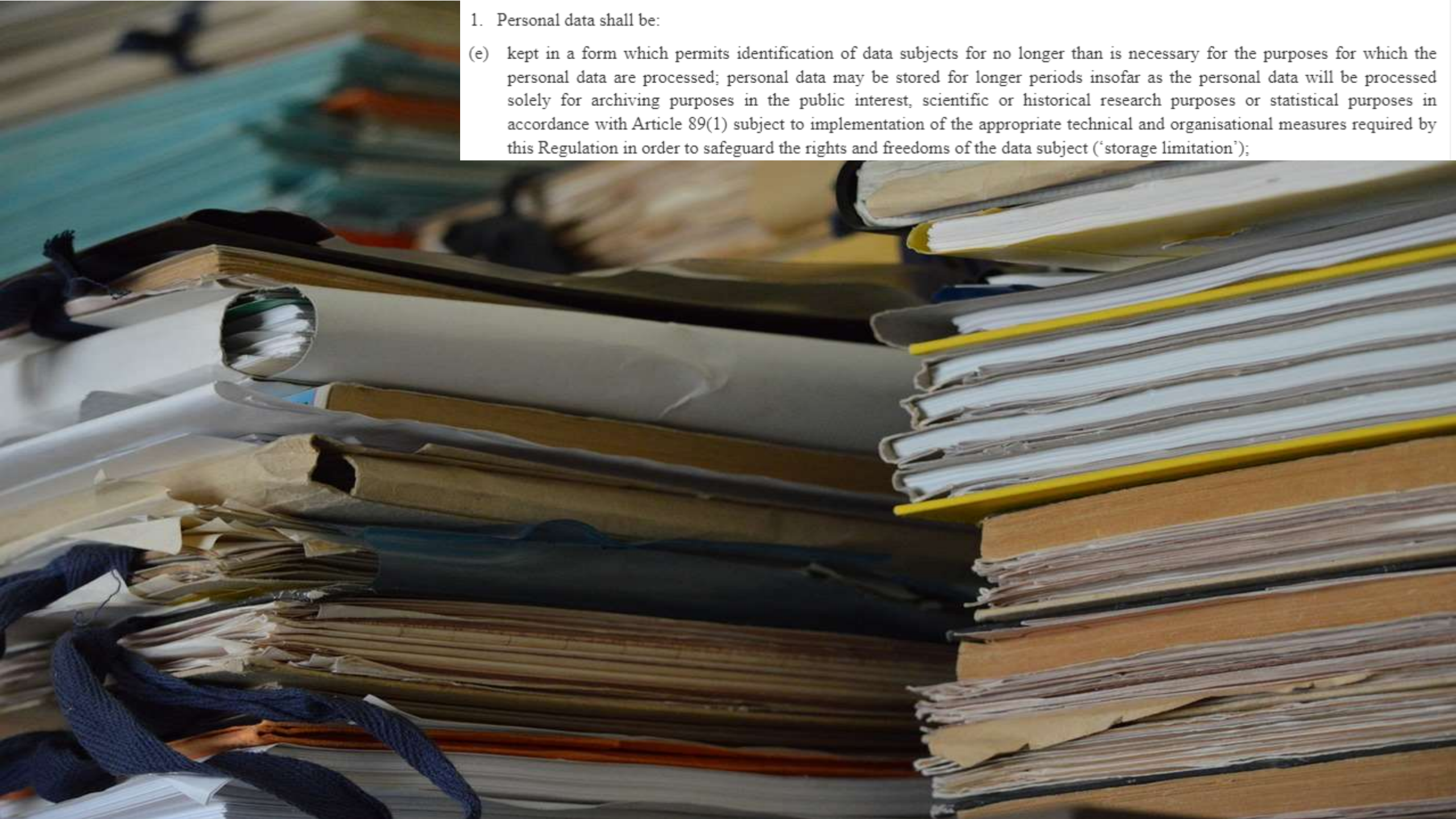
What Should Be Taken Into Consideration



21. An imbalance of power also occurs in the **employment** context.¹⁸ Given the dependency that results from the employer/employee relationship, it is unlikely that the data subject is able to deny his/her employer consent to data processing without experiencing the fear or real risk of detrimental effects as a result of a refusal. It is unlikely that an employee would be able to respond freely to a request for consent from his/her employer to, for example, activate monitoring systems such as camera observation in a workplace, or to fill out assessment forms, without feeling any pressure to consent.¹⁹ Therefore, the EDPB deems it problematic for employers to process personal data of current or future employees on the basis of consent as it is unlikely to be freely given. For the majority of such data processing at work, the lawful basis cannot and should not be the consent of the employees (Article 6(1)(a)) due to the nature of the relationship between employer and employee.²⁰



I Agree



1. Personal data shall be:

- (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation');

ACCESS

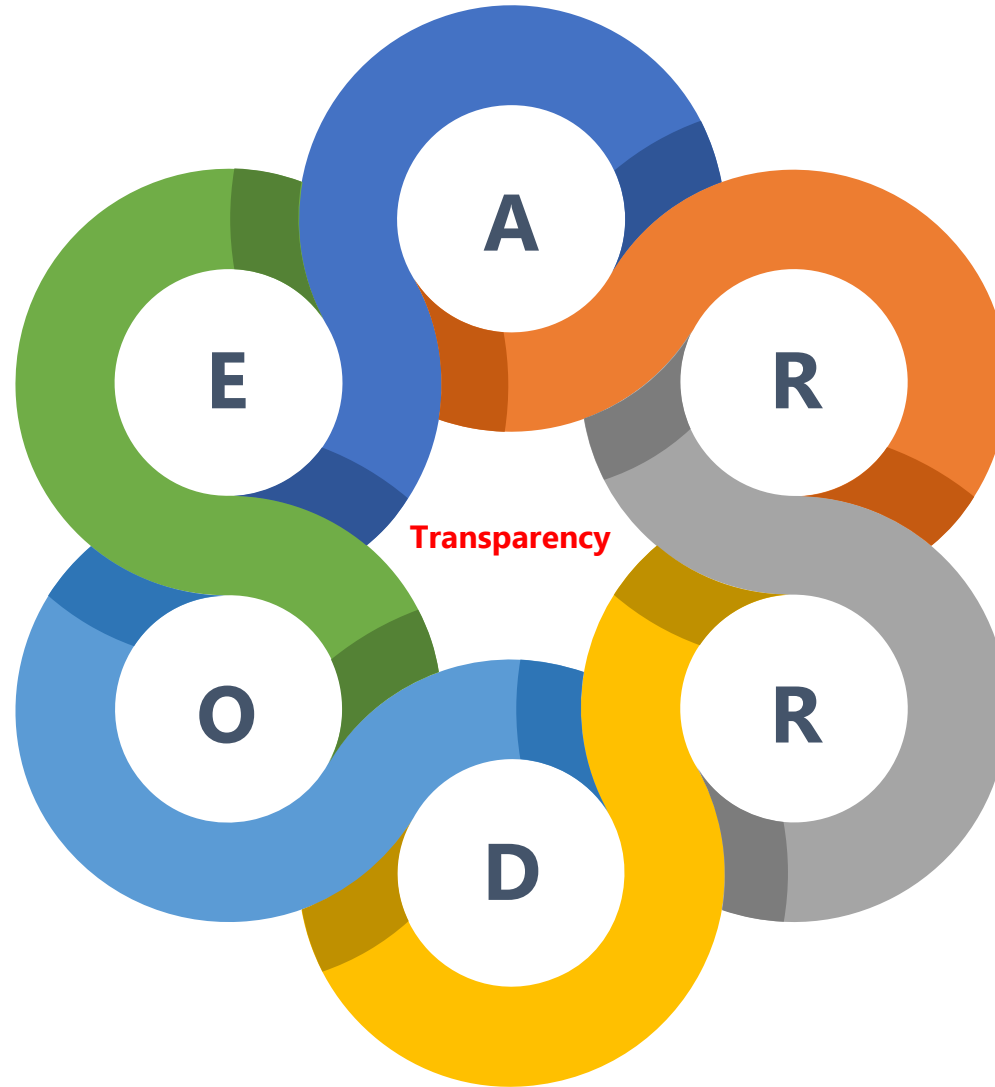
A copy of the personal data need to be provided, with explanations – categories of data, processing purposes, third parties, storage time, etc

EXPORT

The data shall be exportable to an open data format for re-use by another controller

OPPOSITION

The data is no longer processed, at the approved request of the person



RECTIFICATION

The data subject shall have the right to request the correction of the processed data if they are incorrect.

RESTRICTION

Temporary cessation of processing, archiving of data – incorrect, illegally collected data, necessary for a trial

DELETION

Data can be deleted if it is no longer needed or if the law does not mandate its archival



Who What

Where When

Why How

(39) [REDACTED]. It should be transparent to natural persons that personal data concerning them are collected, used, consulted or otherwise processed and to what extent the personal data are or will be processed. The principle of transparency requires that any information and communication relating to the processing of those personal data be easily accessible and easy to understand, and that clear and plain language be used. That principle concerns, in particular, information to the data subjects on the identity of the controller and the purposes of the processing and further information to ensure fair and transparent processing in respect of the natural persons concerned and their right to obtain confirmation and communication of personal data concerning them which are being processed. Natural persons should be made aware of risks, rules, safeguards and rights in relation to the processing of personal data and how to exercise their rights in relation to such processing. In particular, the specific purposes for which personal data are processed should be explicit and legitimate and determined at the time of the collection of the personal data. [REDACTED]

Accountability





THANK YOU!

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