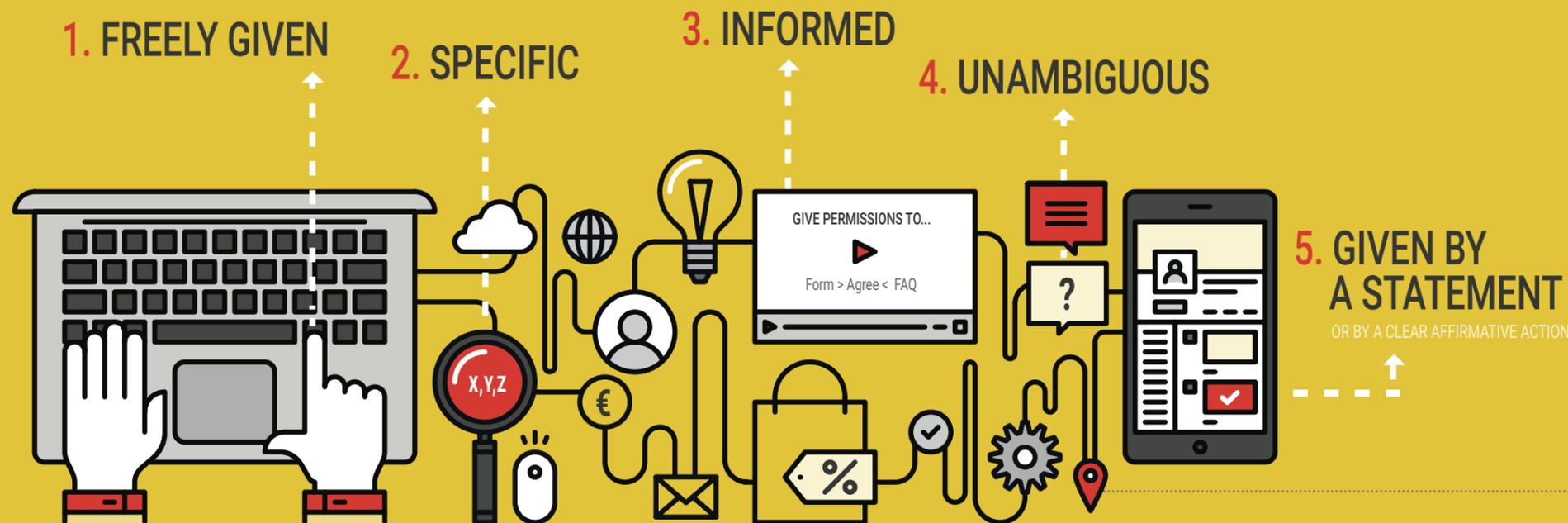Article 4 of the Regulation states that consent from the data subject means...

" ... any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her. "

The **European Union General Data Protection Regulation** (or GDPR) has been declared to be the most important change in data privacy regulation in 20 years. It becomes fully enforceable throughout the European Union in May 2018, after a two-year post-adoption grace period.

The enhanced requirements for obtaining consent from the data subject are one of the main changes introduced by the new regulation. The GDPR replaces the Data Protection Directive 95/46/EC by adding more layers to the definition of consent, and by specifying a series of conditions in order to provide more protection to personal data.

How to request consent under the GDPR ?

1. FREELY GIVEN

2. SPECIFIC

3. INFORMED

4. UNAMBIGUOUS

GIVE PERMISSIONS TO...
▶
Form > Agree < FAQ

X,Y,Z

5. GIVEN BY A STATEMENT
OR BY A CLEAR AFFIRMATIVE ACTION

SPECIAL CONSIDERATIONS :
Data subjects hold the right to withdraw consent at any time, and it shall be as easy to withdraw consent at any time as to give it. // Consent could be given by a written statement (including by electronic means), or an oral statement. Regardless of the form, the controller must be able to demonstrate that it has received consent. // Consent must be easily distinguishable from other matters. This is particularly important when consent is given in the context of a written declaration which also concerns other matters. // A controller can't make a service conditional upon consent, except if the processing is necessary for the service. // Consent must be explicit instead of unambiguous for the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade-union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation. //

IMPORTANT DEFINITIONS :
Data Subject: An identified or identifiable natural person (one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person).
Controller: 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.
Processor: the natural or legal person, public authority, agency or other body, which processes personal data on behalf of the controller.

MORE :
The organizations processing personal data are only acting within the law if they comply with what the GDPR defines as a lawful basis – consent is a key method to make data collection and processing lawful. Without a lawful basis, the processing of personal data is unlawful, and controllers and processors are at risk of receiving a substantial fine.

Any processor using or holding personal data of data subjects who are in the European Union should also be subject to this regulation. Even if the processor is not located in the Union.

1 The data subject must have a genuine and free choice. // The data subject should be able to refuse or withdraw consent without detriment. // Consent should not provide a legal ground for the processing of personal data in a specific case where there is a clear imbalance between the data subject and the controller –in particular where the controller is a public authority and it is therefore unlikely that consent was freely given in all circumstances of that specific situation. // Consent is presumed not to be freely given if it does not allow separate consent to be given to different personal data processing operations despite it being appropriate in the individual case. //

2 Blanket consent without specifying the exact purpose of the processing is not acceptable. // Consent should be intelligible: it should refer clearly and precisely to the scope and the consequences of the data processing. // Consent cannot apply to an open-ended set of processing activities; the context in which consent applies is limited. // If the purpose for which data is processed changes at some point in time, the user must be informed and put in position to be able to consent to the new processing of data. //

3 A pre-formulated declaration of consent should be provided in an intelligible and easily accessible form. // Clear and plain language should be used, and the declaration should not contain unfair terms. // The data subject should be aware at least of the identity of the controller and the purposes of the processing for which the personal data are intended. //

4 Consent must be provided through a statement or conduct, which clearly indicates in the specific context the data subject's acceptance of the proposed processing of his or her personal data. // In this regard, unambiguous consent differs from explicit consent. //

5 Consent cannot be conferred by silence, pre-ticked boxes or inactivity of the data subject: the agreement to the processing of personal data can take many forms, but it must be affirmative in nature. // Consent cannot be provided by third parties (there are some minor exceptions, such as the case of parents providing consent for their children). // Consent should cover all processing activities carried out for the same purpose or purposes. When the processing has multiple purposes, consent should be given for all of them. //

Directive 95/46/EC ► GDPR sets a higher standard of consent ►

eticas foundation ►