DSR.04 Balancing of Interests

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Only the data subject's right to object explicitly provides a balancing test. After the objection has been raised by the data subject, the controller must carry out a (further) balancing of interests:

> ***Art. 21 I 2:*** *"The controller shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject […]."*

However, those exemptions that provide for non-interference with the rights and freedoms of other persons **[Tile DSR.02]** and freedom of expression and information **[Tile DSR.03]** also ultimately require a balancing of interests.

The rights of data subjects that do not provide for consideration of the interests of other persons protected by fundamental rights could be considered contrary to primary law due to a violation of the principle of proportionality (Art. 52 I CFR). To avoid this legal consequence, direct recourse could be made to the fundamental rights of the Charter of Fundamental Rights to enable a balancing between the rights of the data subject and the interests of other persons protected by fundamental rights (see Practical Concordance). Cf. also Art. 1 II and Rec. 4 (2) GDPR.