

BC.01 Balancing Criteria General

Authors: Winfried Veil

Last update: 2021-05-24 22:22:49 | By: Winfried Veil

Created at: 2021-05-12 20:49:45

125 GDPR provisions mention individual *Schutzgüter* such as fundamental rights, rights, freedoms and interests [\[Tile R.01\]](#).

These are attributed to data subjects in 57 provisions [\[Tile DS.01\]](#), to natural persons in 36 provisions [\[Tiles DS.02 and CO.02\]](#) and to other persons in 19 provisions [\[Tile CO.04\]](#). In addition, there are numerous references to the public interest in general [\[Tile P.01\]](#) and to specific public interests [\[Tiles P\]](#).

82 GDPR provisions provide for balancing decisions between the different rights of natural and/or legal persons [\[Tile P.04\]](#) or between rights and public interest [\[Tile P.03\]](#). These 82 balancing decisions can be found under [Tiles BD](#).

It is questionable according to which standards these many rights and interests are to be weighed against each other. It is true that in some places the GDPR orders a balancing advantage for one side or the other (e.g. Art. 6 I f: "except where such interests are overridden") or a particularly strict examination (e.g. Art. 21 I 2: "compelling legitimate grounds"). On the whole, however, it remains unclear how fundamental rights, fundamental freedoms, rights, freedoms, interests and the public interest relate to each other, what weight is to be given to each of them in the balancing process and what other criteria influence the balancing process.

It would be too easy to view the balancing of interests always as a "matter of the individual case". This is because the GDPR contains a number of general assessment criteria and weighting parameters whose significance for the GDPR still needs to be clarified. On this page [\[Tiles BC\]](#), these general balancing criteria are listed and briefly explained:

Risk: [Tile BC.02](#)

Reasonable expectations of the data subject: [Tile BC.03](#)

Relationship between data subject and controller: [Tile BC.04](#)

Nature of the processing: [Tile BC.05](#)

Scope of the processing: [Tile BC.06](#)

Context/circumstances of the processing: [**Tile BC.07**](#)

Purposes of the processing: [**Tile BC.08**](#)

Effort and implementation costs: [**Tile BC.09**](#)

State of the art: [**Tile BC.10**](#)

Principle of Proportionality: [**Tile BC.11**](#)