

# Meaningful Information and the Right to Explanation

## [Extended Abstract] \*

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### Abstract

This article addresses an active debate in policy, industry, academia, and the media about whether and to what extent Europe’s new General Data Protection Regulation (GDPR) grants individuals a “right to explanation” of automated decisions.

There is no single, neat statutory provision labelled the “right to explanation” in the GDPR. But nor is such a right illusory. Responding to two prominent papers that, in turn, conjure and critique the right to explanation in the context of automated decision-making, we advocate a return to the text of the GDPR. Articles 13–15 of the GDPR provide individuals with rights to “meaningful information about the logic involved” in automated decisions. This is a right to explanation, whether one uses the phrase or not.

The first paper we address, [Goodman and Flaxman \(2017\)](#), is an explainer for a technical audience. It asserts that the GDPR creates a “right to explanation,” but does not flesh out the argument. In response, [Wachter et al. \(2017\)](#) published an extensive critique, arguing against the existence of such a right. Our article is partially concerned with responding to the arguments of [Wachter et al.](#) Our corrective involves two major strands. First, we show that [Wachter et al.](#) do not fairly interpret the concept of “explanation,” instead choosing to attack only a narrowed version of it, amounting to an ex post explanation of a specific decision. At the same time, the paper claims that the GDPR does support a “right to be informed,” which is defined as an ex ante explanation of system func-

tionality—in other words, still an explanation. Second, the argument relies on an analytical framework that cleaves ex ante and ex post decisions and system functionality and specific decisions. We demonstrate that this framework is built on incorrect legal and technical assumptions.

In addition to responding to the existing scholarly contributions, our article articulates a positive conception of the right to explanation, located in the text and purpose of the GDPR. We take a position that the right should be interpreted functionally, flexibly, and should, at a minimum, enable a data subject to exercise his or her rights under the GDPR and human rights law.

**Keywords:** Automated decisions, data processing, data protection law, explanation, interpretability, machine learning

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\* Extended abstract of [Selbst and Powles \(2017\)](#)