

CO.05 Vital Interests

Authors: Winfried Veil

Last update: 2021-05-25 05:59:10 | By: Winfried Veil

Created at: 2021-05-12 10:19:22

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. 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 aims to protect, the fundamental rights of persons other than the data subjects are hardly explicitly taken into account [[Tile CO.01](#)].

In a few provisions in the GDPR, however, a particularly weighty *Schutzgut* is emphasised: life or vital interests. The special significance of the protection of life follows from Art. 2 I CFR:

"Everyone has the right to life."

If the data processing is intended to serve the vital interests of another natural person, it is explicitly privileged by the GDPR. The following GDPR provisions are an outgrowth of the protection of life under fundamental rights:

Articles: 6 I d, 9 II c, 18 II and 49 I f GDPR

Recitals: 46 and 112 GDPR

In the absence of provisions in the GDPR, the right to life (Art. 2 I CFR) must be applied directly and the principle of proportionality (Art. 52 I CFR) must be applied to balance the rights of the data subject on the one hand and the right to life of the controller or other persons on the other hand (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](#)].

Under German Constitutional Law the right to life and physical integrity is guaranteed by Art. 2 II 1 GG.