

Comparing privacy laws: GDPR v. Data Protection Act of 2012



OneTrust DataGuidance™ REGULATORY RESEARCH SOFTWARE

About the authors

OneTrust DataGuidance[™] provides a suite of privacy solutions designed to help organisations monitor regulatory developments, mitigate risk and achieve global compliance.

The OneTrust DataGuidance[™] platform includes focused guidance around core topics (i.e. GDPR, data transfers, breach notification, among others), Cross-Border Charts which allow you to compare regulations across multiple jurisdictions at a glance, a daily customised news service and expert analysis.

These tools, along with our in-house analyst service to help with your specific research questions, provide a cost-effective and efficient solution to design and support your privacy programme.

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Table of contents

Introduction

- 1. **Scope**
- Personal scope 1.1.
- Territorial scope 1.2.
- 1.3. Material scope

Key definitions 2.

- Personal data 2.1.
- 2.2. Pseudonymisation
- 2.3. Controller and processors
- 2.4. Children
- 2.5. Research
- 3. Legal basis

Controller and processor obligations 4.

- Data transfers 4.1.
- 4.2. Data processing records
- 4.3. Data protection impact assessment
- 4.4. Data protection officer appointment
- 4.5. Data security and data breaches
- 4.6. Accountability

Individuals' rights 5.

- Right to erasure 5.1.
- 5.2. Right to be informed
- 5.3. Right to object
- 5.4. Right of access
- Right not to be subject to discrimination 5.5.
- 5.6. Right to data portability

6. Enforcement

- 6.1. Monetary penalties
- 6.2. Supervisory authority
- 6.3. Civil remedies for individuals



Introduction

The General Data Protection Regulation (Regulation (EU) 2016/679) ('GDPR') came into effect on 25 May 2018, and governs the protection of personal data in EU and EEA Member States. Ghana's Data Protection Act of 2012 ('the Ghanaian Act') notable predates the GDPR, although it contains several similar concepts. The Ghanaian Act also provides for the Data Protection Commission ('DPC'), which oversees personal data protection matters in Ghana. Please note that the DPC is referred to as 'the Commission' within the Ghanaian Act.

There are several similarities between the GDPR and the Ghanaian Act, and particularly in relation to their foundational provisions on scope, definitions, principles, and legal bases for processing. However, the GDPR is notably more detailed in relation to the obligations it imposes on data controllers and data processors, such as those related to data transfers, record-keeping, and data protection officers. While the Ghanaian Act can thus be considered a relatively comprehensive law in terms of the general basis it establishes for a personal data protection framework, it is in several ways less exacting than comparable laws like the GDPR. In some specific areas, though, including requirements for data processing registration/notification, the Ghanaian Act goes further than the GDPR.

This overview organises provisions from the GDPR and the Ghanaian Act into key topics and sets them alongside each other to enable analysis and comparison. Each section begins with a detailing of principal information and a general introduction, as well as a consistency rating.



Introduction (cont'd)

Structure and overview of the Guide

This Guide provides a comparison of the two legislative frameworks on the following key provisions:

- 1. Scope
- 2. Key definitions
- 3. Legal basis
- 4. Controller and processor obligations
- 5. Individuals' rights
- 6. Enforcement

Each topic includes relevant provisions from the two legislative legal frameworks, a summary of the comparison, and a detailed analysis of the similarities and differences between the GDPR and the Ghanaian Act.

Key for giving the consistency rate

Consistent: The GDPR and the Ghanaian Act bear a high degree of similarity in the rationale, core, scope, and the application of the provision considered.

Fairly consistent: The GDPR and the Ghanaian Act bear a high degree of similarity in the rationale, core, and the scope of the provision considered, however, the details governing its application differ.

consiste Consistent

Fairly inconsistent: The GDPR and the Ghanaian Act bear several differences with regard to the scope and application of the provision considered, however, its rationale and core presents some similarities.

Inconsistent: The GDPR and the Ghanaian Act bear a high degree of difference with regard to the rationale, core, scope, and application of the provision considered.

Usage of the Guide

This Guide is general and informational in nature, and is not intended to provide, and should not be relied on as a source of, legal advice. The information and materials provided in the Guide may not be applicable in all (or any) situations and should not be acted upon without specific legal advice based on particular circumstances.

I. Scope

1.1. Personal scope

The GDPR and the Ghanaian Act apply to data controllers and data processors and provide similar definitions for these concepts. Likewise, both pieces of legislation protect data subjects and apply to the public sector. The most notable difference is that the Ghanaian Act establishes certain particular requirements for foreign data subjects.

GDPR

Data controller

Article 4(7): 'controller' means the natural or legal person, Article 96: 'data controller' means a person who either alone, public authority, agency or other body which, alone or jointly jointly with other persons or in common with other persons or as a statutory duty determines the purposes for and the manner with others, determines the purposes and means of the in which personal data is processed or is to be processed. processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.

Data processor

Article 4(8): 'processor' means a natural or legal person,	Ar
public authority, agency or other body which processes	ar
personal data on behalf of the controller.	w

Data subject

Article 4(1): 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is 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.

Public bodies

Article 4(7): 'controller' means the natural or legal person,	A
public authority, agency or other body.	d



Ghanaian Act

rticle 96: 'data processor' in relation to personal data means ny person other than an employee of the data controller ho processes the data on behalf of the data controller.

Article 96: 'data subject' means an individual who is the subject of personal data.

Article 91(2): For the purposes of this Act, each government lepartment shall be treated as a data controller.

Ghanaian Act

Nationality of data subject

Recital 14: The protection afforded by this Regulation should apply to natural persons, whatever their nationality or place of residence, in relation to the processing of their personal data.

Article 18(2): A data controller or processor shall in respect of foreign data subjects ensure that personal data is processed in compliance with data protection legislation of the foreign jurisdiction of that subject where personal data originating from that jurisdiction is sent to this country for processing.

Place of residence

See Recital 14, above.

Article 96: 'foreign data subject' means data subject information regulated by laws of a foreign jurisdiction sent into Ghana from a foreign jurisdiction wholly for processing purposes.

Deceased individuals

Recital 27: This Regulation does not apply to the personal data of deceased persons. Member States may provide for rules regarding the processing of personal data of deceased persons.

The Ghanaian Act does not directly refer to deceased individuals.

1.2. Territorial scope

While the GDPR is more specific than the Ghanaian Act in regard to its applicability to certain processing activities conducted from abroad, the Ghanaian Act does provide a similar potential for extraterritorial application. The Ghanaian Act is also more detailed than the GDPR in regard to what constitutes being established within the territory.

GDPR

Article 3: This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not.

Recital 22: Establishment implies the effective and real exercise of activity through stable arrangements.



Ghanaian Act

Establishment in jurisdiction

- Article 45: (1) Except as otherwise provided, this Act applies to a data controller in respect of data where:
- (a) the data controller is established in this country and the data is processed in this country;
- (b) the data controller is not established in this country but uses equipment or a data processor carrying on business in this country to process the data; or
- (c) processing is in respect of information which originates partly or wholly from this country.
- (2) A data controller who is not incorporated in this country shall register as an external company.
- (3) For the purposes of this Act the following are to be treated as established in this country:
- (a) an individual who is ordinarily resident in this country;
- (b) a body incorporated under the laws of this country;
- (c) a partnership, persons registered under the Registration of Business Names Act, 1962 (Act 151) and the Trustees (Incorporation) Act, 1962 (Act 106);
- (d) an unincorporated joint venture or association operating in part or in whole in this country; and
- (e) any person who does not fall within paragraphs (a), (b), (c) or (d) but maintains an office, branch or agency through which business activities are carried out in this country.
- (4) This Act does not apply to data which originates externally and merely transits through this country.

Extraterritorial

Goods & servicies from abroad

See Article 3. above.

See Article 14. above.

The Ghanaian Act does not explicitly refer to

goods and services from abroad, see Article

14 above on extraterritorial application.

Recital 23: In order to ensure that natural persons are not deprived of the protection to which they are entitled under this Regulation, the processing of personal data of data subjects who are in the Union by a controller or a processor not established in the Union should be subject to this Regulation where the processing activities are related to offering goods or services to such data subjects irrespective of whether connected to a payment.

Monitoring from abroad

Recital 24: The processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union should also be subject to this Regulation when it is related to the monitoring of the behaviour of such data subjects in so far as their behaviour takes place within the Union.

The Ghanaian Act does not explicitly refer to monitoring from abroad, see Article 14 above on extraterritorial application.

Ghanaian Act

1.3. Material scope

The Ghanaian Act and the GDPR provide similar understandings of what constitutes personal data, data processing, and types of data that require special protections. They differ in regard to explicit references to anonymised and pseudonymised data, but they both regulate automated processing and certain types of non-automated processing.

GDPR

Personal data/ personal information

Article 4(1): 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is 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.

Data processing

Article 4(2): 'processing' means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Special categories of data

Article 9(1): 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 shall be prohibited.



Ghanaian Act

Article 96: 'personal data' means data about an individual who can be identified, (a) from the data, or (b) from the data or other information in the possession of, or likely to come into the possession of the data controller.

Article 96: 'processing' means an operation or activity or set of operations by automatic or other means that concerns data or personal data and the: (a) collection, organisation, adaptation or alteration of the information or data;

(b) retrieval, consultation or use of the information or data;

(c) disclosure of the information or data by transmission, dissemination or other means available; or

(d) alignment, combination, blocking, erasure or destruction of the information or data.

Article 37(1): Unless otherwise provided by this Act, a person shall not process personal data which relates to (a) a child who is under parental control in accordance with the law, or (b) the religious or philosophical beliefs, ethnic origin, race, trade union membership, political opinions, health, sexual life or criminal behavior of an individual.

Ghanaian Act

Anonymised data

Recital 26: The principles of data protection should not apply to anonymous information, namely information which does not relate to an identified or identifiable natural person or to personal data rendered anonymous in such a manner that the data subject is not or no longer identifiable.

The Ghanaian Act does not generally refer to anonymised data. In the context of record retention, Article 45(5) notes: 'A data controller shall destroy or delete a record of personal data or de-identify the record at the expiry of the retention period.'

Pseudonymised data

Article 4(5): 'pseudonymisation' means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person

refer to pseudonymised data.

The Ghanaian Act does not explicitly

Automated processing

Article 2(1): This Regulation applies to the processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

Article 96: 'processing' means an operation or activity or set of operations by automatic or other means that concerns data or personal data.

Article 96: 'data' means information which (a) is processed by means of equipment operating automatically in response to instructions given for that purpose, (b) is recorded with the intention that it should be processed by means of such equipment, (c) is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system, or (d) does not fall within paragraph (a), (b) or (c) but forms part of an accessible record.

Particular and general exceptions to the

Ghanaian Act are set out in Articles 60-71.

General exemptions

Article 2(2): This Regulation does not apply to the processing of personal data:

(a) in the course of an activity which falls outside the scope of Union law;

(b) by the Member States when carrying out activities which fall within the scope of Chapter 2 of Title V of the Treaty on European Union; or

(c) by a natural person in the course of a purely personal or household activity.



2. Key definitions

2.1. Personal data

The GDPR and the Ghanaian Act define personal data and special categories or sensitive data in similar ways. The Ghanaian Act, unlike the GDPR, does not, though, explicitly refer to online identifiers.

GDPR

Personal data/ personal information

Article 4(1): 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is 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.

Article 9(1): Processing of personal data revealing racial or 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

ethnic origin, political opinions, religious or philosophical beliefs, data which consists of information that relates to: person's sex life or sexual orientation shall be prohibited.





Ghanaian Act

Article 96: 'personal data' means data about an individual who can be identified, (a) from the data, or (b) from the data or other information in the possession of, or likely to come into the possession of the data controller

Special categories of data

- Article 96: 'special personal data' means personal
- (a) the race, colour, ethnic or tribal origin of the data subject;
- (b) the political opinion of the data subject;
- (c) the religious beliefs or other beliefs of a similar nature, of the data subject;
- (d) the physical, medical, mental health or mental condition or DNA of the data subject;
- (e) the sexual orientation of the data subject;
- (f) the commission or alleged commission of an offence by the individual; or
- (g) proceedings for an offence committed or alleged to have been committed by the individual, the disposal of such proceedings or the sentence of any court in the proceedings.

Ghanaian Act

Online identifiers

Recital 30: Natural persons may be associated with online identifiers provided by their devices, applications, tools and protocols, such as internet protocol addresses, cookie identifiers or other identifiers such as radio frequency identification tags. This may leave traces which, in particular when combined with unique identifiers and other information received by the servers, may be used to create profiles of the natural persons and identify them.

The Ghanaian Act does not directly refer to an equivalent concept of online identifiers.

2.2. Pseudonymisation

Unlike the GDPR, the Ghanaian Act does not explicitly define or refer to anonymisation and pseudonymisation beyond a brief reference to de-identified data in Article 45(5) (see section 2.3. above).

GDPR

Anonymisation

Recital 26: 'anonymous information' is information which does The Ghanaian Act does not explicitly refer to anonymisation. not relate to an identified or identifiable natural person or to personal data rendered anonymous in such a manner that the data subject is not or no longer identifiable.

Pseudonymisation

Article 4(5): 'pseudonymisation' means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person.





Ghanaian Act

The Ghanaian Act does not explicitly refer to pseudonymisation.

2.3. Controllers and processors

GDPR

Article 4(7): 'controller' means the natural or legal person,

with others, determines the purposes and means of the

may be provided for by Union or Member State law.

public authority, agency or other body which, alone or jointly

processing of personal data; where the purposes and means

of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination



Consistent

GDPR

Data Protection Impact Assessment ('DPIA')

DPIA is not specifically defined, however Article 35 sets out requirements for DPIAs (see section 5.3. for further information).

Data Protection Officer ('DPO')

DPO is not specifically defined, however Article	
37 sets out requirements related to DPOs (see	
section 5.4. for further information).	

Data processor

There are many parallels in regard to the definitions of data controllers and data processors within the GDPR and the Ghanaian Act,

including requirements related to agreements or contracts between these parties. Both pieces of legislation also provide for data

Data controller

protection officers/supervisors. The Ghanaian Act does not, though, refer to Data Protection Impact Assessments ('DPIAs').

Article 4(8): 'processor' means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

Article 96: 'data processor' in relation to personal data means any person other than an employee of the data controller who processes the data on behalf of the data controller.

Ghanaian Act

Article 96: 'data controller' means a person who either alone,

jointly with other persons or in common with other persons or

in which personal data is processed or is to be processed.

as a statutory duty determines the purposes for and the manner

Controller and processor contracts

Article 28(3): Processing by a processor shall be governed by a contract or other legal act under Union or Member State law, that is binding on the processor with regard to the controller and that sets out the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects and the obligations and rights of the controller. [Article 28 goes on to stipulate necessary information to be included in such a contract.]

Article 30: (1) A data controller shall ensure that a data processor who processes personal data for the data controller, establishes and complies with the security measures specified under this Act.

(2) The processing of personal data for a data controller by a data processor shall be governed by a written contract.

(3) A contract between a data controller and a data processor shall require the data processor to establish and maintain the confidentiality and security measures necessary to ensure the integrity of the personal data.

(4) Where a data processor is not domiciled in this country, the data controller shall ensure that the data processor complies with the relevant laws of this country.

Ghanaian Act

The Ghanaian Act does not explicitly refer to DPIA.

- Article 96: 'data supervisor' means a professional
- appointed by a data controller in accordance with Article
- 58 to monitor the compliance by the data controller
- in accordance with the provisions of the Act.



2.4. Children



The Ghanaian Act provides a general prohibition and treats children's data similarly to other sensitive data, while the GDPR establishes more specific requirements in regard to consent, privacy notices, and information society services. In both cases, though, children's data is only broadly addressed.

GDPR

Ghanaian Act

Children's definition

The GDPR does not specifically define 'child'. However, Article 8(1) provides: Where point (a) of Article 6(1) applies, in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 16 years old. Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child. Member States may provide by law for a lower age for those purposes provided that such lower age is not below 13 years.

The Ghanaian Act does not specifically define 'children', and provides a general prohibition from processing the personal data of minors.

Article 37(1): Unless otherwise provided by this Act, a person shall not process personal data which relates to (a) a child who is under parental control in accordance with the law.

Consent for processing children's data

Article 8(2): The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking into consideration available technology.

Privacy notice (children)

Recital 58: Given that children merit specific protection, any information and communication, where processing is addressed to a child, should be in such a clear and plain language that the child can easily understand.

The Ghanaian Act does not contain equivalent provisions.

2.5. Research

Like the GDPR, the Ghanaian Act provides certain exceptions and particular requirements where processing is conducted for scientific/historical research or similar. The Ghanaian Act is, though, less detailed than the GDPR on this matter.

GDPR

Scientific/ historical research definition

Recital 159: Where personal data are processed for scientific research purposes, this Regulation should also apply to that processing. For the purposes of this Regulation, the processing of personal data for scientific research purposes should be interpreted in a broad manner including for example technological development and demonstration, fundamental research, applied research and privately funded research.

Recital 160: Where personal data are processed for historical research purposes, this Regulation should also apply to that processing. This should also include historical research and research for genealogical purposes, bearing in mind that this Regulation should not apply to deceased persons.

Compatibility with original purpose of collection

Article 5(1)(b): Personal data shall be collected for specified, Article 25(3): The further processing of data is considered to explicit and legitimate purposes and not further processed be compatible with the purpose of collection where [...] (e) the in a manner that is incompatible with those purposes; further data is used for historical, statistical or research purposes and processing for archiving purposes in the public interest, the person responsible for the processing ensures that (i) the scientific or historical research purposes or statistical purposes further processing is carried out solely for the purpose for shall, in accordance with Article 89(1), not be considered to be which the data was collected, and (ii) the data is not published incompatible with the initial purposes ('purpose limitation'). in a form likely to reveal the identity of the data subject.

Appropriate safeguards

Article 89(1): Processing for archiving purposes in the public Article 96: 'relevant conditions' in relation to the processing interest, scientific or historical research purposes or statistical of personal data, means the conditions (a) that the data purposes, shall be subject to appropriate safeguards, in is not processed to support measures or decisions with accordance with this Regulation, for the rights and freedoms of respect to particular individuals, and (b) that the data is not the data subject. Those safeguards shall ensure that technical processed in the way that substantial damage or distress and organisational measures are in place in particular in is caused or is likely to be caused to the data subject.



Ghanaian Act

- Although the Ghanaian Act contains several provisions
- relating to scientific and historical research purposes,
- it does not explicitly define such research.

Article 65(1): The further processing of personal data for a research purpose in compliance with the relevant conditions is not to be regarded as incompatible with the purposes for which the data was obtained.

Ghanaian Act

Appropriate safeguards (cont'd)

order to ensure respect for the principle of data minimisation. Those measures may include pseudonymisation provided that those purposes can be fulfilled in that manner.

Article 24(3): A person who retains records for historical, statistical or research purposes shall ensure that the records that contain the personal data are adequately protected against access or use for unauthorised purposes.

Data subject rights (research)

Under Article 17(3), the right to erasure may not apply in cases of scientific or historical research. Article 21(6), however, provides that data subjects may exercise the right to object to data processing for scientific or historical research purposes. In addition, Article 89 provides that Member States may derogate from the GDPR in regard to data subject rights and data processing for research purposes.

While the Ghanaian Act does not specifically refer to research purposes in the context of data subject rights, Article 65(3) generally provides: Personal data which is processed only for research purposes is exempt from the provisions of this Act if (a) the data is processed in compliance with the relevant conditions, and (b) the results of the research or resulting statistics are not made available in a form which identifies the data subject or any of them.

3. Legal basis

The legal grounds provided for under the GDPR and the Ghanaian Act are broadly similar and include consent as well as the legitimate interest of the data controller. Both pieces of legislation also provide particular legal grounds for processing sensitive data. The Ghanaian Act, though, is less clear than the GDPR in regard to the conditions for consent and what may constitute valid consent.

GDPR

Article 6(1): Processing shall be lawful only if and to the extent that at least one of the following applies:

(a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;

(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

(c) processing is necessary for compliance with a legal obligation to which the controller is subject;

(d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;

(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller; or

(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

There are specific requirements for processing special categories of data, see Article 9 of the GDPR for further information.



Ghanaian Act

Legal grounds

- Article 20(1): A person shall not process personal data without the prior consent of the data subject unless the purpose for which the personal data is processed is:
- (a) necessary for the purpose of a contract to which the data subject is a party;
- (b) authorised or required by law;
- (c) to protect a legitimate interest of the data subject;
- (d) necessary for the proper performance of a statutory duty; or
- (e) necessary to pursue the legitimate interest of the data controller or a third party to whom the data is supplied.

Sensitive data (legal basis)

There are specific requirements for processing special personal data, see Article 37 of the Ghanaian Act for further information.

Ghanaian Act

Conditions for consent

Article 7(3): The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. Prior to giving consent, the data subject shall be informed thereof. It shall be as easy to withdraw as to give consent.

Article 4: (11) 'consent' of 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.

Article 94(1): The Minister may in consultation with the Commission by legislative instrument make Regulations to [...] (b) specify the conditions that are to be satisfied for consent to be given.

Journalism/ artistic purposes

Article 85(1): Member States shall by law reconcile the right to the protection of personal data pursuant to this Regulation with the right to freedom of expression and information, including processing for journalistic purposes and the purposes of academic, artistic or literary expression.

Article 64 of the Ghanaian Act provides exceptions from certain principles and requirements for the processing for the purposes of journalism, literature, and art.

4. Controller and processor obligations

4.1. Data transfers

Unlike the GDPR, the Ghanaian Act does not establish a separated set of requirements governing data transfers. Instead, it sets out obligations for ensuring adequate protection by data processors domiciled outside of Ghana (Article 30), specifying where data may be transferred when registering processing with the DPC (Article 47), complying with other jurisdiction's legislation in the context of foreign data subject's personal data (Article 18), and a general prohibition on selling data (Article 89).

GDPR

Adequate protection

Article 45(1): A transfer of personal data to a third country or an international organisation may take place where the Commission has decided that the third country, a territory or one or more specified sectors within that third country, or the international organisation in guestion ensures an adequate level of protection. Such a transfer shall not require any specific authorisation.

Other mechanisms for data transfers

Article 46(1): In the absence of a decision pursuant to Article 45(3), a controller or processor may transfer personal data to a third country or an international organisation only if the controller or processor has provided appropriate safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

(2) The appropriate safeguards referred to in paragraph 1 may be provided for, without requiring any specific authorisation from a supervisory authority, by:

(a) a legally binding and enforceable instrument between public authorities or bodies;

(b) binding corporate rules in accordance with Article 47;

(c) standard data protection clauses adopted by the Commission in accordance with the examination procedure referred to in Article 93(2);



Ghanaian Act

The Ghanaian Act does not contain directly equivalent provisions.

The Ghanaian Act does not contain directly equivalent provisions.

Ghanaian Act

Article 94(1): The Minister may in consultation with

the Commission by legislative instrument make

Regulations to [...] (b) specify the conditions that are to be satisfied for consent to be given.

Other mechanisms for data transfers (cont'd)

(d) standard data protection clauses adopted by a supervisory authority and approved by the Commission pursuant to the examination procedure referred to in Article 93(2);

(e) an approved code of conduct pursuant to Article 40 together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights; or

(f) an approved certification mechanism pursuant to Article 42 together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights.

(3) Subject to the authorisation from the competent supervisory authority, the appropriate safeguards referred to in paragraph 1 may also be provided for, in particular, by:

(a) contractual clauses between the controller or processor and the controller, processor or the recipient of the personal data in the third country or international organisation; or

(b) provisions to be inserted into administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.

Data localisation

There are no data localisation provisions.

There are no data localisation provisions.

4.2. Data processing records

While unlike the GDPR the Ghanaian Act does not directly refer to data processing record-keeping obligations, the general security measures obligations in Articles 28-30 may be interpreted as requiring that certain similar organisational measures are taken. The Ghanaian Act also establishes registration (or data processing notification ('DPN')) requirements.

GDPR

Article 30(1): Each controller and, where applicable, the controller's representative, shall maintain a record of processing activities under its responsibility. That record shall contain all of the following information:

(a) the name and contact details of the controller and, where applicable, the joint controller, the controller's representative and the data protection officer;

(b) the purposes of the processing;

(c) a description of the categories of data subjects and of the categories of personal data;

(d) the categories of recipients to whom the personal data have been or will be disclosed including recipients in third countries or international organisations;

(e) where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and, in the case of transfers referred to in the second subparagraph of Article 49(1), the documentation of suitable safeguards;

(f) where possible, the envisaged time limits for erasure of the different categories of data; and

(g) where possible, a general description of the technical and organisational security measures referred to in Article 32(1).



Ghanaian Act

Data controller obligation

The Ghanaian Act does not explicitly refer to data processing record keeping obligations.



Ghanaian Act

GDPR

Data processor obligation

Article 30(2): Each processor and, where applicable, the processor's representative shall maintain a record of all categories of processing activities carried out on behalf of a controller, containing:

(a) the name and contact details of the processor or processors and of each controller on behalf of which the processor is acting, and, where applicable, of the controller's or the processor's representative, and the data protection officer;

(b) the categories of processing carried out on behalf of each controller;

(c) where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and, in the case of transfers referred to in the second subparagraph of Article 49(1), the documentation of suitable safeguards; and

(d) where possible, a general description of the technical and organisational security measures referred to in Article 32(1).

Records format

Article 30(3): The records referred to in paragraphs 1 and 2 shall be in writing, including in electronic form.

The Ghanaian Act does not explicitly refer to data processing record keeping obligations.

Required to make available

Article 30(4): The controller or the processor and, where applicable, the controller's or the processor's representative, shall make the record available to the supervisory authority on request.

The Ghanaian Act does not explicitly refer to data processing record keeping obligations.

The Ghanaian Act does not explicitly refer to data processing record keeping obligations.

Article 30(5): The obligations referred to in paragraphs 1 and 2 shall not apply to an enterprise or an organisation employing fewer than 250 persons unless the processing it carries out is likely to result in a risk to the rights and freedoms of data subjects, the processing is not occasional, or the processing includes special categories of data as referred to in Article 9(1) or personal data relating to criminal convictions and offences referred to in Article 10.

Not applicable.	A
	р
	D

Ghanaian Act

Exemptions

The Ghanaian Act does not explicitly refer to data processing record keeping obligations.

General Data Processing Notification ('DPN')

rticles 46-56 of the Ghanaian Act establish data rocessing registration requirements. See Ghana – ata Processing Notification for further information.



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	a Protection Regulation codes of conduct GDPR documentation GDPR IMPLEMENTAT	TION GDPR BENCHMARK INSIGHTS GDPR TEXT DEROGATIONS ADMINISTRAT	VE FINES
GDPR Benchmark			
This Chart aims at assisting organisa 1. Scope 2. Definitions and legal basis 3. Rights 4. Enforcement	tions in understanding and comparing key provisions of the GDPR w	ith relevant data protection law from around the globe. This Chart provides a con	parison of the following key provisions:
	and sections from the law compared, a summary of the comparison,	, and a detailed analysis of the similarities and differences. The degree of similarit	for each section can be identified using the key.
Scope Definitions and Legal E	Basis Rights Enforcement		
Scope Benchmark			
Scope Benchmark			
	PERSONAL SCOPE	TERNITORIAL SCOPE	MATERIAL SCOPE
	PERSONAL SCOPE	TERRITORIAL SCOPE	MATERIAL SCOPE Fairly consistent
EV - INTERNATIONAL	Fairly inconsistent	Fairly consistent	Fairly consistent

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4.3. Data protection impact assessment



Although the Ghanaian Act sets out provisions for the Commission to assess processing activities under Articles 57 and 77, it does not establish an equivalent concept to a data protection impact assessment.

GDPR	Ghanaian Act

When is a DPIA required

Article 35(1): Where a type of processing in particular using new The Ghanaian Act does not explicitly refer to DPIA.

technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall, prior to the processing, carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. A single assessment may address a set of similar processing operations that present similar high risks.

[...] (3) A data protection impact assessment referred to in paragraph 1 shall in particular be required in the case of:

(a) a systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, including profiling, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person;

(b) processing on a large scale of special categories of data referred to in Article 9(1), or of personal data relating to criminal convictions and offences referred to in Article 10; or

(c) a systematic monitoring of a publicly accessible area on a large scale.

DPIA content requirements

Article 35(7): The assessment shall contain at least:

The Ghanaian Act does not explicitly refer to DPIA.

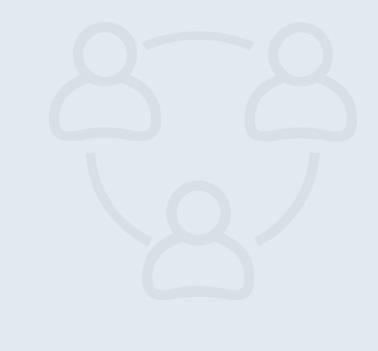
(a) a systematic description of the envisaged processing operations and the purposes of the processing, including, where applicable, the legitimate interest pursued by the controller;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the purposes;

(c) an assessment of the risks to the rights and freedoms of data subjects referred to in paragraph 1; and

(d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation taking into account the rights and legitimate interests of data subjects and other persons concerned.

Article 36(1): The controller shall consult the supervisory authority prior to processing where a data protection impact assessment under Article 35 indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk. [Article 36 goes on to detail requirements related to such prior consultation].



GDPR

Ghanaian Act

DPIA content requirements (cont'd)

Consultation with authority

The Ghanaian Act does not explicitly refer to DPIA.

4.4. Data protection officer appointment



While the Ghanaian Act establishes the concept of data protection supervisors, which are similar to data protection officers ('DPOs') under the GDPR, it does not require their appointment. The Ghanaian Act is also less explicit in terms of matters related to DPO appointments

GDPR

Ghanaian Act

Article 58(2): The data protection supervisor is

compliance with the provisions of this Act.

responsible for the monitoring of the data controller's

DPO tasks

Article 39(1): The data protection officer shall have at least the following tasks:

(a) to inform and advise the controller or the processor and the employees who carry out processing of their obligations pursuant to this Regulation and to other Union or Member State data protection provisions;

(b) to monitor compliance with this Regulation, with other Union or Member State data protection provisions and with the policies of the controller or processor in relation to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations, and the related audits;

(c) to provide advice where requested as regards the data protection impact assessment and monitor its performance pursuant to Article 35;

(d) to cooperate with the supervisory authority; and

(e) to act as the contact point for the supervisory authority on issues relating to processing, including the prior consultation referred to in Article 36, and to consult, where appropriate, with regard to any other matter.

When is a DPO required

Article 37(1): The controller and the processor shall designate a data protection officer in any case where:

(a) the processing is carried out by a public authority or body, except for courts acting in their judicial capacity;

There is no explicit obligation to appoint a data protection supervisor in the Ghanaian Act. However, Article 58(1) provides that, 'A data controller may appoint a certified and qualified data supervisor to act as a data protection supervisor'.

GDPR

(b) the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects on a large scale; or

(c) the core activities of the controller or the processor consist of processing on a large scale of special categories of data pursuant to Article 9 and personal data relating to criminal convictions and offences referred to in Article 10.

Group appointments

Article 37(2): A group of undertakings may appoint a single data protection officer provided that a data protection officer is easily accessible from each establishment.

Notification of DPO

Article 37(7): The controller or the processor shall publish the contact details of the data protection officer and communicate them to the supervisory authority.

Qualifications

Article 37(5): The data protection officer shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and the ability to fulfil the tasks referred to in Article 39.

Ghanaian Act

When is a DPO required (cont'd)

The Ghanaian Act does not explicitly address this matter.

The Ghanaian Act does not explicitly address this matter.

Article 58: (5) A data protection supervisor may be an employee of the data controller.

(6) The Commission shall provide the criteria for qualification to be appointed as a data protection supervisor.

4.5. Data security and data breaches



Like the GDPR, the Ghanaian Act requires that various technical and organisational measures are taken to protect personal data. These include data breach notification obligations to both supervisory authorities and data subjects. In general terms, the Ghanaian Act is less detailed on these measures and notifications than the GDPR.

GDPR

Ghanaian Act

Security measures defined

Article 32(1): Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate:

(a) the pseudonymisation and encryption of personal data;

(b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

(c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;

(d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

Article 28: (1) A data controller shall take the necessary steps to secure the integrity of personal data in the possession or control of a person through the adoption of appropriate, reasonable, technical and organisational measures to prevent: (a) loss of, damage to, or unauthorised destruction; and (b) unlawful access to or unauthorised processing of personal data.

(2) To give effect to subsection (1), the data controller shall take reasonable measures to:

(a) identify reasonably foreseeable internal and external risks to personal data under that person's possession or control;

(b) establish and maintain appropriate safeguards against the identified risks;

(c) regularly verify that the safeguards are effectively implemented; and

(d) ensure that the safeguards are continually updated in response to new risks or deficiencies.

(3) A data controller shall observe:

(a) generally accepted information security practices and procedure; and

(b) specific industry or professional rules and regulations.

GDPR

Article 33(1): In the case of a personal data breach, the
controller shall without undue delay and, where feasible,
not later than 72 hours after having become aware of it,
notify the personal data breach to the supervisory authority
competent in accordance with Article 55, unless the personal
data breach is unlikely to result in a risk to the rights and
freedoms of natural persons. Where the notification to
the supervisory authority is not made within 72 hours, it
shall be accompanied by reasons for the delay.

Timeframe for breach notification

See Article 33(1) above.

Notification of DPO

Article 37(7): The controller or the processor shall publish the contact details of the data protection officer and communicate them to the supervisory authority.

Notifying data subjects of data breach

Article 34(1): When the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall communicate the personal data breach to the data subject without undue delay.

Ghanaian Act

Data breach notification to authority

Article 31(1): Where there are reasonable grounds to believe that the personal data of a data subject has been accessed or acquired by an unauthorised person, the data controller or a third party who processes data under the authority of the data controller shall notify the:

(a) Commission; and

(b) the data subject of the unauthorised access or acquisition.

Article 31(2): The notification shall be made as soon as reasonably practicable after the discovery of the unauthorised access or acquisition of the data.

The Ghanaian Act does not explicitly address this matter.

See Article 31(1) above.

Article 31: (5) The notification to a data subject shall be communicated by

(a) registered mail to the last known residential or postal address of the data subject;

(b) electronic mail to the last known electronic mail address of the data subject;

(c) placement in a prominent position on the website of the responsible party;

(d) publication in the media; or

Ghanaian Act

Notifying data subjects of data breach (cont'd)

(e) any other manner that the Commission may direct.

(6) A notification shall provide sufficient information to allow the data subject to take protective measures against the consequences of unauthorised access or acquisition of the data.

(7) The information shall include, if known to the data controller, the identity of the unauthorised person who may have accessed or acquired the personal data.

(8) Where the Commission has grounds to believe that publicity would protect a data subject who is affected by the unauthorised access or acquisition of data, the Commission may direct the data controller to publicise in the specified manner, the fact of the compromise to the integrity or confidentiality of the personal data.

Data processor notification of data breach

Article 33(2): The processor shall notify the controller without undue delay after becoming aware of a personal data breach.

See Article 31(1), above.

Exceptions

Article 34(3): The communication to the data subject referred to in paragraph 1 shall not be required if any of the following conditions are met:

(a) the controller has implemented appropriate technical and organisational protection measures, and those measures were applied to the personal data affected by the personal data breach, in particular those that render the personal data unintelligible to any person who is not authorised to access it, such as encryption;

(b) the controller has taken subsequent measures which ensure that the high risk to the rights and freedoms of data subjects referred to in paragraph 1 is no longer likely to materialise;

(c) it would involve disproportionate effort. In such a case, there shall instead be a public communication or similar measure whereby the data subjects are ³⁶ Informed in an equally effective manner.

Article 31(4): The data controller shall delay notification to the data subject where the security agencies or the Commission inform the data controller that notification will impede a criminal investigation.

4.6. Accountability

While both the GDPR and the Ghanaian Act establish accountability as a fundamental principle, the Ghanaian Act is generally less exacting in regard to specifying liabilities.

GDPR

to demonstrate compliance with, paragraph 1 ('accountability'). [Paragraph 1 details principles of: lawfulness, fairness and transparency, purpose limitation, data minimisation, accuracy, storage limitation, integrity and confidentiality.]

Article 82(2): Any controller involved in processing shall be liable for the damage caused by processing which infringes this Regulation. A processor shall be liable for the damage caused by processing only where it has not complied with obligations of this Regulation specifically directed to processors or where it has acted outside or contrary to lawful instructions of the controller.



Fairly consisten

Ghanaian Act

Principle of accountability

- Article 5(2): The controller shall be responsible for, and be able Article 17(1): A person who processes data shall take into account the privacy of the individual by applying the following principles:
 - (a) accountability [...]

Liability of data controllers and data processors

The Ghanaian Act does not explicitly address the liabilities of data controllers and processors. Instead, liabilities are generally referred to in the context of 'any person'. In addition, Article 45(1) specifies that the Ghanaian Act applies to a data controller in respect of data where 'the data controller is not established in this country but uses equipment or a data processor carrying on business in this country to process the data'

§ 5. Rights

5.1. Right to erasure



The Ghanaian Act does not provide a specific right for erasure in the same manner as the GDPR. Data subjects may, though, request that their data is corrected or deleted in certain circumstances, and there are related obligations such as informing other parties to whom the data has been disclosed.

GDPR

Ghanaian Act

Grounds for erasure

Article 17(1): The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies:

(a) the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed; (b) destroy or delete a record of personal data about

(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or point (a) of Article 9(2), and where there is no other legal ground for the processing;

(c) the data subject objects to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing, or the data subject objects to the processing pursuant to Article 21(2);

(d) the personal data have been unlawfully processed;

(e) the personal data have to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject;

(f) the personal data have been collected in relation to the offer of information society services referred to in Article 8(1). Article 33(1): A data subject may request a data controller to:

(a) correct or delete personal data about the data subject held by or under the control of the data controller that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or

the data subject held by the data controller.

Article 42(1): A data subject is entitled at any time by notice in writing to require a data controller:

(a) to rectify, block, erase or destroy exempt manual data which is inaccurate or incomplete; or

(b) to cease to hold exempt manual data in a manner which is incompatible with the legitimate purposes pursued by the data controller.

Article 44(1): Where the Commission is satisfied on a complaint of a data subject that personal data on that data subject is inaccurate, the Commission may order the data controller to:

(a) rectify;

(b) block;

(c) erase; or

(d) destroy the data.

Article 12(5): Information provided under Articles 13 and 14 and any communication and any actions taken under Articles 15 to 22 and 34 shall be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either:

writing, or by other means, including, where appropriate, by electronic means. When requested by the data subject,

the information may be provided orally, provided that the

identity of the data subject is proven by other means.

(a) charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or

(b) refuse to act on the request. The controller shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.

Response timeframe

Article 12(3): The controller shall provide information on action taken on a request under Articles 15 to 22 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. The controller shall inform 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 electronic form means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

GDPR

Article 12(1): The controller shall take appropriate measures to The Ghanaian Act does not explicitly address this matter. provide any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child. The information shall be provided in

Ghanaian Act

Inform data subject of right

Fees

The Ghanaian Act does not explicitly address this matter.

The Ghanaian Act does not explicitly refer to timeframes in relation to erasure. In general terms, in relation to correcting information, which may include deleting information, Article 33(2) notes, 'On receipt of the request, the data controller shall comply with the request or provide the data subject with credible evidence in support of the data.

Ghanaian Act

The Ghanaian Act does not explicitly address this matter.

GDPR

Format of response

Article 12(1): The information shall be provided in writing, or by other means, including, where appropriate, by electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means.

Publicly available data

Article 17(2): Where the controller has made the personal data public and is obliged pursuant to paragraph 1 to erase the personal data, the controller, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data.

Article 44(4): Where the data complained of has been rectified, blocked supplemented, erased or destroyed, the data controller is required to notify third parties to whom the data has been previously disclosed of the rectification, blocking, supplementation, erasure or destruction.

Exceptions

Article 17(3): Paragraphs 1 and 2 shall not apply to the extent that processing is necessary:

(a) for exercising the right of freedom of expression and information;

(b) for compliance with a legal obligation which requires processing by Union or Member State law to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

(c) for reasons of public interest in the area of public health in accordance with points (h) and (i) of Article 9(2) as well as Article 9(3);

(d) for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing; or

The Ghanaian Act does not provide specific exceptions to a right to erasure.

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Exceptions (cont'd)

(e) for the establishment, exercise or defence of legal claims.

Article 12(5): Information provided under Articles 13 and 14 and any communication and any actions taken under Articles 15 to 22 and 34 shall be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either:

(a) charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or

(b) refuse to act on the request. The controller shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.

The Ghanaian Act does not provide specific exceptions to a right to erasure.

Ghanaian Act

5.2. Right to be informed



While a right to be informed is broadly provided for under the Ghanaian Act, it is significantly less detailed than the GDPR and similar laws on this matter. The Ghanaian Act only generally requires that data subjects are 'aware of the purpose for the collection of the data'.

GDPR	Ghanaian Act

Informed prior to/ at collection

Article 13(1): Where personal data relating to a data subject are collected from the data subject, the controller shall, at the time when personal data are obtained, provide the data subject with all of the following information:

Article 23: A data controller who collects data shall take the necessary steps to ensure that the data subject is aware of the purpose for the collection of the data.

(a) the identity and the contact details of the controller and, where applicable, of the controller's representative;

(b) the contact details of the data protection officer, where applicable;

(c) the purposes of the processing for which the personal data are intended as well as the legal basis for the processing;

(d) where the processing is based on point (f) of Article 6(1), the legitimate interests pursued by the controller or by a third party;

(e) the recipients or categories of recipients of the personal data, if any;

(f) where applicable, the fact that the controller intends to transfer personal data to a third country or international organisation and the existence or absence of an adequacy decision by the Commission, or in the case of transfers referred to in Article 46 or 47, or the second subparagraph of Article 49(1), reference to the appropriate or suitable safeguards and the means by which to obtain a copy of them or where they have been made available.

(2) In addition to the information referred to in paragraph 1, the controller shall, at the time when personal data are obtained, provide the data subject with the following further information necessary to ensure fair and transparent processing:

(a) the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period;

Informed prior to/ at collection (cont'd)

(b) the existence of the right to request from the controller access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability;

(c) where the processing is based on point (a) of Article 6(1) or point (a) of Article 9(2), the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;

(d) the right to lodge a complaint with a supervisory authority;

(e) whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and of the possible consequences of failure to provide such data; (f) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) 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.

What information is to be provided

See Article 13(1) and (2) above.

See Article 23, above.

In addition to the information required under Article 13, Article 14(2) replaces the requirement that data subjects are provided with information on the legitimate interests pursued by the controller or by a third party, with an obligation to inform data subjects of the categories of personal data. Furthermore, paragraph (e) of Article 13(2) is replaced with a requirement to inform data subjects of the source from which the personal data originate, and if applicable, whether it came from publicly accessible sources.

Ghanaian Act

When data is from third party

Article 21: (1) A person shall collect personal data directly from the data subject.

(2) Despite subsection (1), personal data may be collected indirectly where:

(a) the data is contained in a public record;

(b) the data subject has deliberately made the data public;

(c) the data subject has consented to the collection of the information from another source;

(d) the collection of the data from another source is not likely to prejudice a legitimate interest of the data subject;

43

Ghanaian Act

When data is from third party (cont'd)

(e) the collection of the data from another source is necessary: (i) for the prevention, detection, investigation, prosecution or punishment of an offence or breach of law; (ii) for the enforcement of a law which imposes a pecuniary penalty; (iii) for the enforcement of a law which concerns revenue collection; (iv) for the conduct of proceedings before any court or tribunal that have commenced or are reasonably contemplated; (v) for the protection of national security; or (vi) for the protection of the interests of a responsible or third party to whom the information is supplied;

(f) compliance would prejudice a lawful purpose for the collection; or

(g) compliance is not reasonably practicable.

Intelligibility requirements

Article 12(1): The controller shall take appropriate measures to provide any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means.

Article 22: A data controller who collects personal data shall collect the data for a purpose which is specific, explicitly defined and lawful and is related to the functions or activity of the person.

See Article 21, above, and Article 20 in section 3. on

alternative legal grounds than prior consent.

Format

The requirements of Article 13 do not apply where the data subject already has the information.

The requirements of Article 14 do not apply where:

(a) the data subject already has the information;

GDPR

Exceptions (cont'd)

(b) the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, subject to the conditions and safeguards referred to in Article 89(1) or in so far as the obligation referred to in paragraph 1 of this Article is likely to render impossible or seriously impair the achievement of the objectives of that processing. In such cases the controller shall take appropriate measures to protect the data subject's rights and freedoms and legitimate interests, including making the information publicly available;

(c) obtaining or disclosure is expressly laid down by Union or Member State law to which the controller is subject and which provides appropriate measures to protect the data subject's legitimate interests; or

(d) where the personal data must remain confidential subject to an obligation of professional secrecy regulated by Union or Member State law, including a statutory obligation of secrecy.

Ghanaian Act

5.3. Right to object



Like the GDPR, the Ghanaian Act establishes a right to object to processing, as well as related provisions such as objecting to direct marketing and restricting processing. The Ghanaian Act is less detailed on how this right should be exercised and it does not explicitly refer to the withdrawal of consent.

GDPR

Ghanaian Act

Grounds for right to object/ opt out

Article 21(1): The data subject shall have the right to object, on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her which is based on point (e) or (f) of Article 6(1), including profiling based on those provisions. The controller shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims.

Article 20: (2) Unless otherwise provided by law, a data subject may object to the processing of personal data.

(3) Where a data subject objects to the processing of personal data, the person who processes the personal data shall stop the processing of the personal data.

Article 39(1): An individual shall at any time by notice in writing to a data controller require the data controller to cease or not begin processing for a specified purpose or in a specified manner, personal data which causes or is likely to cause unwarranted damage or distress to the individual.

Article 20(3): Where a data subject objects to the processing

of personal data, the person who processes the personal

data shall stop the processing of the personal data

The Ghanaian Act does not explicitly refer

to the withdrawal of consent.

Withdraw consent

Article 7(3): The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. Prior to giving consent, the data subject shall be informed thereof. It shall be as easy to withdraw as to give consent.

Restrict processing

Article 18(1): The data subject shall have the right to obtain from the controller restriction of processing where one of the following applies:

(a) the accuracy of the personal data is contested by the data subject, for a period enabling the controller to verify the accuracy of the personal data;

(b) the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of their use instead;

46

See Article 12(1) in section 5.1. above. In addition, Article 21(4) provides: At the latest at the time of the first communication with the data subject, the right referred to in paragraphs 1 and 2 shall be explicitly brought to the attention of the data subject and shall be presented clearly and separately from any other information.

GDPR

(c) the controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise or defence of legal claims;

(d) the data subject has objected to processing pursuant to Article 21(1) pending the verification whether the legitimate grounds of the controller override those of the data subject.

Article 21(3): Where the data subject objects to processing for direct marketing purposes, the personal data shall no longer be processed for such purposes.

Restrict processing (cont'd)

Object to direct marketing

Article 40: (1) A data controller shall not provide, use, obtain, procure or provide information related to a data subject for the purposes of direct marketing without the prior written consent of the data subject.

(2) A data subject is entitled at any time by notice in writing to a data controller to require the data controller not to process personal data of that data subject for the purposes of direct marketing.

(3) Where the Commission is satisfied on a complaint by a person who has given notice in subsection (1), that the data controller has failed to comply with the notice, the Commission may order that data controller to comply with the notice.

(4) In this section 'direct marketing' includes the communication by whatever means of any advertising or marketing material which is directed to particular individuals.

Inform data subject of right

The Ghanaian Act does not explicitly address this matter.

GDPR	Ghanaian Act
Fe	es
See Article 12(5) in section 5.1. above.	The Ghanaian Act does not explicitly address this matter.
Response	timeframe
See Article 12(3) in section 5.1. above.	Article 39(2): A data controller shall within twenty-one days after receipt of a notice inform the individual in writing:
	(a) that the data controller has complied or intends to comply with the notice of the data subject; or
	(b) of the reasons for non-compliance.
Format of	response
See Article 12(1) in section 5.1. above.	The Ghanaian Act does not explicitly address this matter.
Excej	ptions
See Article 12(5) in section 5.1. above.	The Ghanaian Act does not provide specific exemptions from rights to object or prevent processing.

5.4. Right of access

Both the GDPR and the Ghanaian Act provide for a right of access and specify matters such as response timeframes, the information to be accessed, grounds for access, and similar. The details of these related matters, however, differ between the two pieces of legislation.

GDPR	
Grounds for	rig
Article 15(1): The data subject shall have the right to obtain	А
from the controller confirmation as to whether or not personal	0
data concerning him or her are being processed.	
	(6
	tł
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	h
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	h
	(C

Information to be accessed

Article 15(1): The data subject shall have the right to	A
obtain from the controller confirmation as to whether	
or not personal data concerning him or her are being	(6
processed, and, where that is the case, access to	р
the personal data and the following information:	C
(a) the purposes of the processing;	(ł
	p
(b) the categories of personal data concerned;	S
	is
(c) the recipients or categories of recipient to whom the	r
personal data have been or will be disclosed, in particular	
recipients in third countries or international organisations;	(0
	iı
(d) where possible, the envisaged period for which	ir
the personal data will be stored, or, if not possible,	te
the criteria used to determine that period;	
	(0
(e) the existence of the right to request from the	C
controller rectification or erasure of personal data or	р

restriction of processing of personal data concerning

the data subject or to object to such processing;

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Ghanaian Act

ht of access

Article 32(1): A data subject who provides proof of identity may request a data controller to:

a) confirm at reasonable cost to the data subject whether or not he data controller holds personal data about that data subject;

b) give a description of the personal data which is held by the party including data about the identity of a third party or a category of a third party who has or has had access to the information; and

c) correct data held on the data subject by the data controller.

Article 35: (1) A data controller shall:

 (a) inform an individual who is the data subject of the processing of the individual's personal data by the data controller or another person on behalf of the data controller;

(b) give to the data subject, a description of (i) the personal data of which that individual is the data subject; (ii) the purpose for which the data is being or is to be processed; and (iii) the recipient or class of recipients to whom the data may be disclosed;

(c) communicate in an intelligible form to the data subject (i) information which constitutes personal data of which that individual is the subject; (ii) information which is available to the data controller as to the source of the data; and

(d) inform the individual who is the data subject of the logic or rationale behind the decision that was made based on the processing where the processing constitutes the sole basis for the taking of a decision which significantly affects that individual

Ghanaian Act

[...] (9) An individual who makes a request under this section may specify that the request is limited to personal data of any description.

Information to be accessed (cont'd)

(f) the right to lodge a complaint with a supervisory authority;

(g) where the personal data are not collected from the data subject, any available information as to their source; and

(h) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) 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.

Inform data subject of right

See Article 12(1) in section 5.1.

The Ghanaian Act does not explicitly address this matter.

Article 35(12) notes, however, that, 'The obligation imposed on a data controller to provide the data subject with information undersection 20 to 26 is fulfilled by supplying the data subject with a copy of the data in permanent form.'

Fees

See Article 12(5) in section 5.1. above.

Article 32(2): (2) The request shall be made: [...] (b) after the payment of the prescribed fee, if any.

Verify data subject request

Recital 64: The controller should use all reasonable measuresSee Article 32(1), above.to verify the identity of a data subject who requests access, inparticular in the context of online services and online identifiers.A controller should not retain personal data for the solepurpose of being able to react to potential requests.

Response timeframe

See Article 12(3) in section 5.1. above.

Article 35(10): Subject to subsection (5), a data controller shall comply with a request under this section promptly and in any event within forty days from the date of receipt of the request.

GDPR

Format of response

See Article 12(1) in section 5.1. above.

E

See Article 12(5) in section 5.1. above. Article 35: (2) Where the data constitutes a trade secret, the provision of data related to the logic or rationale involved in any decision taken does not apply. (3) A data controller shall not comply with a request undersubsection (1) unless the data controller is supplied with the data that the data controller may reasonably require to identify the person making the request and to locate the data which that person seeks. (4) Where a data controller is unable to comply with the request without disclosing data related to another individual who may be identified from the information, the data controller shall not comply with the request unless: (a) the other individual consents to the disclosure of the data to the person who makes the request; or (b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual. (5) A reference to data related to another individual in subsection (4) includes a reference to data which identifies that individual as the source of the data requested. (6) A data controller shall not rely on subsection (4) (b) to fail to communicate the information sought that may be communicated without the disclosure of the identity of the individual concerned. (7) The data controller may make the communication

Ghanaian Act

See Article 35(1), above.

Exceptions

(7) The data controller may make the communication under subsection (6) by omitting or deleting the names or other identifying particulars of the other individual.

(8) For the purposes of subsection (4)(b), to determine whether it is reasonable to comply with the request without the consent of the other individual concerned, regard shall

Ghanaian Act

Exceptions (cont'd)

be had in particular, to (a) any duty of confidentiality owed to the other individual, (b) any steps taken by the data controller to seek the consent of that other individual, (c) whether the other individual is capable of giving consent, and (d) any express refusal of consent by the other individual.

[...] (13) Where a data controller has previously complied with a request by a data subject, the data controller shall not comply with a subsequent request which is identical or similar unless a reasonable interval has elapsed between the time of compliance with the previous request and the making of the new request.

(14) For the purposes of subsection (13), to determine whether a request for data by a data subject to a data controller has been made at a reasonable interval, regard shall be had to
(a) the nature of the data, (b) the purpose for which the data is processed, and (c) the frequency with which the data is altered.

(15) The data which is supplied pursuant to a request may take into account an amendment or deletion made between the time of the request and the time when the data is supplied.

(16) For the purposes of this section another individual may be identified from the data disclosed if that individual can be identified (a) from that data, or (b) from that data and any other data which in the reasonable belief of the data controller are likely to be in, or come into the possession of the data subject who made the request.

5.5. Right not to be subject to discrimination

While the GDPR and the Ghanaian Act are similar in regard to a general right not to be subject to discrimination, they take different approaches to automated processing. Where the GDPR provides a general prohibition with exceptions, the Ghanaian Act details obligations for informing data subjects.

GDPR Definition of right

The GDPR only implies this right and doesThe Ghanaian Act only implies this right and doesnot provide an explicit definition for it.not provide an explicit definition for it.

Automated processing

Article 22(1): The data subject shall have the right not to be
subject to a decision based solely on automated processing,
including profiling, which produces legal effects concerning
him or her or similarly significantly affects him or her. [Article 22
goes on to detail this right, including exceptions]Article 41: An individual is entitled at any time by notice in
writing to a data controller to require the data controller to
ensure that any decision taken by or on behalf of the data
controller which significantly affects that individual is not based
solely on the processing by automatic means of personal
data in respect of which that individual is the data subject.



Ghanaian Act

(2) Despite the absence of a notice, where a decision which significantly affects an individual is based solely on that processing (a) the data controller shall as soon as reasonably practicable notify the individual that the decision was taken on that basis, and (b) the individual is entitled, by notice in writing to require the data controller to reconsider the decision within twenty-one days after receipt of the notification from the data controller.

(3) The data controller shall within twenty-one days after receipt of the notice, inform the individual in writing of the steps that the data controller intends to take to comply with the notice.

(4) This section does not apply to a decision made (a) in the course of considering whether to enter into a contract with the data subject, (b) with a view to entering into the contract,(c) in the course of the performance of the contract, (d) for a purpose authorised or required by or under an enactment, or (e) in other circumstances prescribed by the Minister.

(5) Where the Commission is satisfied on a complaint by a data subject that a person taking a decision has failed to comply, the Commission may order the data controller to comply.

Ghanaian Act

Automated processing (cont'd)

(6) An order for compliance under subsection (5) shall not affect the rights of a person other than the data subject or the data controller.

5.6. Right to data portability

Unlike the GDPR, the Ghanaian Act does not provide for a right to data portability.

GDPR

Article 20(1): The data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a controller, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller without hindrance from the controller to which the personal data have been provided, where:

(a) the processing is based on consent pursuant to point (a) of Article 6(1) or point (a) of Article 9(2) or on a contract pursuant to point (b) of Article 6(1); and

(b) the processing is carried out by automated means.

Inform data subject of right

See Article 12(1) in section 5.1.

Fees

See Article 12(5) in section 5.1. above.

Response timeframe

See Article 12(3) in section 5.1. above.

Format

See Article 20(1) above.



Inconsistent

Ghanaian Act

Grounds for portability

The Ghanaian Act does not explicitly refer to a right to data portability.

The Ghanaian Act does not explicitly refer to a right to data portability.

The Ghanaian Act does not explicitly refer to a right to data portability.

The Ghanaian Act does not explicitly refer to a right to data portability.

The Ghanaian Act does not explicitly refer to a right to data portability.

Ghanaian Act

Controller to controller

Article 20(2): In exercising his or her right to data portability pursuant to paragraph 1, the data subject shall have the right to have the personal data transmitted directly from one controller to another, where technically feasible.

The Ghanaian Act does not explicitly refer to a right to data portability.

Technically feasible

See Article 20(2) above.

The Ghanaian Act does not explicitly refer to a right to data portability.

Exceptions

See Article 12(5) in section 5.1. above.

The Ghanaian Act does not explicitly refer to a right to data portability.

△6. Enforcement

6.1. Monetary penalties

While both the GDPR and the Ghanaian Act provide for monetary penalties, the potential fine amounts are significantly different. The Ghanaian Act also establishes imprisonment as a potential sanction.

GDPR	
Provides for mo	ne
The GDPR provides for monetary penalties.	Т
Issue	ed
Article 58(2) Each supervisory authority shall	Т
have all of the following corrective powers:	n
	S
$\left[\right]$ (i): to impose an administrative fine pursuant to Article 83, in	
addition to, or instead of measures referred to in this paragraph,	
depending on the circumstances of each individual case.	

Fine maximum

Article 83(5): infringements of the following provisions
shall, in accordance with paragraph 2, be subject to
administrative fines up to 20 000 000 EUR, or in the case
of an undertaking, up to 4 % of the total worldwide annual
turnover of the preceding financial year, whichever is higher:

(a) the basic principles for processing, including conditions for consent, pursuant to Articles 5, 6, 7 and 9;

(b) the data subjects' rights pursuant to Articles 12 to 22;

(c) the transfers of personal data to a recipient in a third country or an international organisation pursuant to Articles 44 to 49;

(d) any obligations pursuant to Member State law adopted under Chapter IX;

(e) non-compliance with an order or a temporary or definitive limitation on processing or the suspension of data flows by the supervisory authority pursuant to Article 58(2) or failure to provide access in violation of Article 58(1).





Ghanaian Act

etary penalties

The Ghanaian Act provides for monetary penalties.

by

The Commission may issue information or enforcement notices, and issue sanctions for failing to comply with such notices. Courts may also issue sanctions.

Article 95: Where a person commits an offence under this Act in respect of which a penalty is not specified, the person is liable on summary conviction to a fine of not more than five thousand penalty units or a term of imprisonment of not more than ten years or to both.

Ghanaian Act

GDPR

(h) the manner in which the infringement became known to the supervisory authority, in particular whether, and if so to what extent, the controller or processor notified the infringement;

(i) where measures referred to in Article 58(2) have previously been ordered against the controller or processor concerned with regard to the same subjectmatter, compliance with those measures;

(j) adherence to approved codes of conduct pursuant to Article 40 or approved certification mechanisms pursuant to Article 42; and

(k) any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided, directly or indirectly, from the infringement.

Imprisonment **DPO** liability

Not applicable.

Not applicable.

The Ghanaian Act does not specifically provide penalties for data protection supervisors.

Fine maximum (cont'd)

(6) Non-compliance with an order by the supervisory authority as referred to in Article 58(2) shall, in accordance with paragraph 2 of this Article, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

Percentage of turnover

Under Article 83(4), (5), and (6), fines may be issued that equate to 2% or 4% of the total worldwide annual turnover of the preceding financial year.

The Ghanaian Act does not provide for fines based on a percentage of turnover.

The Ghanaian Act does not provide general mitigating factors.

Mitigating factors

Article 83(2): When deciding whether to impose an administrative fine and deciding on the amount of the administrative fine in each individual case due regard shall be given to the following:

(a) the nature, gravity and duration of the infringement taking into account the nature scope or purpose of the processing concerned as well as the number of data subjects affected and the level of damage suffered by them;

(b) the intentional or negligent character of the infringement;

(c) any action taken by the controller or processor to mitigate the damage suffered by data subjects;

(d) the degree of responsibility of the controller or processor taking into account technical and organisational measures implemented by them pursuant to Articles 25 and 32;

(e) any relevant previous infringements by the controller or processor;

(f) the degree of cooperation with the supervisory authority, in order to remedy the infringement and mitigate the possible adverse effects of the infringement;

(g) the categories of personal data affected by the infringement;

Ghanaian Act

Mitigating factors (cont'd)

The Ghanaian Act establishes that imprisonment may be a punishment, see Article 95 above for example.

6.2. Supervisory authority



While the tasks and powers of the supervisory authorities provided for under the GDPR and the Ghanaian Act are broadly similar, the Ghanaian Act is less detailed in its defining of these tasks and powers.

GDPR

Ghanaian Act

Provides for data protection authority

Article 51(1): Each Member State shall provide for one or more independent public authorities to be responsible for monitoring the application of this Regulation, in order to protect the fundamental rights and freedoms of natural persons in relation to processing and to facilitate the free flow of personal data within the Union ('supervisory authority'). Article 1(1): There is established by this Act a Data Protection Commission.

Investigatory powers

Article 58(1): Each supervisory authority shall have all of the following investigative powers:

(a) to order the controller and the processor, and,
 where applicable, the controller's or the processor's
 representative to provide any information it
 requires for the performance of its tasks;

(b) to carry out investigations in the form of data protection audits;

(c) to carry out a review on certifications issued pursuant to Article 42(7);

(d) to notify the controller or the processor of an alleged infringement of this Regulation;

 (e) to obtain, from the controller and the processor, access to all personal data and to all information necessary for the performance of its tasks;

(f) to obtain access to any premises of the controller and the processor, including to any data processing equipment and means, in accordance with Union or Member State procedural law. The Commission is provided with several investigatory powers, in general terms its functions are provided in Article 3.

Article 3: To achieve the object, the Commission shall:

(a) implement and monitor compliance with the provisions of this Act;

(b) make the administrative arrangement sit considers appropriate for the discharge of its duties;

(c) investigate any complaint under this Act and determine it in the manner the Commission considers fair; and

(d) keep and maintain the Data Protection.

Co Article 58(2): Each supervisory authority shall have all of the following corrective powers: (a) to issue warnings to a controller or processor that intended processing operations are likely to infringe provisions of this Regulation; (b) to issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation;

(c) to order the controller or the processor to complywith the data subject's requests to exercise hisor her rights pursuant to this Regulation;

 (d) to order the controller or processor to bring processing operations into compliance with the provisions of this Regulation, where appropriate, in a specified manner and within a specified period;

(e) to order the controller to communicate a personal data breach to the data subject;

(f) to impose a temporary or definitive limitation including a ban on processing;

(g) to order the rectification or erasure of personal data or restriction of processing pursuant to Articles
16, 17 and 18 and the notification of such actions to recipients to whom the personal data have been disclosed pursuant to Article 17(2) and Article 19;

(h) to withdraw a certification or to order the certification body
 (b) to withdraw a certification or to order the certification body
 (c) principles, the Commission may require the data controller
 (c) to withdraw a certification issued pursuant to Articles 42 and 43,
 (c) or to order the certification body not to issue certification if the
 (c) or to order the certification are not or are no longer met;

 (i) to impose an administrative fine pursuant to Article 83, in addition to, or instead of measures referred to in this paragraph, depending on the circumstances of each individual case;

(j) to order the suspension of data flows to a recipient in a third country or to an international organisation.

GDPR

Ghanaian Act

Corrective powers

The Commission has various corrective powers, including issuing enforcement notices.

Article 75: (1) Where the Commission is satisfied that a data controller has contravened or is contravening any of the data protection principles, the Commission shall serve the data controller with an enforcement notice to require that data controller to do any of the following:

(a) to take or refrain from taking the steps specified within the time stated in the notice, (b) to refrain from processing any personal data or personal data of a description specified in the notice; or (c) to refrain from processing personal data or personal data of a description specified in the notice for the purposes specified or in the manner specified after the time specified.

(2) In deciding whether to serve an enforcement notice, the Commission shall consider whether the contravention has caused or is likely to cause damage or distress to any person.

(3) An enforcement notice issued in respect of a contravention of a provision of this Act may also require the data controller to rectify, block, erase or destroy other data held by the data controller and which contains an expression of opinion which appears to the Commission to be based on the inaccurate data.

(4) Where (a) an enforcement notice requires the data controller to rectify, block, erase or destroy personal data, or (b) the Commission is satisfied that personal data which has been rectified, blocked, erased or destroyed was processed in contravention of any of the data protection principles, the Commission may require the data controller to notify a third party to whom the data has been disclosed of the rectification, blocking, erasure or destruction.

(5) An enforcement notice shall contain a statement of the data protection principle which the Commission is satisfied has been contravened and the reasons for that conclusion.

Ghanaian Act

GDPR

Tasks of authority

Article 57(1): Without prejudice to other tasks set out under this Article 2: The object of the Commission is to: Regulation, each supervisory authority shall on its territory:

(a) monitor and enforce the application of this Regulation;

(b) promote public awareness and understanding of the risks, rules, safeguards and rights in relation to processing. Activities addressed specifically to children shall receive specific attention;

(c) advise, in accordance with Member State law, the national parliament, the government, and other institutions and bodies on legislative and administrative measures relating to the protection of natural persons' rights and freedoms with regard to processing;

(d) promote the awareness of controllers and processors of their obligations under this Regulation;

(e) upon request, provide information to any data subject concerning the exercise of their rights under this Regulation and, if appropriate, cooperate with the supervisory authorities in other Member States to that end;

(f) handle complaints lodged by a data subject, or by a body, organisation or association in accordance with Article 80, and investigate, to the extent appropriate, the subject matter of the complaint and inform the complainant of the progress and the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another supervisory authority is necessary;

(g) cooperate with, including sharing information and provide mutual assistance to, other supervisory authorities with a view to ensuring the consistency of application and enforcement of this Regulation;

(h) conduct investigations on the application of this Regulation, including on the basis of information received from another supervisory authority or other public authority;

(i) monitor relevant developments, insofar as they have an impact on the protection of personal data, in particular the development of information and communication technologies and commercial practices;

Corrective powers (cont'd)

(6) Subject to this section, an enforcement notice shall not require any of the provisions of the notice to be compiled with before the end of the period within which an appeal may be brought against the notice and, if the appeal is brought, the notice may not be complied with pending the determination or withdrawal of the appeal.

(7) Despite subsection (6), the Commission may in exceptional circumstances order that the notice apply immediately.

The Commission has several relevant powers, including

overseeing the Data Protection Register and consulting

with Ministers on the issuance of further Regulations.

Authorisation/ advisory powers

Article 58(3): Each supervisory authority shall have all of the following authorisation and advisory powers:

(a) to advise the controller in accordance with the prior consultation procedure referred to in Article 36;

(b) to issue, on its own initiative or on request, opinions to the national parliament, the Member State government or, in accordance with Member State law, to other institutions and bodies as well as to the public on any issue related to the protection of personal data;

(c) to authorise processing referred to in Article 36(5), if the law of the Member State requires such prior authorisation;

(d) to issue an opinion and approve draft codes of conduct pursuant to Article 40(5);

(e) to accredit certification bodies pursuant to Article 43;

(f) to issue certifications and approve criteria of certification in accordance with Article 42(5);

(g) to adopt standard data protection clauses referred to in Article 28(8) and in point (d) of Article 46(2);

(h) to authorise contractual clauses referred to in point (a) of Article 46(3);

(i) to authorise administrative arrangements referred to in point (b) of Article 46(3);

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Ghanaian Act

- (a) protect the privacy of the individual and personal data by regulating the processing of personal information; and
- (b) provide the process to obtain, hold, use or disclose personal information.

Tasks of authority (cont'd)

(j) adopt standard contractual clauses referred to in Article 28(8) and in point (d) of Article 46(2);

(k) establish and maintain a list in relation to the requirement for data protection impact assessment pursuant to Article 35(4);

(I) give advice on the processing operations referred to in Article 36(2);

(m) encourage the drawing up of codes of conduct pursuant to Article 40(1) and provide an opinion and approve such codes of conduct which provide sufficient safeguards, pursuant to Article 40(5);

(n) encourage the establishment of data protection certification mechanisms and of data protection seals and marks pursuant to Article 42(1), and approve the criteria of certification pursuant to Article 42(5);

(o) where applicable, carry out a periodic review of certifications issued in accordance with Article 42(7);

(p) draft and publish the criteria for accreditation of abody for monitoring codes of conduct pursuant to Article41 and of a certification body pursuant to Article 43;

(q) conduct the accreditation of a body for monitoring codes of conduct pursuant to Article 41 and of a certification body pursuant to Article 43;

(r) authorise contractual clauses and provisions referred to in Article 46(3);

(s) approve binding corporate rules pursuant to Article 47;

(t) contribute to the activities of the Board;

(u) keep internal records of infringements of this Regulation and of measures taken in accordance with Article 58(2); and

(v) fulfil any other tasks related to the protection of personal data.

Article 59: Each supervisory authority shall draw up an annual report on its activities, which may include a list of types of infringement notified and types of measures taken in accordance with Article 58(2). Those reports shall be transmitted to the national parliament, the government and other authorities as designated by Member State law. They shall be made available to the public, to the Commission and to the Board.

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Ghanaian Act

Annual report

Article 16: (1) The Board shall within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and the operations of the Commission for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other reports which the Minister may require in writing.

6.3. Civil remedies for individuals



While the Ghanaian Act provides for civil remedies for data subjects through the potential for compensation, it is notable less detailed than the GDPR on the procedures for such civil remedies.

GDPR

Ghanaian Act

Provides for claims/ cause of action

Article 79: Without prejudice to any available administrative or non-judicial remedy, including the right to lodge a complaint with a supervisory authority pursuant to Article 77, each data subject shall have the right to an effective judicial remedy where individual is entitled to compensation from the he or she considers that his or her rights under this Regulation have been infringed as a result of the processing of his or her personal data in non-compliance with this Regulation.

Article 43(1): Where an individual suffers damage or distress through the contravention by a data controller of the requirements of this Act, that data controller for the damage or distress.

Material and non-material damage

Article 82(1): Any person who has suffered material or non-See Article 43, above. material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the controller or processor for the damage suffered.

Mandate for representation

Article 80(1): The data subject shall have the right to mandate a not-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State, has statutory objectives which are in the public interest, and is active in the field of the protection of data subjects' rights and freedoms with regard to the protection of their personal data to lodge the complaint on his or her behalf, to exercise the rights referred to in Articles 77, 78 and 79 on his or her behalf, and to exercise the right to receive compensation referred to in Article 82 on his or her behalf where provided for by Member State law.

Specifies amount for damages

Not applicable.

The Ghanaian Act does not specifically address this matter.

The Ghanaian Act does not specifically address this matter.

GDPR

Article 82(2): Any controller involved in processing shall be liable for the damage caused by processing which infringes this Regulation. A processor shall be liable for the damage caused by processing only where it has not complied with obligations of this Regulation specifically directed to processors or where it has acted outside or contrary to lawful instructions of the controller.

Article 82(3): A controller or processor shall be exempt from liability under paragraph 2 if it proves that it is not in any way responsible for the event giving rise to the damage.

Ghanaian Act

Processor liability

- The Ghanaian Act does not explicitly refer to data
- processor liabilities. Several penalties provided for in the
- Ghanaian Act are, though, applicable to 'persons'.

Exceptions

- Article 43(1): Where an individual suffers damage or distress through the contravention by a data controller of the requirements of this Act, that individual is entitled to compensation from the data controller for the damage or distress.
- (2) In proceedings against a person under this section, it is a defence to prove that the person took reasonable care in all the circumstances to comply with the requirements of this Act.