

LAW AND DIGITAL TECHNOLOGIES
INTERNET PRIVACY AND DATA PROTECTION

Key Concepts of EU Data Protection Law and Applicability

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key data protection concepts

*automated and non-automated
(filing system)*

- personal data
 - processing
 - datasubject
 - controller
 - processor
 - etc.
- (incl. encrypted data, anonymous and pseudonymous data, special data)*
- 'individual'*
- 'owner' of the data*
- eg. Salesforce, Infosys etc.*
-

electronically

“processing” means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means

such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, erasure or destruction

question

can you name an activity with respect to personal data that is *not* covered by the definition of “processing of personal data”

“personal data” means any information relating to an identified or identifiable natural person (“data subject”)

an identifiable 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, unique identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social or gender identity of that person

Recital 23 GDPR
(Libe)

“anonymous data” means information that does not relate to an identified or identifiable natural person

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“identified or identifiable”

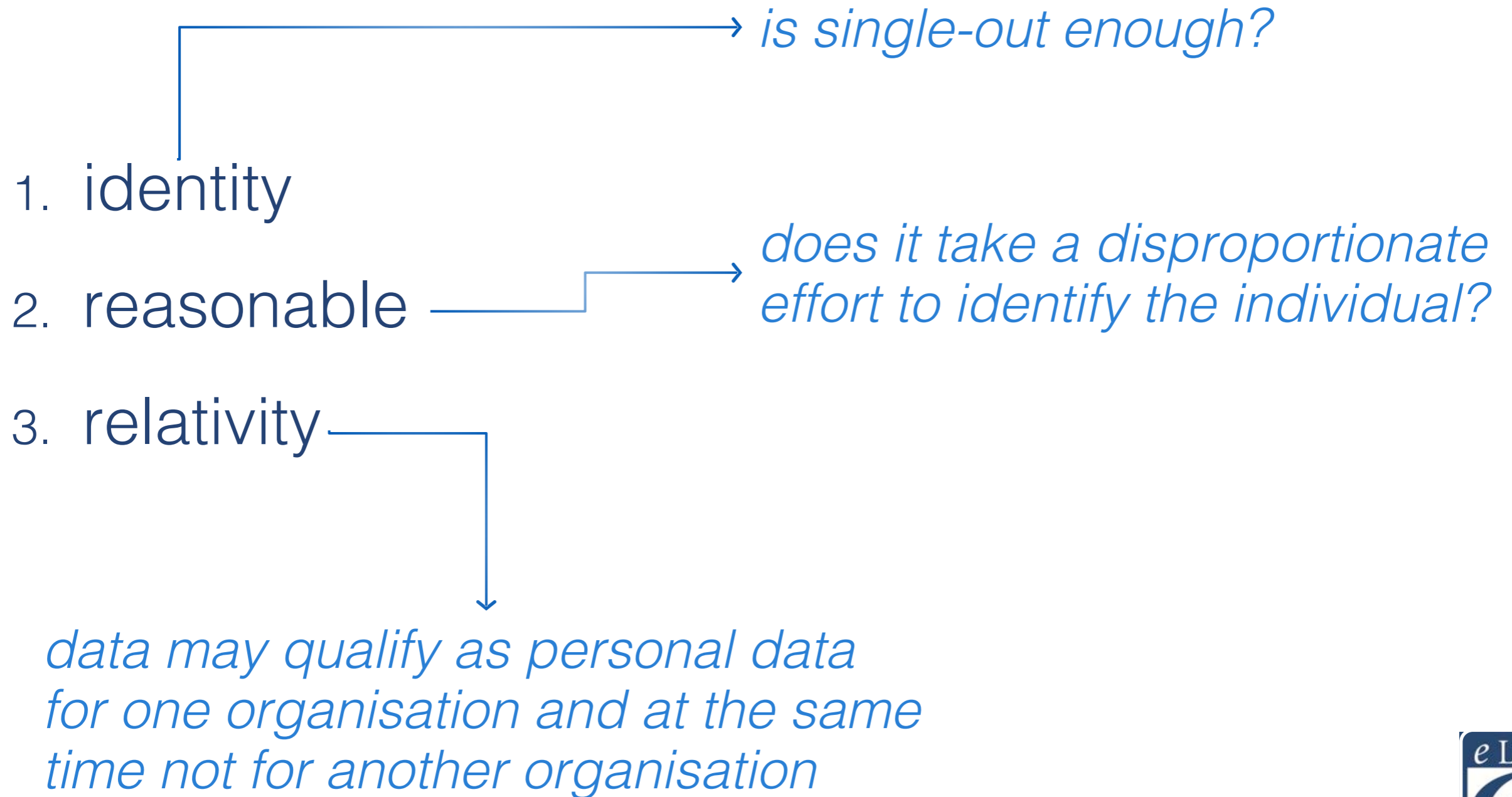
and

“single-out”

*even ancillary information,
such as "the man wearing a
black suit" may identify
someone out of the passers-
by standing at a traffic light*



three aspects



*as long as such additional information is kept
separately and subject to technical and
organisational measures to ensure non-attribution*

“pseudonymous data” means personal data that cannot be attributed to a specific data subject without the use of additional information

Art. 4 (2a) GDPR
(Libe)

“**encrypted data**” means personal data, which through technological protection measures is rendered unintelligible to any person who is not authorised to access it

paper health record
library archives
educational records
analogue audio recordings

“filing system” means any structured set of personal data which are accessible according to specific criteria, whether centralized, decentralized or dispersed on a functional or geographical basis

“**controller**” means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data

“processor” means a natural or legal person, public authority, agency or any other body which processes personal data on behalf of the controller

material scope of data protection law

- processing of personal data wholly or partly by automated means, irrespective of the method of processing, and
- 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

any structured set of personal data which...

exemptions

- activities outside the scope of Union law
- by Member States when carrying out activities which fall within the scope of Chapter 2 of Title V of the Treaty on European Union
- by a natural person in the course of an exclusively personal or household activity
- by competent public authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties

records of Non-EU citizens not in EU Member State, by non EU-based controller

common security and defence

birthday party invitations, iPhone, etc.

directive.



'personal or household activity'

incl. publication of personal data
where it can be reasonably expected
that it will be only accessed by a
limited number of persons

facebook.

“data subject's consent” means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed

consent and GT&Cs

consent must be specific. blanket consent without determination of the exact purposes does not meet the threshold.

rather than inserting the information in the general conditions of the contract, this calls for the use of specific consent clauses, separated from the general terms and conditions

where consent is required from a worker, and there is a real or potential relevant prejudice that arises from not consenting, the consent is not valid [...] as it is not freely given.

an area of difficulty is where the giving of consent is a condition of employment. the worker is in theory able to refuse consent but the consequence may be the loss of a job opportunity. in such circumstances consent is not freely given and is therefore not valid

“**profiling**” means any form of automated processing of personal data intended to evaluate certain personal aspects relating to a natural person or to analyse or predict in particular that natural person’s performance at work, economic situation, location, health, personal preferences, reliability or behaviour

...evaluate certain personal aspects relating to a natural person or to analyse or predict in particular that natural person's

- performance at work
- economic situation
- location
- health
- personal preferences
- reliability or
- behaviour



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[Google Spain v AEPD and Mario Costeja González ...](#)

[en.wikipedia.org/.../Google_Spain_v_AEPD_and_Mario_Costeja_González...](#) ▾

Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González (2014) is a decision by the Court of Justice of the European ...
Facts - Procedure - Advocate General's Opinion - Judgment

[Costeja González and a memorable fight for the 'right to be ...](#)

[www.theguardian.com › World › Privacy](#) ▾

May 14, 2014 - Such must be the lesson facing Mario Costeja González, the Spanish man who sparked Tuesday's contentious European court of justice (ECJ) ...

[Spain's everyday internet warrior who cut free from Google's ...](#)

[www.theguardian.com › Technology › Data protection](#) ▾

May 13, 2014 - Mario Costeja González says search engine 'is now perfect' as it can police data affecting 'people's honour and dignity'

[The unforgettable story of the seizure to the defaulter Mario ...](#)

[derechoaleer.org/.../the-unforgettable-story-of-the-seizure-to-the-default...](#) ▾

May 30, 2014 - Among them, a 90 m2 jointly owned property in San Feliú de Llobregat, Catalonia, Spain, whose owners were Mario Costeja González and ...

[The Man Who Sued Google to Be Forgotten - Newsweek](#)

[www.newsweek.com/man-who-sued-google-be-forgotten-252854](#) ▾

May 30, 2014 - Calligraphy expert witness Mario Costeja Gonzalez speaks on his mobile phone outside a court in Barakaldo, June 25, 2013. Vincent West/



"personal data breach" means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed

*lost laptop or
usb-storage device
an sql-injection
your stolen smartphone
a flooded server room
shared passwords
unauthorized access
lost backup tapes
employee negligence
etc.*

Art. 80 GDPR

processing of personal data
and freedom of expression

JARGON WATCH

DPO DPA EDPS

BCR SCC Wp29

C2C C2P P2P



questions?

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