

COMP Article 15 and 18
16.10.2013

Article 15

Right to access and to obtain data for the data subject

1. *Subject to Article 12(4)*, the data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed, *and in clear and plain language*, the following information:

- (a) the purposes of the processing *for each category of personal data*;
- (b) the categories of personal data concerned;
- (c) the recipients ~~*or categories of recipients*~~ to whom the personal data are to be or have been disclosed, *in particular including* to recipients in third countries;
- (d) the period for which the personal data will be stored, *or if this is not possible, the criteria used to determine this period*;
- (e) the existence of the right to request from the controller rectification or erasure of personal data concerning the data subject or to object to the processing of such personal data;
- (f) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority;
- ~~(g) communication of the personal data undergoing processing and of any available information as to their source;~~
- (h) the significance and envisaged consequences of such processing, ~~*at least in the case of measures referred to in Article 20.*~~
- (ha) meaningful information about the logic involved in any automated processing;*
- (hb) without prejudice to Article 21, in the event of disclosure of personal data to a public authority as a result of a public authority request, confirmation of the fact that such a request has been made.*

2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in *an* electronic *and structured* format, unless otherwise requested by the data subject. *Without prejudice to Article 10, the*

controller shall take all reasonable steps to verify that the person requesting access to the data is the data subject.

2a. Where the data subject has provided the personal data where the personal data are processed by electronic means, the data subject shall have the right to obtain from the controller a copy of the provided personal data in an electronic and interoperable format which is commonly used and allows for further use by the data subject without hindrance from the controller from whom the personal data are withdrawn. Where technically feasible and available, the data shall be transferred directly from controller to controller at the request of the data subject.

2b. This Article shall be without prejudice to the obligation to delete data when no longer necessary under Article 5(1)(e).

2c. There shall be no right of access in accordance with paragraphs 1 and 2 when data within the meaning of Article 14(5)(da) are concerned, except if the data subject is empowered to lift the secrecy in question and acts accordingly.

~~*3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the communication to the data subject of the content of the personal data referred to in point (g) of paragraph 1.*~~

~~*4. The Commission may specify standard forms and procedures for requesting and granting access to the information referred to in paragraph 1, including for verification of the identity of the data subject and communicating the personal data to the data subject, taking into account the specific features and necessities of various sectors and data processing situations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).*~~

Article 18

Right to data portability

~~*1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.*~~

~~*2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.*~~

~~3. The Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).~~

Recitals

(51) Any person should have the right of access to data which has been collected concerning them, and to exercise this right easily, in order to be aware and verify the lawfulness of the processing. Every data subject should therefore have the right to know and obtain communication in particular for what purposes the data are processed, for what *estimated* period, which recipients receive the data, what is the *general* logic of the data that are undergoing the processing and what might be, ~~at least when based on profiling,~~ the consequences of such processing. This right should not adversely affect the rights and freedoms of others, including trade secrets or intellectual property, *such as in relation to and in particular* the copyright protecting the software. However, the result of these considerations should not be that all information is refused to the data subject.

~~(55)~~**(51a)** To further strengthen the control over their own data and their right of access, data subjects should have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain a copy of the data concerning them also in commonly used electronic format. The data subject should also be allowed to transmit those data, which they have provided, from one automated application, such as a social network, into another one. *Data controllers should be encouraged to develop interoperable formats that enable data portability.* This should apply where the data subject provided the data to the automated processing system, based on their consent or in the performance of a contract. *Providers of information society services should not make the transfer of those data mandatory for the provision of their services.*