

BD.03 Balancing of Interests

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Last update: 2021-05-24 22:19:52 | By: Winfried Veil

Created at: 2021-05-12 21:37:16

8 GDPR provisions stipulate that the controller must weigh up the interests:

Art. 6 I f: *“Processing shall be lawful if it is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are **overridden** by the interests or fundamental rights and freedoms of the data subject [...].”*

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. 17 I c: *“The data subject shall have the right to [...] erasure [...] where the data subject objects to the processing pursuant to Article 21 (1) and there are no **overriding** legitimate grounds [...].”*

Art. 17 III: *„Paragraphs 1 and 2 [right to erasure] shall not apply **to the extent** that processing is necessary [...].”*

Art. 18 I d: *“The data subject shall have the right to [...] restriction of processing where [...] the data subject has objected to processing pursuant to Article 21 (1) pending the verification whether the legitimate grounds of the controller **override** those of the data subject.”*

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

Art. 21 I 2: *“The controller shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which **override** the interests, rights and freedoms of the data subject [...].”*

Art. 49 I 2: *“Where a transfer could not be based on a provision in Article 45 or 46, [...] a transfer to a third country or an international organisation may take place only if the transfer [...] is necessary for the purposes of compelling legitimate interests pursued by the controller which are not **overridden** by the interests or rights and freedoms of the data subject [...].*