CO.14 Freedom of the Sciences

Authors: Winfried Veil

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The right to protection of personal data is not an absolute right, but must be balanced against other fundamental rights, in accordance with the principle of proportionality **[Tile CO.01]**. The right to informational self-determination "must be balanced against the freedom to gather, process and use information for one's own purposes, including for changing purposes" **[BVerfG, Order of 6 November 2019 - 1 BvR 16/13 -, para. 87]**.

This multidimensionality of fundamental rights is insufficiently recognised by the GDPR as a whole. Among the rights and freedoms of natural persons that the GDPR seeks to protect, the fundamental rights of the controller are hardly explicitly taken into account. However, this does not apply to scientific freedom, which is taken into account in some provisions. Processing "for scientific or historical research purposes" is privileged in various ways:

> ***Further processing:*** *It is particularly important to emphasise that further processing for research purposes is generally permissible (cf. Art. 5 I b GDPR).*

> ***Derogations:*** *Art. 89 GDPR provides for derogations from some provisions, but also requires appropriate safeguards.*

Specific rules are provided for in:

> ***Articles:*** *5 I b/e, 9 II j, 14 V b, 17 III d, 21 VI, 85 and 89 I/II/IV GDPR.*
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> ***Recitals:*** *4, 33, 50, 52, 53, 62, 65, 113, 153, 156, 157 and 159-162 GDPR.*

In connection with the right to erasure, see also in particular Rec. 65 (5) GDPR:

> *"Further retention of the personal data should be lawful where it is necessary for […] scientific or historical research purposes […]."*

Insofar as scientific freedom is not explicitly taken into account in the provisions of the GDPR, it is also necessary to refer directly to Art. 13 CFR for interpreting the term "rights and freedoms":

> *"Art and research shall be free. Academic freedom shall be respected."*

In the absence of provisions in the GDPR that are adequate for fundamental rights, the principle of proportionality (Art. 52 I CFR) must be applied in order to weigh up the rights of the data subject against the scientific freedom of the controller (see Practical Concordance, **Tile P.04**). Cf. furthermore **Art. 1 II GDPR** and especially Rec. 4 (2) GDPR:

> *"The right to the protection of personal data is not an absolute right; it must be […] balanced against other fundamental rights, in accordance with the principle of proportionality."* **[see also Tile CO.01].**