Privacy Law Basics for Research Data

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What is privacy law?..............................1
Legal Sources, Privacy, Personal Data and Identifiability

What are the basics of data protection?.......2
Duties, Principles and Privileges for Science

How do I apply these principles?...............3
Usecase, Data Protection around the research data cycle
What is privacy law?

- legal sources -

GDPR
GG
BDSG
LDSG BW
LVwVfG BW
BStatG

LHG BW
LDSG RLP
PoLG BW
BbgDSG
HDSG
AEUV
CFR

HmbDSG
What is privacy law?

GDPR

General Data Protection Regulation

legal sources

LHG BW
GG
BDSG
LVwVfG BW
BStatG
HmbDSG
AEGUV
CFR

AEUV
CFR

HDSG
What is privacy law?

“The protection of natural persons in relation to the processing of personal data is a fundamental right.”

- GDPR, Recital 1
What is privacy law?

- personal data and identifiability -

“The protection of natural persons in relation to the processing of personal data is a fundamental right.”

- GDPR, Recital 1

“‘personal data’ means any information relating to an identified or identifiable natural person[...]”

Art. 4 (1) GDPR
“‘personal data’ means any information relating to an identified or identifiable natural person[...].”

Art. 4 (1) GDPR

- names
- E-Mail-addresses
- IP-addresses
- Political affiliation
- Preferences
- ...

- personal data -
What is privacy law?

“an identifiable natural person is one who can be identified, directly or indirectly [...]”

Art. 4 (1) GDPR

- identifiability -

Pseudonym
What is privacy law?

- anonymus data -

Pseudonym
What are the basics of data protection?

- principles -

Article 5 GDPR:
„Personal data shall be:“

- purpose limitation
- fairness
- lawfullness
- data minimisation
- storage limitation

- transparency
- integrity and confidentiality
- accuracy

- accountability
What are the basics of data protection?

- attempt of classification -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfullness
- data minimisation
- storage limitation

- transparency
- integrity and confidentiality
- accuracy
- accountability

main statement of privacy

supportive principles

secures enforceability
What are the basics of data protection?

- The different principles -

Article 5 GDPR:
„Personal data shall be:“
What are the basics of data protection?

Article 5 GDPR:
„Personal data shall be:“

- purpose limitation

- central element to justify data processing
- link to most of the other principles
- previous and explicit specification of legitimate purpose
- scientific research is a privileged purpose

- purpose limitation -
What are the basics of data protection?

- fairness -

Article 5 GDPR: „Personal data shall be:“

- purpose limitation
- fairness

 unequal distribution of power can’t be abused

just balance of interests
What are the basics of data protection?

- lawfullness -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfullness

Art. 6 GDPR demands an explicit legal basis for every processing of personal data

Art. 9 GDPR adds further requirements for sensitive data

federal and state law adds particular legal basis for research purposes
What are the basics of data protection?

- data minimisation -

Article 5 GDPR:
„Personal data shall be:“

- purpose limitation
- fairness
- lawfullness
- data minimisation

supports purpose limitation

data processing has to be „adequate and limited to what is necessary“

applies also for research purposes, but assessment standard is the privileged research purpose
What are the basics of data protection?

- storage limitation -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfullness
- data minimisation
- **storage limitation**

supports purpose limitation

covers temporal context

duty of anonymisation after processing purpose is accomplished
What are the basics of data protection?

**Article 5 GDPR:**

„**Personal data shall be:**“

- purpose limitation
- fairness
- lawfullness
- data minimisation
- storage limitation

- **transparency**

- enables data subject to exercise his rights
- duty to provide information about the data processing
- data subject has to be able to comprehend the data processing
- partial relief of information duties for scientific research eg.: in § 13 IV LDSG
What are the basics of data protection?

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfulness
- data minimisation
- storage limitation
- transparency
- **integrity and confidentiality**

- **protection of the data against third person**
- **need of „appropriate technical or organisatorical measures“ to protect the data**
- **duty of pseudonymisation**
  eg.: in § 13 II LDSG BW
What are the basics of data protection?

- accuracy -

Article 5 GDPR:
„Personal data shall be:“

- purpose limitation
- fairness
- lawfullness
- data minimisation
- storage limitation
- transparency
- integrity and confidentially
- accuracy

in view of processing purpose

scientific research is privileged
eg.: in § 13 IV LDSG BW
What are the basics of data protection?

Article 5 GDPR:
„Personal data shall be:“

- purpose limitation
- fairness
- lawfullness
- data minimisation
- storage limitation

- transparency
- integrity and confidentiality
- accuracy

- accountability

- accountability -

framing obligation to state, who is liable for the compliance of the other duties

requires documentation of consent

Who is „controller“ as defined by Art. 5 II GDPR?
How do I comply with the GDPR?

- usecase -
„Nutrition Scientist A wants to do research on preferences of lunchtime snacks among data scientists. For this reason he creates a questionnaire to conduct an online survey for data collection.“
How do I comply with the GDPR?

- data management cycle -
How do I comply with the GDPR?

- study design -

**Purpose limitation:**
What is the processing purpose?
What is my research goal?

**Data minimisation:**
Do I need to process personal data?
Is it possible to avoid identifiability?
How do I comply with the GDPR?

- collecting data -

**data minimisation:**
Is there a chance of „unwanted identifiability“? eg.: by open-ended questions, cummulation of data,…

Does the *process of data acquisition* cause personal data?
Eg.: by collecting e-mail-addresses, IP-addresses, names?

**lawfullness:**
Do I have a legal basis to process the data?
eg.: consent of the data subject or § 13 LDSG
How do I comply with the GDPR?

- collecting data -

**transparency:**
Did I provide all necessary information to the data subject? (at least: Who processes which data for how long, how and why?)

**integrity and confidentiality:**
Where do I store the data? Who can access the data? Can I encrypt the data? Did I pseudonymise the data? Do I use external software provider?
How do I comply with the GDPR?

- pre-processing and analyzing data -

**Purpose limitation:**
Do I only use the data for the purpose, I collected them for?

**Identifiability:**
Am I now able to identify persons with the data?
How do I comply with the GDPR?

- pre-processing and analyzing data -

**purpose limitation:**
Do I only use the data for the purpose, I collected them for?

**identifiability:**
Am I now able to identify persons with the data?

**integrity and confidentiality:**
Is my working environment still safe? Who can access the data? Is the data still pseudonomised if possible?

**data minimisation:**
Do I still need personal data or can it be anonymised?
How do I comply with the GDPR?

- archiving/publishing data-

**Data minimisation:** Does the data still have to be personal or is it possible to anonymise it now?

**Lawfullness:** Do I have a legal basis to publish the data? Usually explicit consent of the data subject is required.
Takeaway messages
Avoid personal data, if you don’t need it.
Avoid personal data, if you don’t need it.

Be aware of „unwanted identifiability“.
Avoid personal data, if you don’t need it.

Be aware of „unwanted identifiability“.

Constantly check, if your data is pseudonymised or can be anonymised.
Avoid personal data, if you don’t need it.

Be aware of „unwanted identifiability“.

Constantly check, if your data is pseudonymised or can be anonymised.

If you need to process personal data make sure to do it in a safe working environment.
Avoid personal data, if you don’t need it.

If you need to process personal data make sure to do it in a safe working environment.

Be aware of “unwanted identifiability“.

If you need to process personal data make sure you have a legal basis to do so.

Constantly check, if your data is pseudonymised or can be anonymised.
Please send us your questions about data protection in research data management at info@berd-bw.de ...

...and check iVA at www.berd-bw.de/iva/
Thank you for your attention and enjoy your snack!