

GDPR and ethnography

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Privacy

- Article 8 European Convention on Human Rights
- Not an absolute right: proportionality, subsidiarity
- Regulation: European Union
- National laws
- Law and ethic

ARTICLE 8 Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Regulation (EU) 2016/679

- GDPR (general data protection regulation)
- Regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
- 27 april 2016; effect 25 May 2018
- Regulation: binding, immediate and direct working
- Protection fundamental rights

Principles relating to processing of personal data

- a. lawfulness, fairness and transparency
- b. collected for specified, explicit and legitimate purposes (purpose limitation)
- c. adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (data minimisation)
- d. accurate (accuracy)
- e. no longer than necessary (storage limitation)
- f. processed in a manner that ensures appropriate security (integrity and confidentiality)

Rights data subjects

- 1. information (collected from data subject; not collected from data subject) - art 13-14
- 2. access – art 15
- 3. rectification – art 16
- 4. erasure (right to be forgotten) – art 17
- 5. restriction of processing – art 18-19
- 6. data portability – art 20
- 7. object – art 21
- 8. automated individual decision-making, including profiling –art 22

Principles of special categories of personal data

1. principle: shall prohibited

processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data for uniquely identifying a natural person, data concerning health or natural person's sex life or sexual orientation.

2. exceptions: processing is necessary for scientific or historical research purposes in accordance with article 89 (1)

Article 89

Safeguards and derogations relating to processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes

1. Processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, shall be subject to appropriate safeguards, in accordance with this Regulation, for the rights and freedoms of the data subject. Those safeguards shall ensure that technical and organisational measures are in place in particular in order to ensure respect for the principle of data minimisation. Those measures may include pseudonymisation provided that those purposes can be fulfilled in that manner. Where those purposes can be fulfilled by further processing which does not permit or no longer permits the identification of data subjects, those purposes shall be fulfilled in that manner.
2. Where personal data are processed for scientific or historical research purposes or statistical purposes, Union or Member State law may provide for derogations from the rights referred to in Articles 15, 16, 18 and 21 subject to the conditions and safeguards referred to in paragraph 1 of this Article in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

Articles 15, 16, 18 and 21

- Article 15
- Right of access by the data subject
- Article 16
- Right of rectification
- Article 18
- Right to restriction of processing
- Article 21
- Right to object

Belgian privacy law 30 July 2018

Article 24

- Articles 7-10, 11.2, 13-16, 18-20 and 21.1 GDPR not applicable for scientific research
- Articles 30.4, 31, 33 and 36 GDPR not applicable when it can give a problem for the publication
- Articles 44-50 GDPR not applicable for transfers to third countries or international organisations under certain conditions
- Article 58 GDPR not applicable when it can give information about the source of information or can be controlled before publication
- 7-10: consent (children), special categories, criminal data.
- 30.4/31/33/36: record available to supervisory authority on request; cooperation with and notification to supervisory authority; prior consultation
- 44-50: rules for transfers
- 58: powers supervisory authority

Tool

- 1. scientific research
- 2. (not only) data base? Systems of collection
- 3. technical measures protection privacy
- 4. organisational measures protection privacy
- 5. data minimisation
- 6. pseudonymisation/anonymization
- 7. ensure security/encryption
- 8. other principles relating to processing