P.18 Archiving Purposes in the Public Interest

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The rights of the data subject are not absolute rights **[Tile CO.01]**. Rather, they are limited by public interests **[Tile P.01]**. Public interests have to be "necessary and genuinely meet objectives of general interest recognised by the Union" (Art. 52 I CFR).

One public interest objective recognised in the GDPR is processing for archiving purposes in the public interest. This is privileged by various GDPR provisions.

It should be particularly emphasised that further processing for archiving purposes in the public interest is in principle permissible (cf. Art. 5 I b GDPR). Art. 89 GDPR provides for exemptions to some provisions, but also requires appropriate safeguards.

Archive-specific provisions:

> ***Articles:*** *5 I b/e, 9 II j, 14 V b, 17 III d, 21 VI and 89 I/III/IV DS-GVO.*

> ***Recitals:*** *50, 52, 53, 62, 65, 73, 153, 156 and 158 of the GDPR.*

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

> *"However, the further retention of the personal data should be lawful where it is necessary, for [...] archiving purposes in the public interest [...]."*

Example: Class photos are to be assigned to the area of contemporary history and can - even if they are only of local or regional significance - be of general social interest (cf. VG Koblenz, **judgement of 6.9.2019 - 5 K 101/19.KO**; confirmed by OVG Koblenz, **decision of 2.4.2020 - 2 A 11539/19.OVG**).

In Germany, the archive laws of the Federation and the Länder as well as the archive statutes of the

municipalities and other institutions under public and private law have granted anyone access to archive records on request since their creation from the end of the 1980s (cf. Rehm, **Geheimnis - Gedächtnis, in: Archivrecht für die Praxis, 2017, S. 3 ff.**). Archive legislation thus provides for a freedom of information expressed as a legal right **[cf. Tile CO.10]**.