W3C DPVCG F2F Meeting
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Consent Receipt and GDPR

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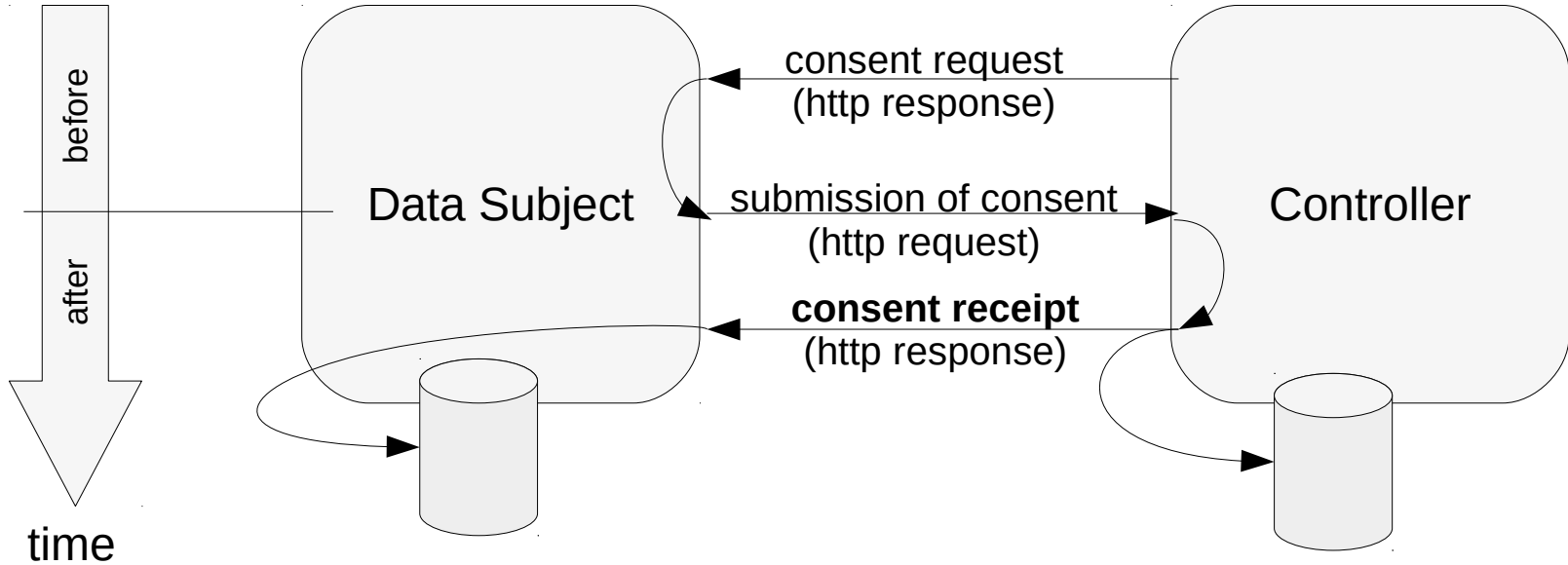
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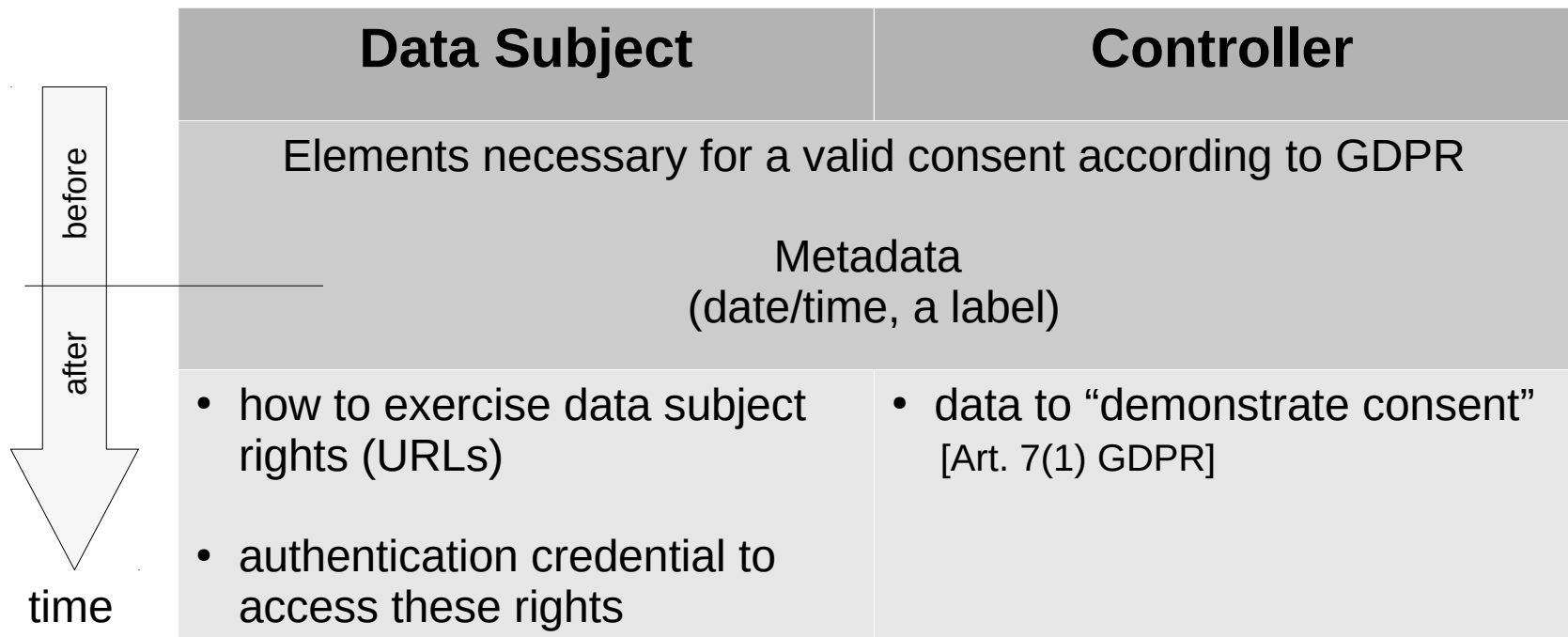
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What is a Consent Receipt?

Users of a Consent Receipt and their interests

	Data Subject	Controller
before	Elements necessary for a valid consent according to GDPR Metadata (date/time, a label)	
after	• how to exercise data subject rights (URLs) • authentication credential to access these rights	• data to "demonstrate consent" [Art. 7(1) GDPR]

time

Minimal Content to be "informed" according to GDPR

- Article 29 Data Protection Working Party: Guidelines on Consent:

  – controller's identity (who)

  – purpose of each of the processing operations (for which purposes)

  – what personal data (what data)

  – right to withdraw consent

  – use of the data for automated decision-making (where applicable)

  – possible risks of data transfers ++ (if transfer to 3rd country)

> **Article 29 Working Party**
> **Guidelines on consent under Regulation 2016/679**
> Adopted on 28 November 2017
> As last Revised and Adopted on 10 April 2018

Other possible content mentioned in GDPR

There are additional conditions for a consent to be valid

- Children

  - The „issuer" of the consent cannot be a child [Art. 8(1)]

    - „issuer" declares to be older than 16?

  - The „issuer" can be the holder of parental responsibility over the child

    - „issuer" declares to be holder of parental responsibility

- Data comes from Device (e.g., m-health) w/o user interface

  - Consent cannot be given on device itself

    - „issuer" declares/proves to be data subject of device data

Metadata on Submission

- Metadata is necessary to link the consent receipt to the related processing

  - Data Subject wants:

    - date & time of consent

    - a label for the service, for example:

      - URL of consent dialog
      - service name
      - self-chosen name

  - Controller wants:

    - date & time of consent

    - identifier that allows to link to the data subject

Subject Rights and Authentication

- Art. 7(3) GDPR: „It shall be as easy to withdraw as to give consent."
- Best approach:
    - Content receipt has URL where to withdraw consent
    - same for other data subject rights

- Authentication is necessary
    - e-mail is a bad approach
        - insecure (e.g., vulnerable to phishing), unencrypted
        - forces the controller to collect additional data
    - better:
        - identifier (pseudonym only used for data subject rights)
        - authentication code (e.g., HMAC of identifier)
            - needs to be stored securely (password manager)

Demonstrate Consent

- Art 7(1): „Where processing is based on consent, the **controller shall** be able to **demonstrate** that the data subject has consented to processing of his or her personal data."

    – signature is ideal where possible

    – else: Art29WP:

        - ".. should not in itself lead to excessive amounts of additional data processing."

        - keep a record of consent statements received

            – == consent receipt

Demonstrate Consent Article 29 Working Party

- Art29WP: controller can demonstrate:

  – "when consent was obtained"

  – "information provided to the data subject at the time"

  – "that the data subject was informed" (how different?)

  – "controller´s workflow met all relevant criteria for a valid consent"

  – Example "online context"

    - "retain information on the session in which consent was expressed"

    - "documentation of the consent workflow at the time of the session"

    - "copy of the information that was presented to the data subject at that time"

Demonstrate Consent Article: 29 Working Party *(gray: author's interpretation)*

- Example "online context"
  - "retain information on the session in which consent was expressed"
    - raw HTTP request (including "Remote_Addr") of consent form submission
  - "documentation of the consent workflow at the time of the session"
    - constant for long periods
    - include a digest of the consent dialog page (plus linked content) in consent receipt?
  - "copy of the information that was presented to the data subject at that time"
    - unless the consent dialog spans multiple pages, workflow and content are both contained in the web page.

- All could be encrypted with a public key to restrict the use of this data to demonstrate consent.