CO.31 Serving also Public Interest

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Last update: 2021-05-22 12:43:27 | By: Winfried Veil

Created at: 2021-05-12 12:38:34

When processing personal data, natural or legal persons under private law usually pursue their own interests, which are protected by fundamental rights. On the other hand, public bodies process personal data in the public interest. However, it is also conceivable that natural or legal persons under private law act (exclusively or at least also) in the public interest.

In particular, private persons are (at least also) acting in the public interest if they fulfil a legal obligation to which the controller is subject (cf. Art. 6 I c, 9 II b and 17 III b GDPR). Example: Failure to report certain planned criminal offences to the authorities or to the threatened person is even prohibited under criminal law (**§ 138 German Criminal Code**), so reporting is required by law.

Tasks that have to be carried out in the public interest can also be fulfilled by private parties (Art. 6 I e GDPR).

Rec. 45 (6) GDPR stipulates that the law prescribing a particular processing in the public interest must specify whether the task is to be performed by a public body or a person under private law (such as a professional association). Examples of public tasks performed by private parties are public health, social protection and the management of health care services.

In some provisions of the GDPR, action in the public interest is presumed without the need for a legal obligation or a legal delegation of tasks. Such legal bases, which are directly covered by the GDPR, are Art. 9 II g, 18 II and 49 I d GDPR.

It follows from **Rec. 46 (3)** and **112 (5)** GDPR, that processing may serve the interest of another person or the data subject as well as a public interest (e.g. humanitarian purposes such as monitoring epidemics, disaster control or the fulfilment of the tasks of a humanitarian organisation).

Further processing of personal data for archiving purposes, for example with a view to providing specific information related to the political behaviour under former totalitarian state regimes, genocide, crimes against humanity, in particular the Holocaust, or war crimes (cf. **Rec. 158 (3) GDPR**) also serves public interests, of course. In general, data processing for archiving purposes in the public interest **[Tile P.18]** can also be carried out by private parties. In this case, the data processing serves public interests, but can also serve self-interests (for example, in the case of private archives).