Use case for the EGEDFS: some weaknesses of PSD2 as regard AIS providers.

Account Information Service Providers (AIS) are defined by article 4.16 and their activities and obligation by article 67.2 of [PSD2](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L2366)

The consumer has a contract with the AIS. The AIS has no contract with the bank (article 67.4 PSD2) A very important point which is very often forgotten: any bank can act as an AIS, which means to request to the consumer to have access to their accounts in other banks.

The data subject (the consumer) cannot instruct the data keeper (the bank) not to share his payment account data with a data intermediary (the AIS) The consumer cannot ask to the bank to establish a white list of AIS who can have access or a black list of AIS who cannot have access. (European Banking Authority [answer to question 2018\_4309](https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2018_4309))

The data keeper (the bank) has no right to check if the data subject (the consumer) has given an agreement to the data intermediary (the AIS)EBA [answer to question 2018\_4123](https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2018_4123). The simple fact that the bank checks if the consumer has given his consent is considered as an obstacle.

The consumer can instruct the bank to give access to only some data but the bank has no obligation to apply any filter as regard these data. As indicated by point 63 of the [Guidelines 06/2020](https://edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-062020-interplay-second-payment-services_en) on the interplay of PSD2 with GDPR , “*a digital selection tool could function as a means for TPPs to exclude this field from the overall processing operations by the TPP*”. It means that the bank has no liability if the AIS has accessed to confidential or sensitive data despite the request of the consumer.

The consumer should be able to cancel at any time any specific agreement they have given to a third party. For the time being the cancellation can be done through the AIS and not directly to the data keeper (EBA [answer to question 2018\_4309](https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2018_4309)). Interesting to note that the EDBP disagrees with this answer ( point 79 of guidelines PSD2.GDPR)

This short use case about AIS is not dealing with the complex issue of explicit consent in PSD2 and GDPR.

More information:

<https://www.beuc.eu/publications/consumer-friendly-open-banking/html>

<https://www.beuc.eu/publications/beuc-x-2020-086_guidelines_on_the_interplay_on_the_second_payment_services_directive_and_the_gdpr.pdf>

<https://www.beuc.eu/publications/beuc-x-2020-070_digital-finance-strategy-consultation_beuc_paper.pdf>