



key data protection concepts

- lawfulness, fairness and transparency → *lawfulness can be derived from consent, vital data subject interests, legitimate controller interests etc.*
- purpose specification and limitation → *'time-limits on storage'*
- data and storage minimisation → *'credit-worthiness assessments'*
- accuracy → *'demonstrate compliance'*
- effectiveness
- integrity
- accountability



LAW AND DIGITAL TECHNOLOGIES INTERNET PRIVACY AND DATA PROTECTION

Principles and Rules for Processing Personal Data

Gerrit-Jan Zwenne
Seminar 6
November 5th, 2014



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Recital 30
Art. 5(a) GDPR (Libe)

*'fair relationship
between
controller and
data subject'*

"lawfulness, fairness and transparency"
means personal data is processed lawfully,
fairly and in a transparent manner in relation
to the data subject

*'example of transparency: insight into a personal file held
by public authorities about you'*



Art. 5(c) GDPR
(Libe)

"data minimisation" means personal data
is adequate, relevant, and limited to the
minimum necessary in relation to the
purposes for which they are processed;
they shall only be processed if, and as
long as, the purposes could not be fulfilled
by processing information that does not
involve personal data



Recital 30
Art. 5(b) GDPR (Libe)

"purpose limitation" means personal
data collected for specified, explicit
and legitimate purposes and not further
processed in a way incompatible with
those purposes

*personal data which airlines gathered about their
passengers for flight purposes cannot subsequently be
used by immigration services at the destination
system for the prevention of over-indebtedness*



- processing grounds
- data subject consent
- contract
- legal obligation
- etc.

collection for specified,
explicit and legitimate
purposes

no further processing in a
way incompatible with
purpose for which data is
collected

retention no longer that
necessary



Art. 5(d) GDPR
(Libe)

“accuracy” means personal data is accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay



Art. 5(f) GDPR
(Libe)

“accountability” processed under the responsibility and liability of the controller, who shall ensure and be able to demonstrate the compliance with the provisions of this Regulation



Art. 5(e) GDPR
(Libe)

“storage minimisation” means personal data is kept in a form which permits direct or indirect identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed



Art. 5(ea) GDPR
(Libe)

“effectiveness” means personal data is processed in a way that effectively allows the data subject to exercise his or her rights



Art. 8 GDPR
(Libe)

children's personal data → younger than 13 years → but will not affect national contract law

- consent of parent or guardian
- clear language → appropriate to intended audience
- EDPB guidelines

controller must take reasonable efforts to verify consent, taking into consideration available technology without causing otherwise unnecessary processing of personal data



lawfulness of processing

- data subject consent
- performance of a contract
- compliance with a legal obligation
- vital interest of the data subject
- public authority
- legitimate interest of controller or third parties to whom the data are provided

Art. 6 GDPR
(Libe)



What about video footage or employees photo's on a companies intranet?

Art. 9 GDPR
(Libe)

- special (categories) of data
- race or ethnic origin
 - political opinions
 - religion or philosophical belief
 - sexual orientation or gender identity
 - trade union membership
 - genetic or biometric or health or sex life
 - administrative sanctions, judgments, criminal or suspected offences, convictions, security measures

processing not allowed, unless

- by certain controllers for their specific purposes
- specific exemptions such as explicit consent



Art. 5(d) GDPR
(Libe)

“**accuracy**” means personal data is accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay



Art. 7 GDPR
(Libe)

conditions for consent

- burden of proof
- written declaration which also concerns another matter
- withdrawal of consent
- purpose limitation

consent must be presented clearly distinguishable in its appearance from this other matter



questions?

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- in cases of first and non-intentional non-compliance: a warning in writing
- regular periodic data protection audits

a fine up to €100 000 000 or up to 5% of the annual worldwide turnover (whichever is greater)

