

To the European Data Protection Board

Re: Comments on the Guidelines 01/2022 on data subject rights - Right of access

The registered Association of Finnish Collection Agencies welcomes this opportunity to provide its comments on the Guidelines.

About 3.3 Proportionality assessment regarding identification of the requesting person

Firstly, the GDPR indicates that the individual willing to use his or her right of access must be identified. According to recital 64 GDPR, the “controller should use all reasonable measures to verify the identity of a data subject who requests access, in particular in the context of online services and online identifiers.” In addition, according to recital 39 GDPR, personal data should be processed “in a manner that ensures appropriate security and confidentiality of the personal data, including for preventing unauthorized access [...]”

Therefore, section 3.3 could be improved by making a clear statement about this premise i.e. the *need to properly and adequately identify* the data subject, as a standard measure, despite e.g. the obligation to facilitate exercising the right of access. In fact, when reading the flowchart at the end of the Guidelines (see “Identity check, in case of doubts” on page 58), one can be left with the impression that no cautiousness is expected from controllers in terms of the identity of the requesting person.

Secondly, the section could also address the *timing of the identification*. It seems logical that identifying the data subject is among the very first things to do, once a request for access has been received. As indicated in sub-section 157 of the Guidelines, timely identification is important since the controller needs to act within one month of receipt of the request (Art. 12(3) GDPR). This conclusion is also in line with Article 12(6) GDPR which allows the controller to request the provision of additional information necessary to confirm the identity of the data subject (when reasonably in doubt). Therefore, identification should not be left to a later stage, such as the stage of providing the requested information e.g. by registered mail.

Thirdly, when it comes to identification as a procedure, the Guidelines state that “The way the controllers will prepare themselves for the exercise of access requests should be adequate and proportionate and depend on the nature, scope, context and purposes of processing as well as the risks to the rights and freedoms of natural persons, in accordance with Art. 24 GDPR. Depending on the particular circumstances, the controllers may for example in some cases be required to implement an appropriate procedure, the

implementation of which should guarantee the security of the data without hindering the exercise of the data subject's rights" (page 19).

This chapter could be improved by providing examples of these procedures, especially when processing highly confidential data, and the security of the data is emphasized according to Art. 24.

About 3.4 Requests made via third parties / proxies

According to sub-section 80 of the Guidelines, "the controllers shall be able to demonstrate the existence of the relevant authorization to make a request on behalf of the data subject".

Here, it would be important to provide some further explanation and/or examples on *what constitutes relevant authorization*.

In Helsinki, on the 11th of March 2022

the registered Association of Finnish Collection Agencies