Personal data and language research

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General framework:

- **Research data**: factual records used as primary sources for scientific research;
- **Open data**: data that can be accessed / used by anyone without technical or legal restrictions;
- **Big data**: data sets that are too large or complex to be dealt with by traditional data-processing application software.

Rights covering language data:

<table>
<thead>
<tr>
<th>Language resources as a database</th>
<th>Material used to develop language resources</th>
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<tbody>
<tr>
<td>• Copyright</td>
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<tr>
<td>• Related rights</td>
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<tr>
<td>• Privacy rights</td>
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<td>• Personal data protection</td>
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<tr>
<td>• Trade secrets</td>
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</tbody>
</table>
It all starts with personal data...

- Personal data
  - Any information
    - Objective information
    - Subjective information (assessments, etc.)
    - Format (photographic, acoustic, etc.)
    - Medium (paper, computer memory, videotape)
  - Relating to
    - Content element
    - Purpose element
    - Result element
  - An identified or identifiable
    - Dead persons
  - Natural person
    - Unborn children
    - Legal persons

Opinion 4/2007 on the concept of personal data. Adopted on 20th June
It all starts with personal data...

Identifiable natural person (Material scope of the GDPR)

Absolute approach (all possibilities to identify the data subject)

Relative approach (realistic efforts to identify the data subject)

G. Spindler, P. Schmechel (2016). Personal Data and Encryption in the European General Data Protection Regulation. - JIPITEC 7 (2)
It all starts with personal data...
Processing as any operation or set of operations which is performed on personal data (GDPR Art. 4)

- Erasure or destruction
- Restriction
- Alignment or combination
- Dissemination or otherwise making available
- Disclosure by transmission
- Consultation & use

Collection
Recording
Organisation & structuring
Storage
Adaptation & alteration
Retrieval
Principles of processing:

- Storage limitation (not applicable to research)
- Accountability
- Integrity and confidentiality

Principles relating to processing of personal data (GDPR Art. 5):

- Lawfulness, fairness and transparency
- Data minimisation
- Purpose limitation (not applicable to research)
- Accuracy
Legal grounds:

- Performance of a task in the public interest or in the exercise of official authority
- Legitimate interests
- Protection of protect the vital interests of the data subject or of another natural person
- Performance of a contract
- Consent
- Compliance with a legal obligation
Legitimate interest:

- Processing for research purposes (including marketing research)
- Processing for historical, scientific or statistical purposes
- Physical security, IT and network security
- Whistle-blowing schemes
- Employee monitoring for safety or management purposes
- Prevention of fraud, misuse of services, or money laundering
- Exercise of the right to freedom of expression or information, including in the media and the arts
- Conventional direct marketing and other forms of marketing or advertisement
- Unsolicited non-commercial messages, including for political campaigns or charitable fundraising
- Enforcement of legal claims including debt collection via out-of-court procedures

WP29. Opinion 06/2014 on the notion of legitimate interests of the data controller under Article 7 of Directive 95/46/EC
Consent:

Data subjects may give their consent to certain areas of scientific research (required compliance of ethical standards)

Complicated to fully identify the purpose of processing for scientific research purposes at the time of data collection

Consent and purpose limitation (GDPR)

Data collected for specified, explicit and legitimate purposes

Processing for research purposes is compatible with the initial purposes
Legal grounds:

- Right to be informed about the legal basis for the processing
- Not allowed to swap from one to another legal basis (e.g., from consent to legitimate interest)
- Established prior to the processing
- Transparency and fairness

WP 29. Guidelines on consent under Regulation 2016/679; GDPR
Consent:

- Written/oral statements
- Audio/video messages
- Presentation of information
  - Understandable for the average person
  - Distinguishable from other matters
- Informed consent
  - The data subject should be aware at least of
    - The identity of the controller
    - The purposes of the processing
  - Transparency requirement

GDPR Recital 42, Art. 4; WP29 2016/697 (10 Apr. 2018)
Consent:

Consent (GDPR, WP29 2016/679)

- Statement
  - Clear affirmative action (e.g., waiving in front of camera, physical motion)
  - Silence/inactivity does not qualify as consent

- Indication of the data subject's wishes

- Transparency as a safeguard

- No swapping to other legal grounds

- Obtained prior to processing

- Explicit consent (e.g., written statement) required in case of

- Burden of proof on the controller
  - Freely given
  - Specific
  - Informed and unambiguous
  - Using clear and plain language
  - An intelligible and easily accessible form
  - Clearly distinguishable from the other matters

- Conditions
  - Right to withdraw consent
    - At any time
    - Withdrawal does not affect the prior processing
    - The data subject to be informed of the right
    - Withdrawal as easy as giving consent
    - Free of charge
Rights:

Data are collected from the data subject (Art. 13)

Data are not obtained from the data subject (Art. 14)

Right to be informed

Right to object (Art. 21)

Right to data portability (Art. 20)

Notification obligation regarding rectification or erasure of personal data or restriction of processing (Art. 19)

Rights of the data subject

Right of access (Art. 15)

Right to rectification (Art. 16)

Right to erasure ('right to be forgotten') (Art. 17)

Right to restriction of processing (Art 18)
The controller provides information relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language (Art. 12 (1)).

Information shall be provided free of charge (Art. 12 (5)).

Procedural guarantees

The controller shall not refuse to act on the request of the data subject for exercising his or her rights, unless the controller demonstrates that it is not in a position to identify the data subject (Art. 12 (2)).

The controller shall provide information on a request without undue delay and in any event within one month of receipt of the request (Art. 12 (3)).
Processing for research:

- **Legal grounds for processing (GDPR Art. 6)**
  - Consent
  - Public interest
  - Legitimate interest

- **Scientific research interpreted in a broad manner (Recital 159)**
  - Technological development and demonstration
  - Fundamental & applied research
  - Privately funded research

- **Derogation from the right to be forgotten and the right to be informed (GDPR Art. 17, 14)**

- **Processing for research purposes (GDPR Art. 89)**
  - Derogations from the rights (optional exceptions)
    - Technical and organisational measures
    - Pseudonymisation
    - Right of access (Art 15)
    - Right to rectification (Art. 16)
    - Right to restriction of processing (Art. 18)
    - Right to object (Art. 21)

- **Appropriate safeguards**
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