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Access request – procedure
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1 INTRODUCTION

The new EU General Regulation on Data Protection 2016/679 (hereinafter GDPR) aims to give people more control over their personal data. It strengthens and specifies for this purpose the rights of persons whose personal data are processed.

It is natural that BEPS processes certain personal data, for example of its workers and pupils as well as parents of pupils.

These different persons are informed by means of the various internal privacy policies, and in a transparent manner, that personal data will be collected, used, consulted or otherwise processed. They are also informed of the purposes of the processing and the extent to which these data are, or will be, processed.

By "workers" is meant, among other things, without being limited to: potential staff (job applicants), current staff, former staff, temporary workers, agency workers, etc.

In the context of this policy, freelancers, consultants and self-employed individuals rendering services for BEPS are also included under the term "workers", without prejudice to the fact that BEPS is not their employer and does not exercise any employer authority over these people.

The purpose of this document is to explain what rights the above-mentioned persons may exercise regarding their processed data, and how BEPS should respond to any request such persons make with respect to their processed data.

2 GENERAL MODALITIES FOR THE EXERCICE OF THE RIGHTS

BEPS facilitates the exercise of the rights mentioned below.

Data subjects may contact Ms. Pascale Hertay, Director at p.hertay@beps.com for the exercise of their rights.

BEPS shall provide information on action taken on a request made under the rights mentioned below, to the data subject without undue delay and in any event within one month of receipt of the request.

That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. BEPS informs the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay. Where the data subject makes the request by form of electronic means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

If BEPS does not respond to the request made by the data subject, it shall inform the person concerned without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy.

Unless otherwise provided below, no payment may be required to make any communication and take any action in respect of the rights mentioned below. Where the requests of a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, BEPS may either:

- charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or
- refuse to act on the request.

Where applicable, BEPS shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.

Where BEPS has reasonable doubts concerning the identity of the natural person making the request with respect to the rights mentioned below, BEPS may request the provision of additional information necessary to confirm the identity of the data subject.

3 RIGHTS

3.1 RIGHT TO ACCESS AND COPY

The purpose of the right to access and copy lies in the fact that the data subject can maintain control over his/her own data (for example, to determine whether personal data are lawfully processed, whether they are correct, or whether they are not kept too long ...).

In this context, the data subject has the right to obtain from BEPS confirmation as to whether or not personal data concerning him/her are being processed, and, where that is the case, access to such personal data and the following information:

- the purposes of the processing;

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- the categories of personal data concerned;
- 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;
- where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;
- 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;
- the right to lodge a complaint with a supervisory authority;
- where the personal data are not collected from the data subject, any available information as to their source;
- the existence of automated decision-making, including profiling, 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.

Where personal data are transferred to a third country or to an international organisation, the data subject has the right to be informed of the appropriate safeguards taken with respect to that transfer.
In principle, and as mentioned above, this information is already given by means of the different internal privacy policies.

In addition, BEPS provides a copy of the personal data undergoing processing. BEPS may charge a reasonable fee, based on administrative costs, for any further copies requested by the data subject. Where the data subject makes the request by electronic means, the information is provided in a commonly used electronic form, unless otherwise requested by the data subject.

The right to obtain a copy refers only to personal data concerning the person himself/herself and can not affect the rights and freedoms of others.

Examples:

- *An employee who has left BEPS is therefore not entitled to a copy of the confidential information that he/she become aware of as a BEPS employee, or a copy of all e-mails or contacts he/she generated during the employment. However, he/she may request a copy of the emails marked as "private".*
- *An employee who has left BEPS can ask BEPS if the CV he/she submitted to apply is retained, and if so for what purpose and for how long. He/she may also request a copy of this CV.*

3.2 RIGHT TO RECTIFICATION

The data subject has the right to obtain from BEPS, without undue delay, the rectification of inaccurate personal data concerning him/her. Taking into account the purposes of the processing, the data subject has the right to have the incomplete personal data completed, including by means of providing a supplementary statement.

Examples:

- In this context, an employee does not, for example, have the right to modify an evaluation, but rather to add a complementary statement to this evaluation if he/she does not agree with certain elements.
- An employee can request that the family situation that is mentioned in his/her regard be modified because it is out of date.

BEPS shall notify each recipient to whom the personal data have been communicated of any rectification made, unless such communication proves impossible or requires disproportionate effort. BEPS provides the data subject with information on these recipients if the latter so requests.

3.3 RIGHT TO ERASURE («RIGHT TO BE FORGOTTEN»)

The data subject shall have the right to obtain from the controller the erasure of personal data concerning him/her without undue delay and BEPS has the obligation to erase personal data without undue delay 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 consent on which the processing is based and where there is no other legal ground for the processing;
- the data subject objects to the processing (see 3.6) and there are no overriding legitimate grounds for the processing;
- the personal data have been unlawfully processed;
- the personal data have to be erased for compliance with a legal obligation.

If it has made the personal data public and is required to erase such, BEPS, taking into account the available technologies and the implementation costs, shall take reasonable steps, including technical ones, in order to inform the data controllers who process the personal data that the data subject has required that those controllers delete any link to such personal data or to any copy or reproduction thereof.

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The right to erasure does not apply to the extent that such treatment is necessary, inter alia:

- to exercise the right to freedom of expression and information;
- to fulfil a legal obligation that requires the processing;
- to the recognition, exercise or defence of rights in court.

Examples:

- *A collaborator is not entitled to require that a warning letter be erased from his/her personal file if such a letter can still be useful for BEPS at a later stage (for instance, as a part of a dismissal for serious cause, if the former warning letters can strengthen the file).*
- *A collaborator who has left the company may require that his/her resumé be erased, unless this document could be useful in a potential future legal procedure.*

BEPS shall notify each recipient to whom the personal data have been communicated of any deletion of personal data, unless such communication turns out to be impossible or requires disproportionate efforts. BEPS will provide the data subject with information on these recipients if the latter requests it.

3.4 RIGHT TO LIMITATION OF THE PROCESSING

The data subject has the right to force the controller to limit the processing when one of the following elements applies:

- the accuracy of the personal data is challenged by the data subject, for a period of time allowing BEPS to verify the accuracy of the personal data;
- the treatment is unlawful and the data subject objects to its erasure and requires instead the limitation of its use;
- BEPS no longer needs personal data for the purposes of processing, but those personal data are still necessary for the data subject to establish, exercise or defend his/her rights in court;
- the data subject objected to the processing (see 3.6) during the verification as to whether the legitimate grounds pursued by BEPS override those of the data subject.

The limitation of the processing implies that the personal data stored are marked in order to restrict their future treatment.

When the processing has been limited, such personal data can not, with the exception of retention, be processed except with the consent of the data subject, or for the recognition,

exercise or defence of his/her rights in justice, or for the protection of the rights of another natural or legal person, or for important reasons of public interest.

A data subject who has obtained the limitation of treatment is informed by BEPS before the limitation of treatment is ended.

BEPS shall notify each recipient to whom the personal data have been communicated of any limitation on the processing carried out, unless such communication proves impossible or requires disproportionate efforts. BEPS provides the data subject with information about those recipients if the data subject so requests.

Examples:

- *In case of a procedure relating to a challenge, initiated by a collaborator, of his/her actual time worked, the individual concerned could require BEPS to store the tally data, even if those data are no longer useful to BEPS. These data should be marked in order to limit their future treatment.*
- *A collaborator does not have the right to request continued limited treatment when it is proven that the personal data concerning him/her were actually correct.*

3.5 RIGHT TO DATA PORTABILITY

Data subjects have the right to receive their personal data that they have provided to BEPS in a structured, commonly used and machine readable format, and have the right to transfer this data to another data processer without that BEPS, to whom the data were communicated in the first place, obstructs such, when:

- the treatment is based on consent or when the processing is necessary for the execution of a contract; and
- the treatment is carried out using an automated process.

When the data subject exercises his/her right to the portability of the data, he/she has the right to obtain that the personal data are transmitted directly from one data processor to another, when this is technically possible.

The right cannot infringe the rights and freedoms of others.

Given the above-mentioned modalities, the scope of this right, in the context of an employment relationship or cooperation with a person, will be limited.

Examples:

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- *In this context, for instance, the collaborator does not have the right to carry his/her mobile number away because the right to keep the number belongs to BEPS, as the subscriber of the number with the provider. In addition, a collaborator does not have the right to carry away the data of his/her business contacts that he/she has generated at BEPS, as this data does not concern him/her and because BEPS has the right to invoke the confidentiality of such professional information.*
- *A collaborator may request, at a time of change of employer, that his/her group insurance data are directly transmitted to the new data processor.*

3.6 OPPOSITION RIGHT

The data subject has the right to object, at any time, for reasons relating to his/her particular situation, to the processing of his/her personal data based on the legitimate interests of BEPS or a third party, including profiling based on these provisions. Where applicable, BEPS will no longer process personal data, unless it can be shown that there exist legitimate and compelling reasons for the treatment that override the interests and rights and freedoms of the data subject, or for the recognition, the exercise or the defence of rights in court.

Examples:

- *A BEPS collaborator may object to his/her personal data being communicated to the BEPS marketing department for direct marketing purposes.*
- *If a BEPS collaborator is involved in a fraud linked to a marketing action organised by BEPS, his/her personal data may still be processed if necessary, for an ongoing legal action.*

3.7 AUTOMATED INDIVIDUAL DECISION, INCLUDING PROFILING

Unless authorized by law, which provides for appropriate measures to safeguard the rights and freedoms and the legitimate interests of the data subject, that person has the right not to be the subject of a decision based exclusively on an automated processing, including profiling, producing legal effects concerning him/her or significantly affecting him/her in a similar way.

This right does not apply when the decision:

- is necessary for the conclusion or performance of a contract between the data subject and BEPS;
- is based on the explicit consent of the data subject.

In these cases, BEPS will implement appropriate measures to safeguard the rights and freedoms and the legitimate interests of the data subject, at least as regards the right of the

data subject to obtain a human intervention from BEPS, to express his/her opinion and to challenge the decision.

Examples:

- *If BEPS uses an automated system for job offers through an online application, it should inform its collaborators.*
- *If BEPS partially evaluates candidates through online logic tests, but the outcome of the assessment is not exclusively based on this test, there will be no decision based exclusively on automated processing.*