

EU Data Protection Law: Fundamentals of the Legal Framework

17.06.2026



Isabela Maria Rosal



isa.rosalsantos@kuleuven.be



Co-funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the Academy of European Law. Neither the European Union nor the granting authority can be held responsible for them.

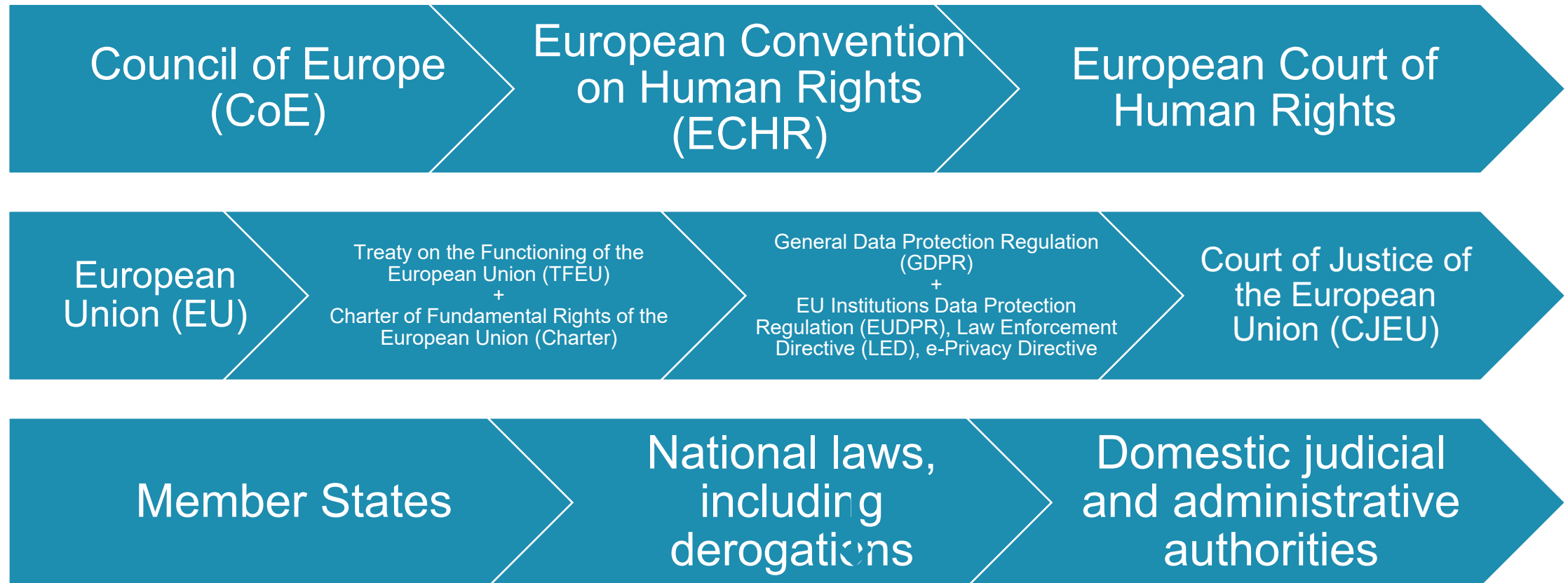
Overview of today's activity

Legal framework

GDPR: scope and key definitions

Data Protection Principles

Legal framework



Soft law: Article 29 Working Party (WP29), European Data Protection Board (EDPB), European Data Protection Supervisor (EDPS), European Union Agency for Cybersecurity (ENIS)

GDPR

Scope and key concepts



GDPR Scope

Article 2

Material scope

1. This Regulation applies to the processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.
2. This Regulation does not apply to the processing of personal data:
 - (a) in the course of an activity which falls outside the scope of Union law;
 - (b) by the Member States when carrying out activities which fall within the scope of Chapter 2 of Title V of the TEU;
 - (c) by a natural person in the course of a purely personal or household activity;
 - (d) by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

Article 3

Territorial scope

1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not.
2. This Regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, where the processing activities are related to:
 - (a) the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or
 - (b) the monitoring of their behaviour as far as their behaviour takes place within the Union.
3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where Member State law applies by virtue of public international law.

GDPR Scope: what is personal data?

For the purposes of this Regulation:

- (1) 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

BA500184



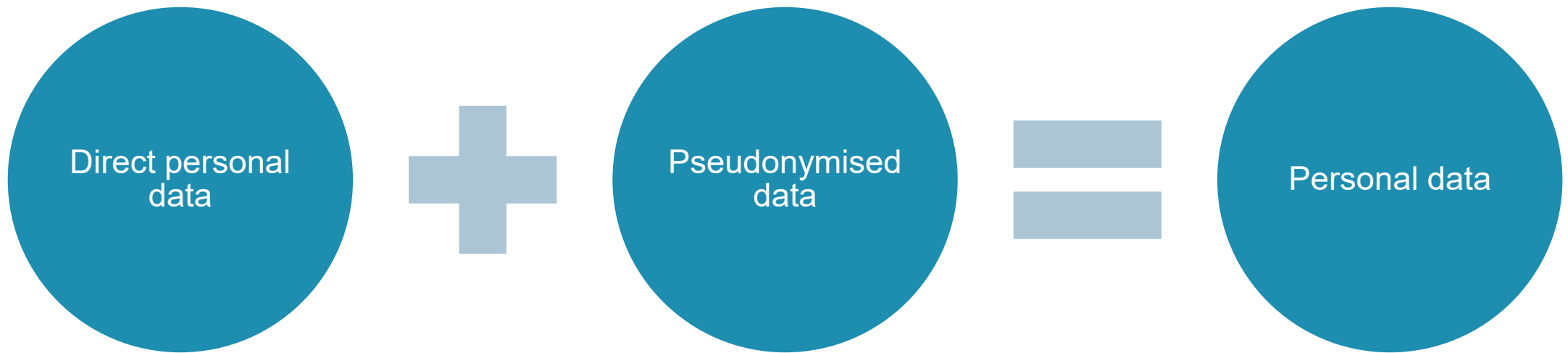
"You wear it on your wrist and it hacks—I mean, tracks—all your personal data."

GDPR Scope: what is personal data?



GDPR does **not** apply

GDPR Scope: what is personal data?



GDPR does apply

GDPR Scope: what is personal data?

Identifiability test

Recital 26 GDPR: The principles of data protection should apply to any information concerning an identified or identifiable natural person. Personal data which have undergone pseudonymisation, which could be attributed to a natural person by the use of additional information should be considered to be information on an identifiable natural person. **To determine whether a natural person is identifiable, account should be taken of all the means reasonably likely to be used, such as singling out, either by the controller or by another person to identify the natural person directly or indirectly.** To ascertain whether means are reasonably likely to be used to identify the natural person, account should be taken of all objective factors, such as the costs of and the amount of time required for identification, taking into consideration the available technology at the time of the processing and technological developments. **The principles of data protection should therefore not apply to anonymous information**, namely information which does not relate to an identified or identifiable natural person or to personal data rendered anonymous in such a manner that the data subject is not or no longer identifiable. This Regulation does not therefore concern the processing of such anonymous information, including for statistical or research purposes.

GDPR Scope: what is personal data?

JUDGMENT OF THE COURT (Second Chamber)

19 October 2016 (*)

(Reference for a preliminary ruling — Processing of personal data — Directive 95/46/EC — Article 2(a) — Article 7(f) — Definition of 'personal data' — Internet protocol addresses — Storage of data by an online media services provider — National legislation not permitting the legitimate interest pursued by the controller to be taken into account)

In Case C-582/14,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany), made by decision of 28 October 2014, received at the Court on 17 December 2014, in the proceedings

Patrick Breyer

v

Bundesrepublik Deutschland,

CJEU, Case C-582/14, Breyer v. Deutschland, 19 October 2016, ECLI:EU:C:2016:779

GDPR Scope: what is personal data?

Anonymous vs. pseudonymous data: the CJEU reaffirms the relative approach to the concept of personal data

BY [DANIELA SPAJIĆ](#) - 13 JUNE 2023

On 26 April 2023, the General Court of the European Court of Justice (CJEU) issued a judgment on the anonymisation of personal data. This blogpost discusses the decision in the case [SRB v. EDPS \(Case T-557/20\)](#), where the General Court provided another take on anonymising and pseudonymising personal data in the context of data sharing. | [SHARE THIS POST](#)

[Blog post](#) and [decision](#)

OPINION OF ADVOCATE GENERAL
SPIELMANN
delivered on 6 February 2025 (1)

Case C-413/23 P

**European Data Protection Supervisor
v
Single Resolution Board**

(Appeal – Processing of personal data – Procedure for granting compensation to creditors and shareholders following the resolution of a bank – Obligation to provide information – Article 15(1)(d) of Regulation (EU) 2018/1725 – Failure to inform those creditors and shareholders as regards the recipient of the personal data – Decision of the European Data Protection Supervisor finding an infringement of Regulation 2018/1725 in relation to the processing of pseudonymised personal data)

[Opinion](#)

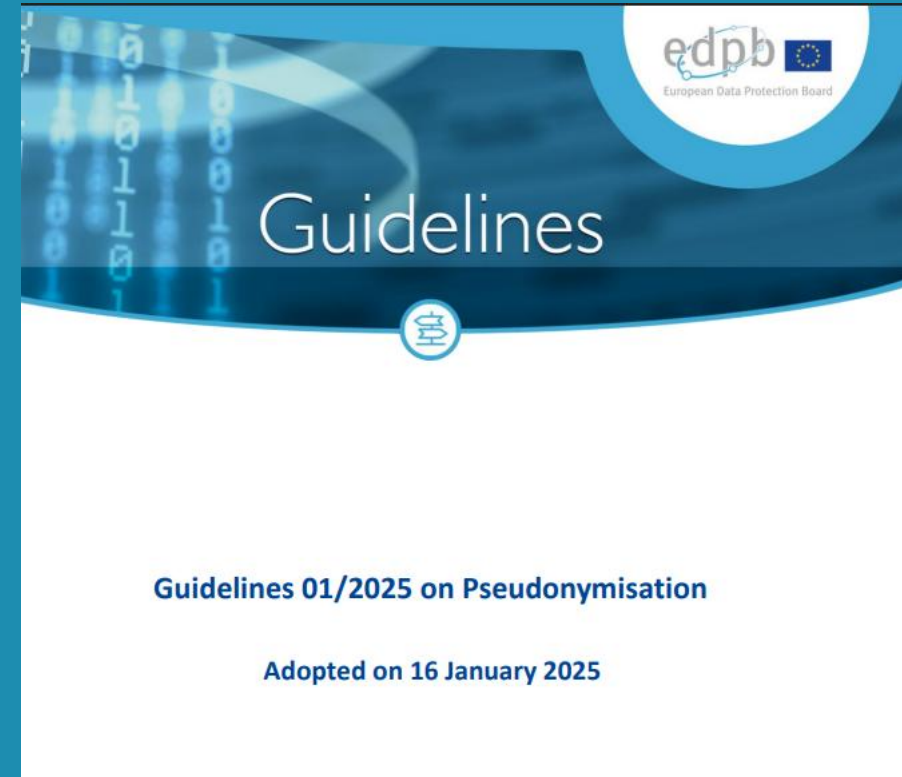
GDPR Scope: what is personal data?

[Blog post](#)

The EDPB 01/2025 Guidelines on Pseudonymisation: A Step in the Right Direction?

This post reviews EDPB 01/2025 Guidelines on Pseudonymisation. It stresses the importance of the pseudonymisation domain for risk assessment and highlights a few definitional inconsistencies. It also shows how the Guidelines can be read in the light of recent CJEU case law.

by Sophie Stalla-Bourdillon



[EDPB Guidelines](#)

GDPR scope: what is processing?

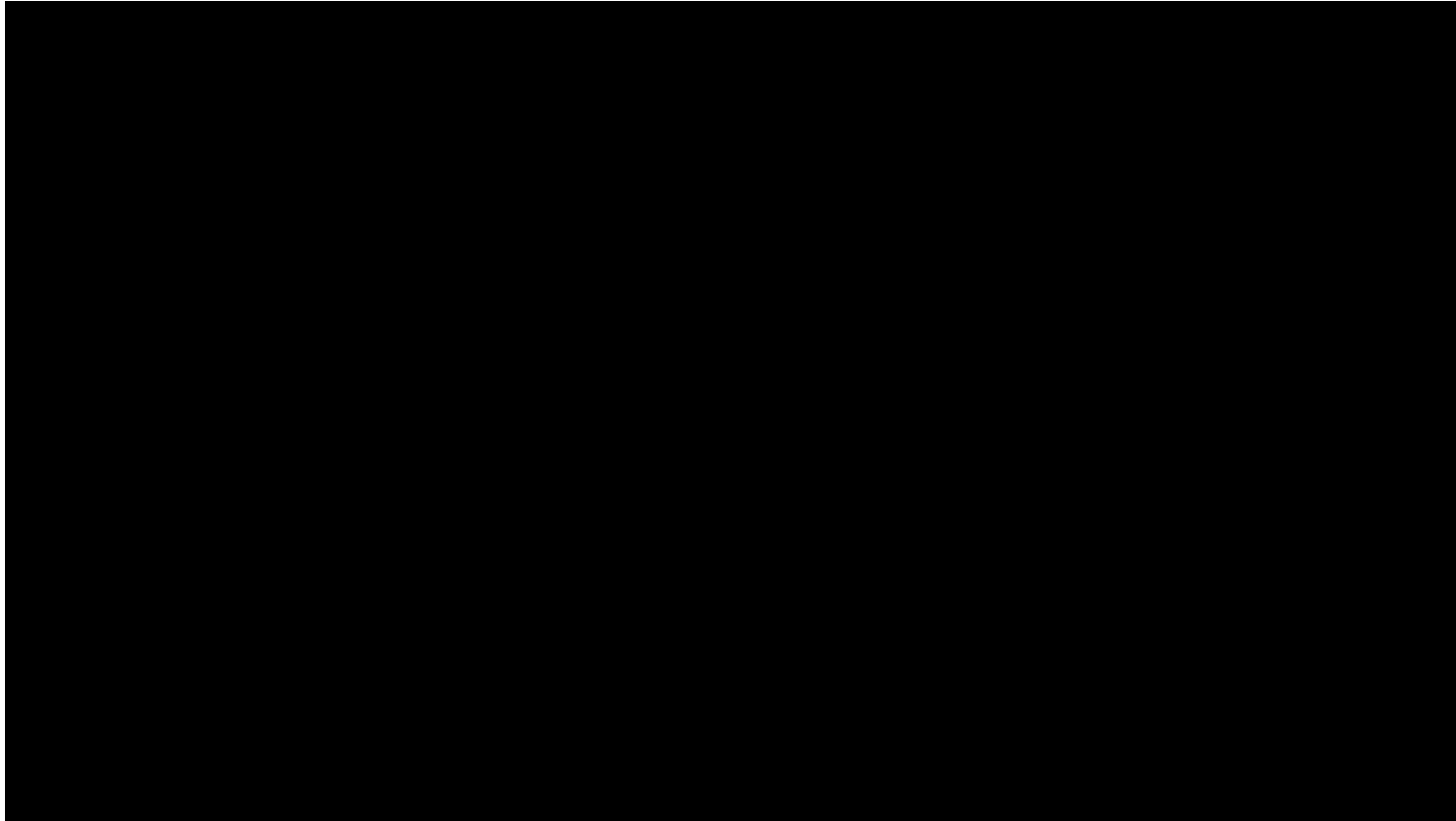
- (2) ‘processing’ means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

GDPR scope: agents involved

- (7) ‘controller’ means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;
- (8) ‘processor’ means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;

Joint controllership and the role of Data Processing Agreements

Personal data in new technologies: does the GDPR apply?



Personal data in new technologies: does the GDPR apply?

JUDGMENT OF THE COURT (Fourth Chamber)

11 December 2014 (*)

(Reference for a preliminary ruling — Directive 95/46/EC — Protection of individuals — Processing of personal data — Concept of ‘in the course of a purely personal or household activity’)

In Case C-212/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Nejvyšší správní soud (Czech Republic), made by decision of 20 March 2013, received at the Court on 19 April 2013, in the proceedings

František Ryneš

v

Úřad pro ochranu osobních údajů,

CJEU, Rynes v. Uad pro ochranu osobnich udaju,
11December 2014, ECLI:EU:C:2014:2428

JUDGMENT OF THE COURT (Third Chamber)

11 December 2019 (*)

[Text rectified by order of 13 February 2020]

(Reference for a preliminary ruling — Protection of individuals with regard to the processing of personal data — Charter of Fundamental Rights of the European Union — Articles 7 and 8 — Directive 95/46/EC — Article 6(1)(c) and Article 7(f) — Making the processing of personal data legitimate — National legislation allowing video surveillance for the purposes of ensuring the safety and protection of individuals, property and valuables and for the pursuit of legitimate interests, without the data subject’s consent — Installation of a video surveillance system in the common parts of a residential building)

In Case C-708/18,

REQUEST for a preliminary ruling under Article 267 TFEU from Tribunalul București (Regional Court, Bucharest, Romania), made by decision of 2 October 2018, received at the Court on 6 November 2018, in the proceedings

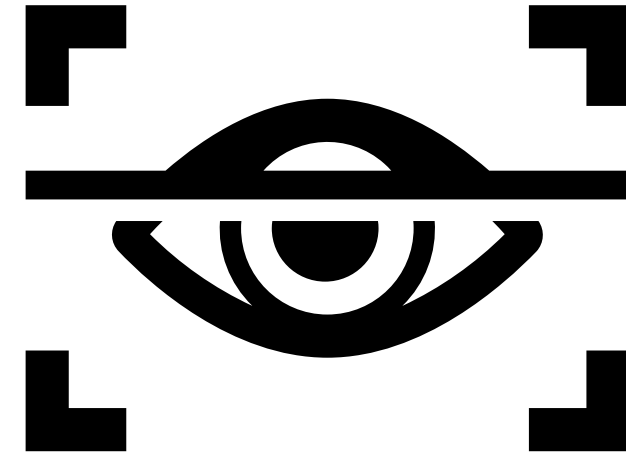
TK

v

Asociația de Proprietari bloc M5A-ScaraA,

CJEU, TK v. Asociatia de Proprietari, 11 December 2019,
ECLI:EU:C:2019:1064

Who is who? Focus on context + data processing agreement



Security company

More in the afternoon session

Principles

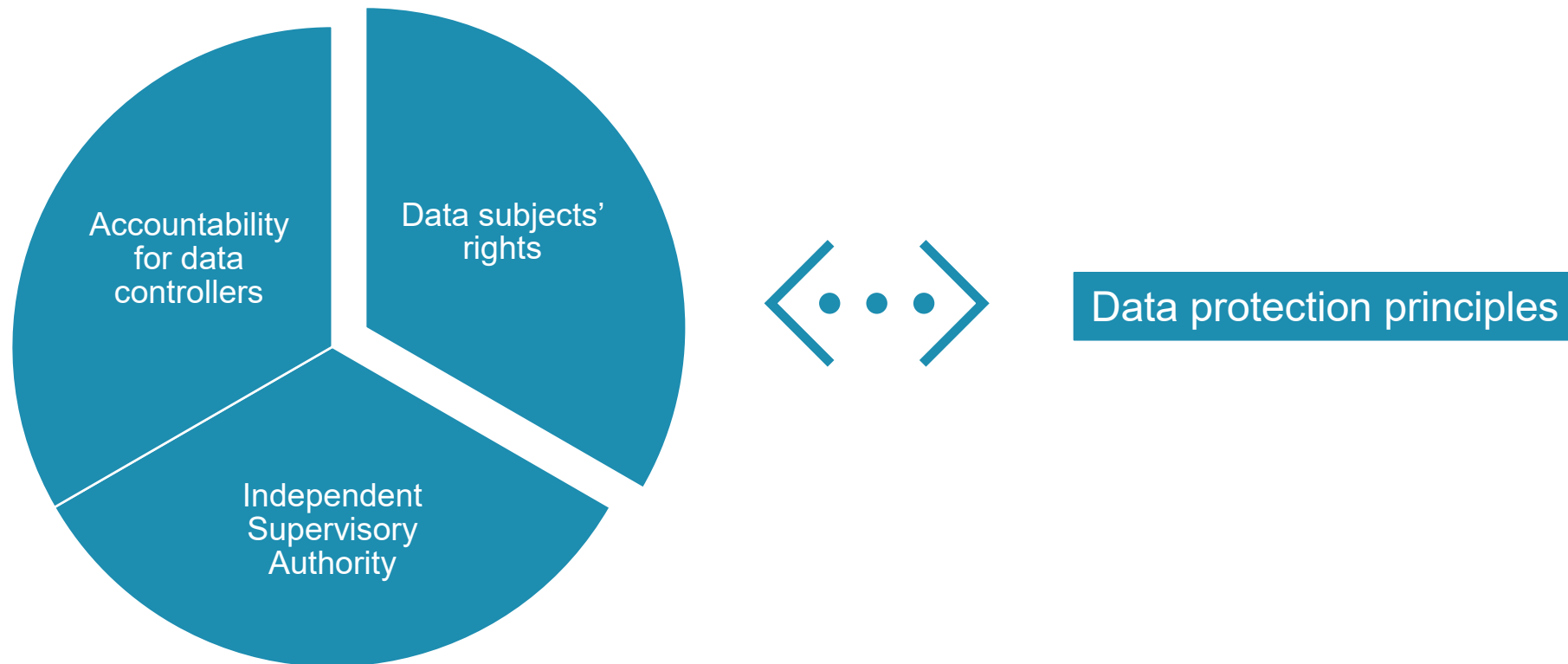


Structure of the fundamental right



Recital 11 GDPR Effective protection of personal data throughout the Union requires the strengthening and setting out in detail of the rights of data subjects and the obligations of those who process and determine the processing of personal data, as well as equivalent powers for monitoring and ensuring compliance with the rules for the protection of personal data and equivalent sanctions for infringements in the Member States.

Structure of the fundamental right



Lawfulness

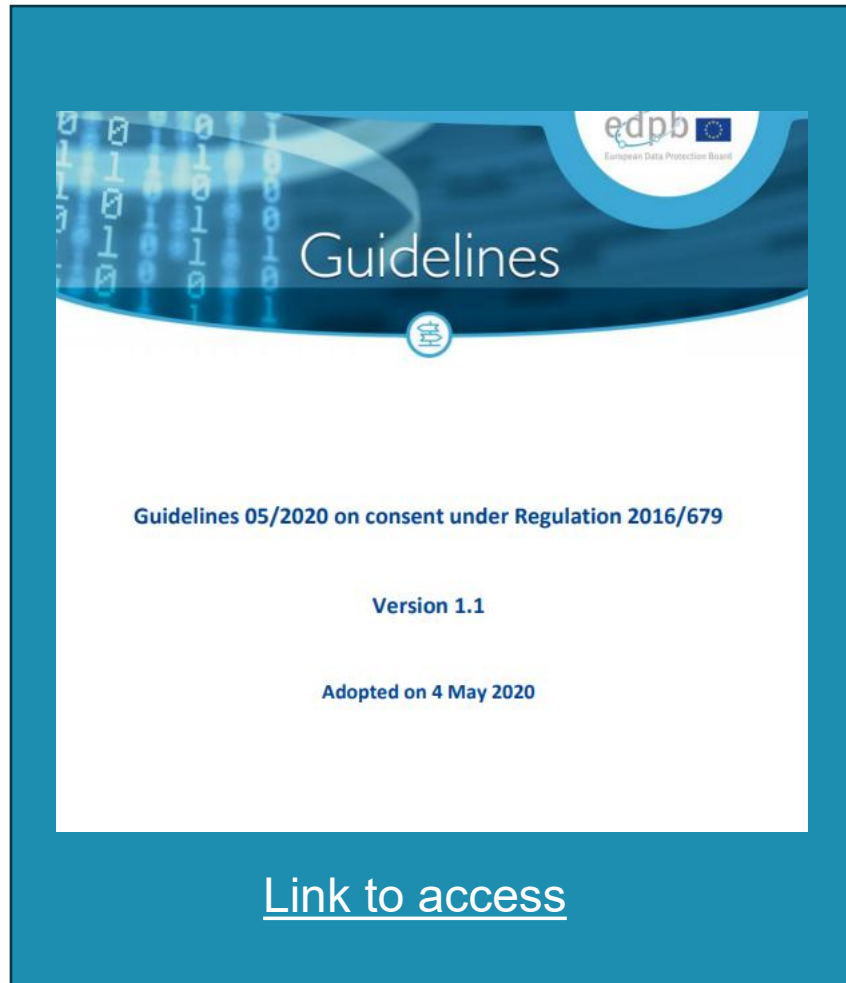
Article 6

Lawfulness of processing

1. Processing shall be lawful only if and to the extent that at least one of the following applies:
 - (a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;
 - (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
 - (c) processing is necessary for compliance with a legal obligation to which the controller is subject;
 - (d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;
 - (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
 - (f) processing 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 which require protection of personal data, in particular where the data subject is a child.

Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks.

Lawfulness: consent

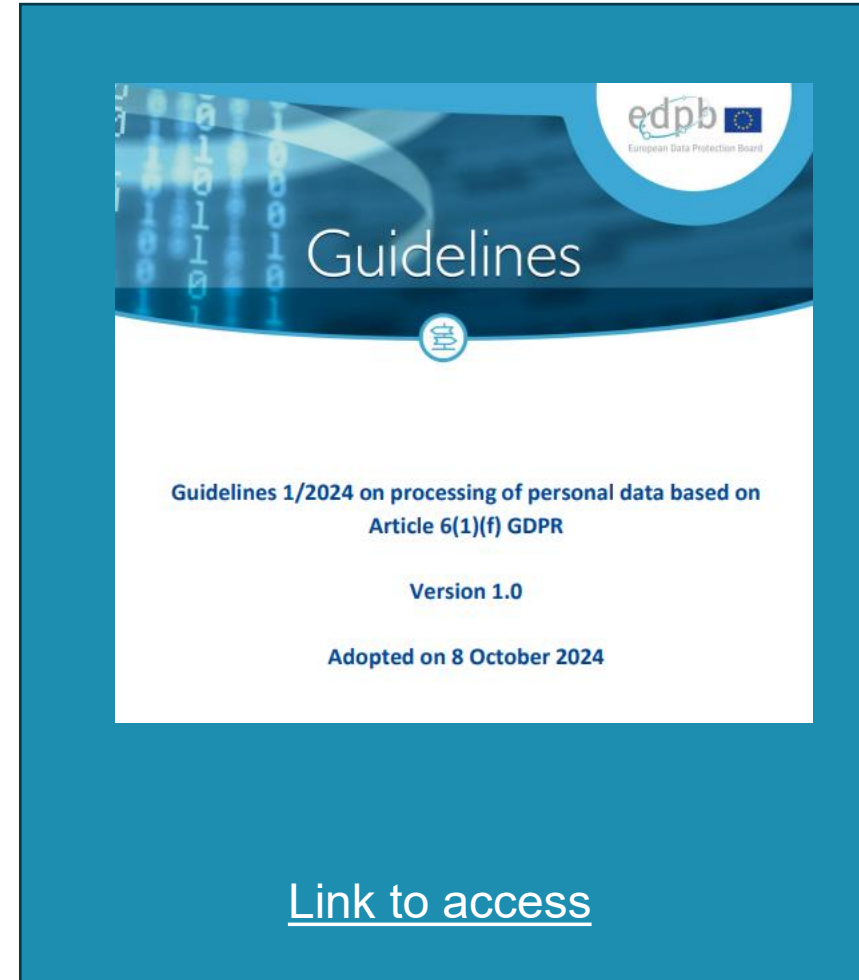


[Link to access](#)

- **Freely given**
 - Power dynamics
 - Contract = utmost account shall be taken of whether, *inter alia*, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract (Art. 7(4))
- **Specific**
 - Written = distinguishable from the other matters
- **Informed**
 - Intelligible, clear and plain language
- **Unambiguous**
 - Written, including electronic, or an oral statement
 - Ticking a box – as long as it is an action
 - Controller must be able to demonstrate
- Right to **withdraw** the consent at any minute

Lawfulness: consent

- Legitimate interest test:
 1. Defining the legitimate interest
 2. Necessity test
 3. Balancing with the fundamental rights and freedoms



Lawfulness and special categories of data

Article 9 = additional requirements for special categories of data

- Racial or ethnic origin
- Political opinions, religious or philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data (uniquely identifying a natural person)
- Health data
- Sex life or sexual orientation

Other points of attention

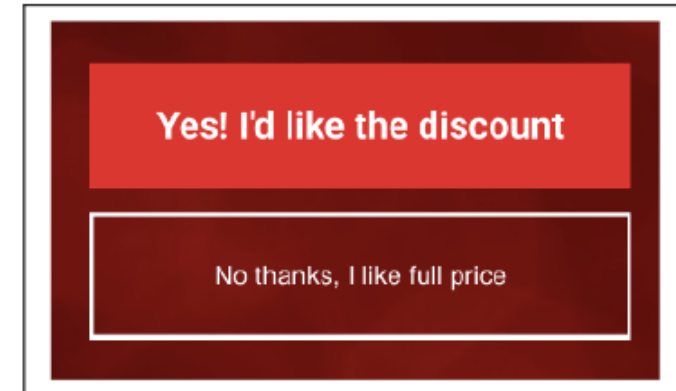
- Children's data (Article 8)
- Data relating to criminal convictions and offences (Article 10)

Fairness

- Objective, good faith ☐ must consider the reasonable expectations of data subjects
 - Dark patterns and manipulative practices
- Avoid disproportionate effects, including discriminatory

Figure A.2. Example of a confirmshaming dark pattern

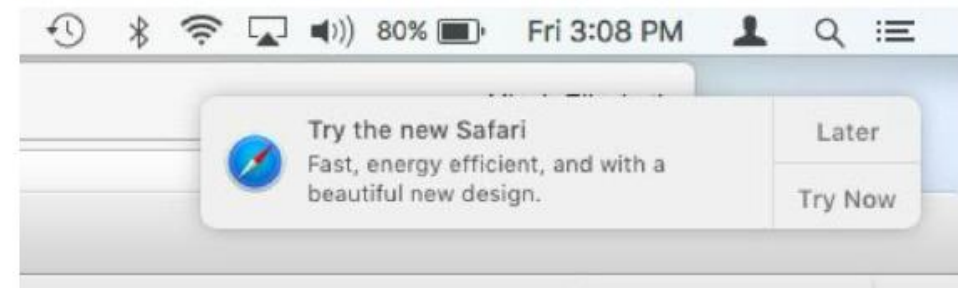
The consumer is shamed into opting for a discount.



Source: Mathur et al (2019^[24]).

Figure A.3. Example of nagging dark pattern

A dialogue box that does not provide the option to permanently dismiss the message.



Source: <https://darkpatterns.uxp2.com/pattern/apple-no-no-option/>

Transparency

- Control depends on having information about the data processing
 - Who, what, why, how and rights
- Translates into both an **obligation** and a **right**
 - *Ex-ante* and *ex-post*

Purpose limitation

- **Specific**
- **Explicit**
- **Legitimate**

When? The latest by the moment of collection

Compatibility test

- Data cannot be processed in an incompatible manner with the initial purposes
 - Archiving, scientific or historical research, statistical purposes = presumed compatibility (+ Art. 89)

Data minimisation

- Data must be **adequate, relevant, and necessary** to the specific purpose of the processing
- Predictions, AI training and unforeseen exploitation? ... in the next session

Accuracy

- Data shall be accurate and, where necessary, kept up to date;
 - Evaluation = context based
- Inaccurate data = erased or rectified without delay
 - Direct connection to right to rectification
 - Controller must notify recipients of the data erased or rectified (Article 19)

'My life was ruined by a typo'

21 March 2017



Nigel says he feared his children might be attacked after he was wrongly arrested

By Adam Eley and Jo Adnitt

BBC Victoria Derbyshire programme

When Nigel Lang was wrongly arrested on suspicion of sharing indecent images of children, he says his life fell apart. It all stemmed from nothing more than a typing error by police.

Source: [BBC UK](#)

Storage limitation

- Data must be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;
- Secondary processing and purpose limitation and data minimization;
- Erasure, destruction of data

Integrity and confidentiality

- Guarantee the security of the data against data breaches
 - Personal data breach = breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data
- Preventive measures
 - Inspiration in environmental law

Thank you!

LinkedIn: Isabela Maria Rosal
Email: isa.rosalsantos@kuleuven.be

<http://www.law.kuleuven.be/citip>

