

GDPR legislation and Biographical Data in Contemporary History

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Relates to all personal data, prohibits the processing of « sensitive » data (such as racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership etc.) – with an exception for historical research Article 9(2)(j)

Our use case: Digitization of records from the Luxembourgish foreign police in the context of a project on Jewish refugees coming to Luxembourg in the 1930s. Sensitive data in almost all regards.

Challenge: How is this exception integrated in Member State law? What kind of safeguards are required for the extracted data, for the scanned documents etc.? How does the emerging archive law affect us?

Pseudonymisation is considered one of the core safeguard measures for research.

Our use case: Taking the personal data identified in the records of the foreign police we want to align the information on specific individuals with other archive holdings and external records.

Challenge: Current draft lacks of awareness for the specific requirements of historical research, anonymization runs counter to any efforts to disambiguate persons in historical documents, pseudonymization would only work if pseudonyms are provided coherently across all archives.

The GDPR foresees enhanced rights for the data subjects such as the right for erasure, right to rectify information, right to request a full digest on available information and limits the transfer of personal data to third countries

Our use case: Research related to the second world war and the holocaust is likely to cause requests for erasure or rectification which might significantly hamper our research activities. Furthermore we need legal certainty in exchanging data with EU member states, Switzerland, post-Brexit UK and the US of A.

Challenge: Thankfully the GDPR provides exceptions to the right to be forgotten (see article 17 (3) d) as well as to other enhanced rights (see article 89 (3)) but these derogations need to be defined in MS law

Personal data can be only used for a specific research project.

Our use case: We want to build up a repository of persons that occur in historical documents through individual projects. Once persons appear in new research projects we'd like to follow up on the information that was previously collected to make cross-connections.

Challenge: How to build up a sustainable long term archive that benefits future research without anonymising/pseudonymising the data?

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