

Data protection

Correction of the designation of a beneficial owner

Par Dante O'Neil le 17 September 2025

In its ruling [ACJC/805/2025](#) of June 16, 2025, the Court of Justice of the Canton of Geneva ruled on an action for rectification of personal data brought in a banking context. This ruling, which to our knowledge is one of the first published court decisions on such an action in the banking sector, raises questions regarding the application of the revised Federal Act on Data Protection ([FADP](#)) in relation to the designation of a beneficial owner. The ruling, which is now final, confirms the judgment of the court of first instance and specifies the evidentiary requirements for exercising the right to rectification.

The dispute originated in a banking relationship opened in 2008 by the administrator of an offshore company. When opening the account, she had designated her husband, their children, and herself as the beneficial owners of the deposited assets by completing Form A. In 2016, a new Form A was signed by the wife, this time designating only the couple as beneficial owners. An additional certificate was also submitted in 2017, this time signed by their accountant, confirming that the spouses were the sole beneficial owners of the account. It was on the basis of these declarations that the bank provided information to the Federal Tax Administration (FTA) in response to a request for administrative assistance in tax matters from a foreign state. Believing that he had never been a beneficial owner, the husband, several years after the account was closed, brought an action seeking to have the bank details corrected, demanding that he no longer appear as the beneficial owner of the account in question and that this change be communicated to the FTA. Alternatively, he requested that the data be accompanied by the words “contested by the interested party.” The Court of First Instance dismissed all of his claims, a judgment that was upheld by the Court of Justice.

The Court notes that the revised FADP is applicable to the case. It finds that the disputed data, namely the designation of the appellant as the beneficial owner of a bank account, constitutes personal data within the meaning of [Art. 5\(a\) FADP](#), and that its processing by the bank falls within the scope of that law. The right to rectification derives from the principle of accuracy of personal data, enshrined in Art. 6 para. 5 of the FADP. The data controller must ensure that the data is accurate and, where necessary, take all appropriate measures to rectify, erase or destroy any data that is inaccurate. This principle is not absolute ; it must be assessed in light of the principle of proportionality, taking into account the specific circumstances, the purpose of the processing, the type of data processed, and the risk of infringement of privacy.

On the basis of [Art. 32 para. 2 FADP](#), which refers to [Art. 28 ff CC](#), the data subject may request the rectification of their data. Where the accuracy of the data cannot be established or

refuted, the data subject may also request that a note be added indicating that the data is disputed ([Art. 32 para. 3 FADP](#)). The Court specifies that the right to rectification, as such, is exercised independently of an infringement of personality rights within the meaning of Art. 30 FADP. Any justifications for the processing ([Art. 31 FADP](#)), such as consent, an overriding interest, or a legal obligation, are not enforceable when data proves to be inaccurate. The Court emphasizes that the person requesting the modification must cooperate in the proceedings by producing evidence to demonstrate the alleged inaccuracy.

In this case, the Court considers that it is not necessary to determine whether a rectification could be ordered under the LPD, since it considers that the data in question is manifestly accurate. This assessment is based on several elements : two Form A documents signed by the appellant's wife, a handwritten statement drafted and signed by both spouses at the bank's request, a certificate from their accountant, and the appellant's involvement in the management of the banking relationship, particularly in relation to the dispute over fees. The Court points out that the status of beneficial owner is assessed on the basis of the actual power to dispose of the assets, regardless of the origin of the funds. It is irrelevant whether the funds come from the wife's assets if the appellant exercised practical control over the account.

The ruling clarifies the scope of the principle of accuracy and the right to rectification under the revised FADP and specifies the conditions for exercising these rights in a banking context. It points out that data does not have to be rectified or annotated if it is based on clear and consistent documentation and the data subject is unable to establish its inaccuracy. The burden of proof lies with the applicant, while the data controller must demonstrate its diligence. With regard to the status of beneficial owner, the Court applies the case law of the Federal Court, which is aligned with the standards of the Financial Action Task Force (FATF), adopting a functional approach based on effective control of assets. For financial institutions, this ruling highlights the importance of compiling and maintaining rigorous documentation. In a context where actions for the rectification of personal data based on the FADP could increase, particularly to challenge the status of beneficial owner, it is essential that financial institutions are able to justify the accuracy of the data collected.