

# Feedback on Consultation 01/2022: Guidelines 01/2022 on data subject rights - Right of access

*Concerning No. 39.*, the controller shall not escape the obligation to provide access by erasing or modifying the personal data:

1. It should be clarified that a controller must also not delete/modify data if the request for access is *combined with a request for deletion/modification* under Art. 17/16 GDPR, until the obligation to provide the requested data and information about its processing has been fully complied with. I would also like to suggest recommending, that the controller should postpone the deletion and rather restrict the processing of the data while in doubt whether it has fully complied with a request for access, and, in case of doubt, ask for a confirmation from the data subject if the request for access has been fully answered and the data can safely deleted/modified.

2. There is also a risk that the controller *might facilitate other controllers to escape their obligation to provide access*: In case of a request for deletion, Art. 19 GDPR seems to require the controller to notify recipients of the personal data of the deletion. Also sometimes controllers notify other controllers of data subjects requests based on claims of legitimate interest. If a request for access is combined with a request for deletion, a notification of the recipients of the data (or of the controller, from which data was obtained) by the controller, whether under Art. 19 or for some other reason like legitimate interest, could trigger deletion of the data at these other controllers, making it impossible for the data subject to access data and verify the lawfulness of the processing at these other controllers. (In my experience, this kind of proceeding is not unusual e. g. in address trade for purposes of direct marketing.)

Hence, I would like to suggest adding a clarification to the guidelines that the controller must not notify other controllers of the request for access. If the request for access is combined with a request for deletion or rectification and the data subject requests that other controllers should not be notified of the combined request, the controller should (must?) comply with this request.

*Concerning 60.:*

“It should be remembered that, as a rule, the controller cannot request more personal data than is necessary to enable this identification, and that the use of such information should be strictly limited to fulfilling the data subjects” -> *shall* be strictly limited ...?