

DSR.02 Rights and Freedoms of Others

Authors: Winfried Veil

Last update: 2021-05-24 22:46:47 | By: Winfried Veil

Created at: 2021-05-12 15:24:52

The following rights of the data subject cease to apply if they adversely affect the rights and freedoms of other persons:

Art. 15 IV: *“The right to obtain a copy referred to in paragraph 3 shall not adversely affect the rights and freedoms of others.”*

Art. 18 II: *“Where processing has been restricted under paragraph 1, such personal data shall [...] only be processed [...] for the protection of the rights of another natural or legal person [...].”*

Art. 20 IV: *“The right referred to in paragraph 1 shall not adversely affect the rights and freedoms of others.”*

The fact that only three of the rights of the data subject contain exemptions in favour of the rights of other persons is problematic, as this could lead to the conclusion that the legislator deliberately intended to provide only these restrictions here. However, all rights of the data subject may disproportionately affect the rights of other persons. The multi-dimensionality of data processing under fundamental rights is insofar insufficiently recognised by the GDPR [\[Tile CO.01\]](#).

Those rights of the data subject that do not contain exemptions in favour of the rights of others, could be considered contrary to primary law due to a violation of the principle of proportionality (Art. 52 I CFR). To avoid this legal consequence, direct recourse could be made to the fundamental rights of the Charter of Fundamental Rights in order to enable a balancing between the rights of the data subject and the rights of other persons (see Practical Concordance). Cf. also Art. 1 II and EC 4 p. 2 GDPR.