

# General Data Protection Regulation (“GDPR”) Workshop, Legal Introduction

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Bratislava, 31<sup>st</sup> January 2019

# Agenda

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01 SKW Schwarz/ B. Spies

02 Introduction

03 GDPR Principles

04 Data Subject's Rights

05 GDPR "House of Compliance"

06 The "Toolkit"

# 01

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Who is SKW Schwarz?  
Who is Benjamin Spies?

# What makes us special

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**SKW Schwarz** is an independent German law firm with more than 120 lawyers in five offices

120

Lawyers

16

Areas of work

5

Offices



1

Law firm

# Awards

- Law firm of the year for Media & Technology
- JUVE Law firm of the year 2011 for IT law
- Top Tier for Media & Entertainment and IT law
- “Top commercial law firms” for IT and Telecommunications
- Listed in WHO’S WHO LEGAL
- “The law firm reaps high praise in the fields of IT, Internet and e-business”
- Law firm of the Year for Media



2016 Deutschland



2015 Germany, TMT

**FOCUS SPECIAL**  
Top lawyers 2016



2016 Best Lawyers Linking Lawyers and Clients worldwide

# References

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# Benjamin Spies

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## Partner

Typical matters include:

Contract design: IT project contracts; License rights to software, especially “apps” for mobile devices and contractual peculiarities for app platforms; Using IT resources within the company; FOSS; **data protection, cross-border matters** (in particular data transmissions within corporate structures) within Europe or from Europe into non EU countries (as well as in the opposite direction), usability of patient data as well as in the vehicle industry, implementation projects related to compliance with the GDPR (anti-corruption and data protection / IT security); outsourcing.

# What others say about us

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## Legal 500

- “one of the best in the business”
- “very high standard of work”
- “high level of industry knowledge”

## Chambers

- “They react quickly in crisis situations.”
- “A leading light in the field.”



02

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Introduction

# Some background information

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1. Designed to harmonize data privacy laws across Europe, GDPR protects and empowers all EU citizens by giving them more say over what companies do with their data.
2. Makes data protection legislation more consistent and clear across the EU, saving a collective €2.3 billion a year.
3. Replaces Data Protection Directive 1995 (from optional to regulated).  
The enforcement date is **Friday, May 25, 2018**.
4. **Organizations in non-compliance will face yearly time-consuming investigations, heavy fines, up to two years in prison, and more.**
5. Reverses the **burden-of-proof** to the detriment of data processing companies.  
Companies need to strategically shift focus to recognize individual rights.
6. Significantly increases the need for systematic solutions that allow for a comprehensive documentation of measures. Achieving compliance will require updating SAP and other technical solutions.

03

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GDPR Principles

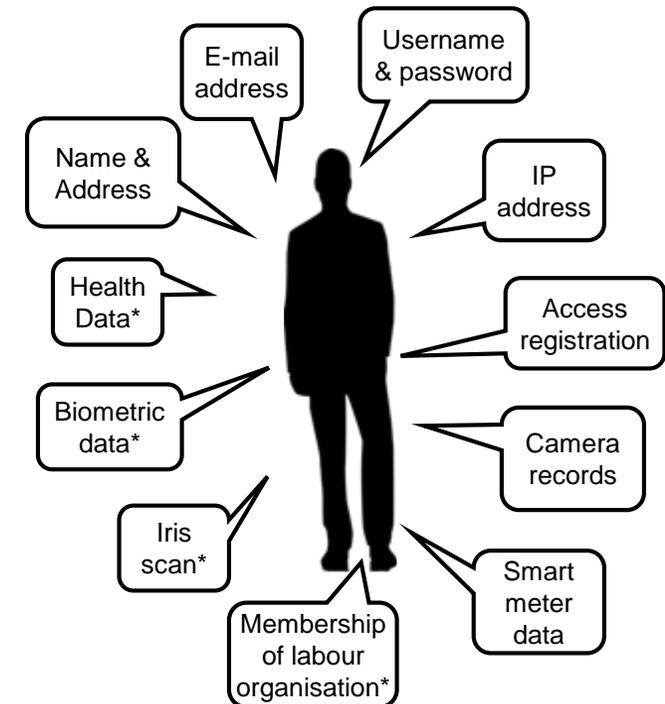
# The starting point: “personal data”

1

*Personal data is all information relating to an identified or identifiable natural person*

2

*It is sufficient to have data that would **theoretically** allow you to draw conclusions about a certain person. **It does not matter whether one instance alone or a third party or several bodies together could establish the identification.** It does not matter whether a real identification of a natural person has taken place or could take place to justify the classification of a date as personal.*



As a basic rule, all data that could contain **unique information** should be regarded as personal if they were not generated themselves (and proven without personal reference).

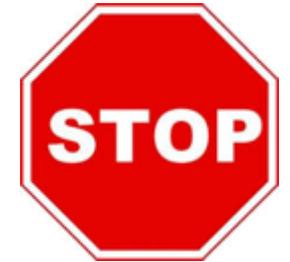
# General Principle

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## Limitation ...

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The processing of personal data is **generally forbidden**.



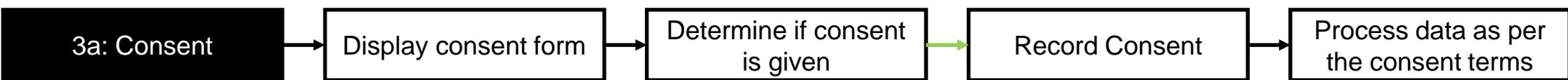
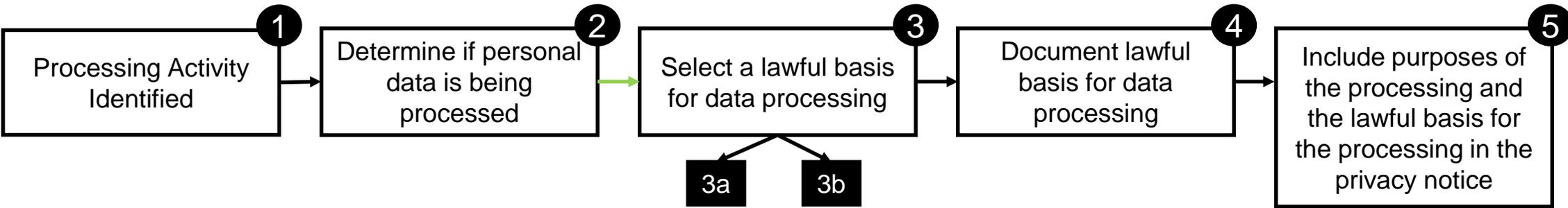
## ... Reservation of legitimation

it is allowed by way of exception **inby way of exception** in case of:

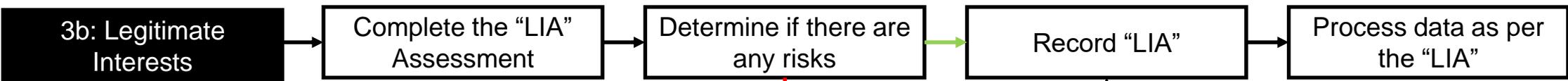
- Legal legitimation
  - in the GDPR
    - e.g.: preparation of a contractual relationship or execution of such
  - special rules in other laws
- the data subject consented to the processing of its data

**No privilege for group companies:** The legitimation approach also applies within a group of companies

# Lawful basis flowchart



Continue to provide service but **do not process** data



Remediate gaps and ensure **that that there is no residual risk\***

\*DPIA Required if high risks are identified

04

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Data Subject's Rights

# Data Subject's Rights

## Right of Access | Art.15

- Information
- Copy

## Rectification | Art. 16

- Correction
- Completion

## Deletion | Art. 17

- Person responsible
- 3rd party (to be forgotten)

## Restrictions | Art. 18

- Restriction of processing
- Blocking

## Objections | Art. 21

- General
- Direct marketing

## Portability | Art. 20

- Extraction
- Automatic transfer to 3rd party

Anonymization drives efficiency and reduces costs when implementing GDPR requirements (Art. 5)

LEGAL | One month deadline (Exception: able to be extended by two months)

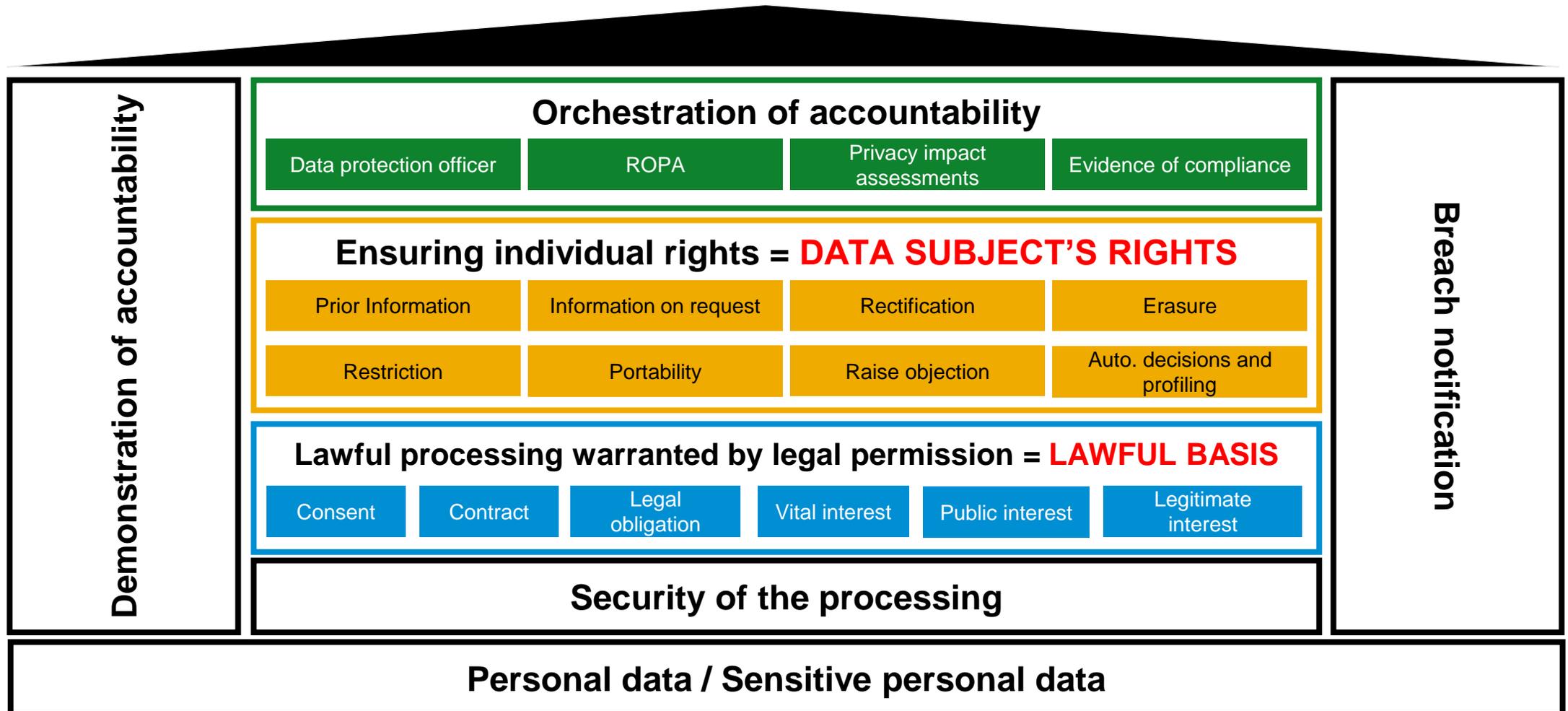
LEGAL | Costs data must be provided free of charge (Exception: misuse)

05

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GDPR House of Compliance

# GDPR “house of compliance”

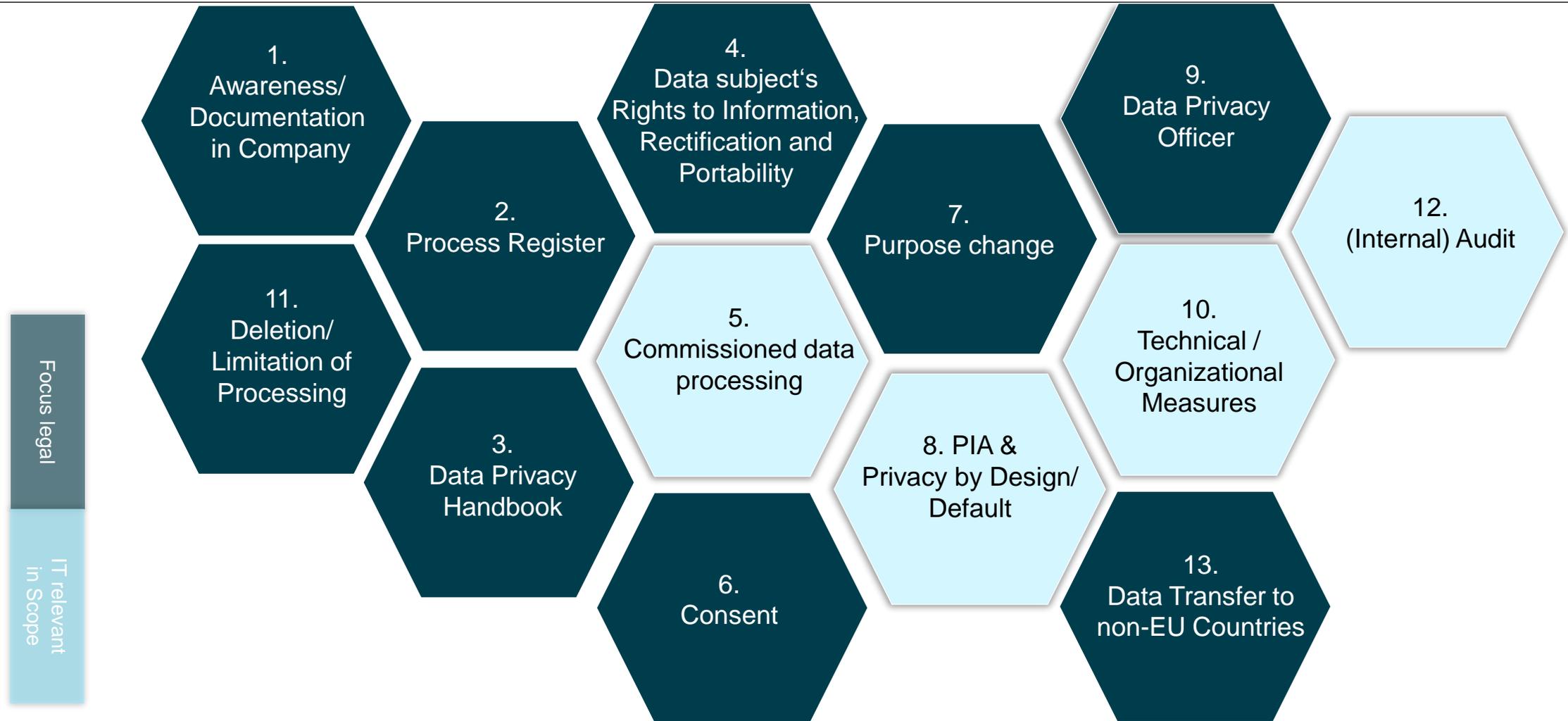


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The “Toolkit”

# What does a typical GDPR toolkit look like?



# Your contact

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