

Comment on the public consultation of guidelines 01/2022 on data subject rights - Right of access

The right of access is designed to enable natural persons to have control over personal data relating to them in that it allows them, “to be aware of, and verify, the lawfulness of the processing”. More specifically, the purpose of the right of access is to make it possible for the data subject to understand how their personal data is processed as well as the consequences of such processing, and to verify the accuracy of the data processed.

In order to realize this goal the first thing that the data subjects need to know is whether or not the controller processes data concerning them. This means the controller will have to search for personal data throughout all its systems based on search criteria that mirrors the way in which the information is structured, for example, name or customer number.

But the data subject can't know what information is processed or how the information is structured. This presents a problem as it is the data subject that supplies the search criteria that enables identification. This is especially problematic when the controller receives personal data from a third party and not directly from the data subject.

So in order to realize the goal of the right of access effectively in practice the controller shall be required to provide the data subject with information on how the personal data is structured. Only then can the data subject effectively provide additional information that enables identification. And only then can the data subject fully exercise the right of access.

Best wishes,
Anders
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