

Data Subject's Rights and Consumer Contracts for the Supply of Digital Content and Services

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Questions

- Which are the consequences for the contract for the supply of digital content or digital services where the consumer as data subject exercises the rights under GDPR?
- Given that the non-compliance with the obligations under GDPR may constitute a lack of conformity of digital content or digital service, how do the consumer contract remedies interact with the data protection remedies?

Data protection and consumer protection

Two ways of interplay between data protection and consumer protection:

- "Simultaneous" application to the same facts
- The application of consumer law follows the application of data protection law or, at least, follows the legal qualification of the facts under data protection law

Data subject's rights and consequences for the digital content or digital service contract

- Right to data access (art. 15, GDPR) and right to data rectification (art. 16, GDPR): no problem for the contract
- Right to object to data processing (art. 21, GDPR): the same consequences that Member States should provide for the withdrawal of the data subject's consent
- Right to data portability (art. 20, GDPR): if the consumer does not withdraw the consent, the contract relationship may continue

Data protection remedies and consumer contract remedies under EU Directive 2019/770

Unlawful data processing → non-conformity of the digital content or digital service

- **GDPR:** right to erasure of data (art. 17) or right to restriction of data processing (art. 18) + right to compensation (art. 82)
- **Dir. 2019/770:** consumer's entitlement to have the digital content or service brought into conformity, or price reduction, or termination of the contract (art. 14)
 - The erasure of data or the restriction of data processing may be perfectly combined with the consumer contract remedies for the non-conformity of the digital content or digital service
 - The compensation of damages might replace the consumer contract remedies for the non-conformity of the digital content or digital service (it is up to the consumer's choice)

Thanks for your attention!

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