



Report on the implementation of specific provisions of the General Data Protection Regulation

*Regulation (EU) 2016/679 of the European Parliament
and of the Council of 27 April 2016 on the protection of
natural persons with regard to the processing of
personal data and on the free movement of such data,
and repealing Directive 95/46/EC*

Report on the implementation of specific provisions of Regulation (EU) 2016/679

Final report

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ABSTRACT

This summary seeks to present, in a clear and concise manner, the implementation of some of the specification clauses of Regulation (EU) 2016/679 (GDPR)¹ by the EU Member States. The specification clauses covered by this report are those in Article 8(1), Article 9(4), Article 23(1), points (c) and (e), Article 23(2), Article 85(1) and (2) and Article 89(2), (3) and (4) GDPR. This assessment is based on the national laws in force as at 19 December 2019.

More precisely, Article 8(1) GDPR concerns the age that a child must be in order for his consent to be valid for the processing of his personal data in relation to information society services. Article 9(4) GDPR allows Member States to maintain or introduce further conditions, including limitations, with regard to the processing of genetic data, biometric data or data concerning health. Article 23(1)(c) and (e) GDPR permits Union and national legislation to restrict the scope of the obligations and rights provided for in Articles 5, 12 to 22 and Article 34 GDPR, where such restrictions respect the fundamental rights and are necessary and proportionate to safeguard public security and other important objectives of general public interest. Article 23(2) GDPR stipulates a number of accompanying conditions and safeguards, when restrictions under Article 23(1)(c) and (e) GDPR apply. Article 85(1) GDPR requires Member States to reconcile the right to the protection of personal data with the right to freedom of expression and information, while Article 85(2) GDPR requires Member States to provide, where appropriate, for exemptions or derogations from Chapters II to VII and IX GDPR for processing carried out for journalistic purposes or the purpose of academic, artistic or literary expression. Finally, Article 89(2), (3) and (4) GDPR provides Member States the option to derogate from certain data subject rights where personal data are processed for scientific or historical research purposes, or statistical purposes, or archiving purposes in the public interest, subject to certain conditions and safeguards. Any such derogations must apply only to processing for the aforementioned purposes.

While some common trends may be identified, the emerging picture of implementation attests not only to the different legal approaches taken by the Member States, but also to the varying degree of specification of the relevant provisions of the GDPR. One particular feature that easily stands out is the adoption by Member States of derogations and restrictions permitted under the GDPR, without however the accompanying conditions and safeguards.

In the majority of the Member States, the national implementing provisions entered into force by the date of the entry into application of the GDPR (i.e. 25 May 2018) or within three months later. Some of the remaining Member States implemented the GDPR by the end of 2018, while others did so by the end of summer 2019.

EXECUTIVE SUMMARY

This summary seeks to present, in a clear and concise manner, the implementation of the specification clauses contained in Article 8(1), Article 9(4), Article 23(1), points (c) and (e), Article 23(2), Article 85(1) and (2) and Article 89(2), (3) and (4) GDPR by the EU Member States, excluding **SI**, which has yet to notify any national implementing measures to the European Commission.

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

Moreover, since the United Kingdom departed from the European Union on 31 January 2020, observations on the implementation of the GDPR in the United Kingdom are not indicated in this report.

With regard to the date of the entry into force of the implementing measures, **AT, DE** (at federal level), **DK, HR, IE, NL, PL, SE** and **SK** implemented the aforementioned specification clauses of the GDPR by 25 May 2018, while **MT** did so a few days later, i.e. on 28 May 2018. **FR** deserves special mention as the implementing legislation entered into force on 20 June 2018 with retroactive effect from 25 May 2018. By the end of summer 2018, implementation was effected in **LV** (5 July 2018), **LT** (16 July 2018), **CY** (31 July 2018), **RO** (31 July 2018) and **LU** (20 August 2018). By the end of 2018, three additional Member States implemented the specification clauses, namely **BE** (5 September 2018), **IT** (19 September 2018) and **ES** (7 December 2018). Another six Member States proceeded to implement the measures by the end of summer 2019, namely **FI** (1 January 2019), **EE** (15 January 2019), **BG** (1 March 2019), **CZ** (24 April 2019), **PT** (9 August 2019) and **EL** (29 August 2019). Finally, in **HU** the implementing legal act entered into force in several stages, the last of which being on 26 April 2019.

General observations on the implementation of the GDPR clauses under assessment can be found below under Section 2. However two issues emerge which deserve particular emphasis at this juncture.

On the one hand, while the overwhelming majority of the Member States have implemented various restrictions to data subjects' rights under Articles 23(1)(c) and (e) and Article 23(2) GDPR for purposes of public security, public administration, public health, taxation and migration, they have not in principle implemented the conditions under Article 23(1) GDPR (including the necessity and proportionality test) or the safeguards under Article 23(2) GDPR (purpose of processing, categories of personal data, scope of the restrictions introduced, etc.).

On the other hand, while a sizeable number of Member States have adopted various exemptions/derogations from the rules set out in Chapters II, III, IV, V, VI, VII and IX GDPR in relation to the processing carried out for journalistic purposes or the purpose of academic, artistic or literary expression, only several Member States provide for a case-by-case assessment for the exemptions/derogations.

1. METHODOLOGY FOR ASSESSING THE IMPLEMENTATION OF CERTAIN SPECIFICATION CLAUSES OF THE GDPR

The assessment of the implementation of certain GDPR specification clauses consists in an analysis of the national legislation in light of such clauses to determine if their requirements are reflected in the legal framework of each Member State.

The assessment focuses on describing the law provisions set out in the specific areas of the study in an objective and factual way.

For the purposes of the assessment, an account of the legislation is given so as to include the relevant acts that contribute to the implementation of the GDPR specification clauses. This study requires an in-depth screening of relevant national sectoral legislation.

This report summarises the findings of the assessments performed for all 27 EU Member States, except SI, as regards certain specification clauses of the GDPR, namely Article 8(1), Article 9(4), Article 23(1), points (c) and (e), Article 23(2), Article 85(1) and (2) and Article 89(2), (3) and (4) GDPR.

This study applied different methodologies based on the specificities and implications of the clauses, as follows:

- **Article 9(4) GDPR:** Any conditions/limitations implemented in national law pursuant to Article 9(2) that were considered relevant for the implementation of Article 9(4) are mentioned in the assessment.

- **Article 23(1), points (c) and (e) and Article 23(2) GDPR:** The study was limited to relevant examples of restrictions in five areas listed in Article 23(1), namely, public security, public administration, public health, taxation and migration. If, in a given Member State, there were restrictions in areas outside of points (c) and (e) of particular interest for the purpose of the assessment, those restrictions were also mentioned.

Article 23, including paragraph 1 and its introductory wording, and paragraph 2 were assessed under each of the policy areas and for each of the restrictions found under such an area of public interest.

After identifying which data subject's rights are restricted and whether (or not) such restrictions are a necessary and proportionate measure in a democratic society to safeguard important objectives of general public interest, an analysis on whether the elements listed under Article 23(2) are reflected in the national law was carried out. In addition, for each of the restrictions found, an explanation is provided on how far the restriction to the right extends (automatic or only where certain conditions are met), and of the scope of the restriction in view of the purpose pursued. In some cases, the national law does not allow for this analysis (e.g. the national law implemented some provisions similar to those of the GDPR allowing for the possibility to set out restrictions in the future, but has not adopted specific restrictions in each area/sectoral legislation yet). In those cases, the analysis was adapted to the specific situation of the Member State.

- **Article 85 GDPR:** The analysis of the implementation of this provision focused on the balancing of the right to protection of personal data and the right to freedom of expression and information as required by the GDPR. The assessment of this implementation aims to describe whether and how the Member States provided for a reconciliation of these fundamental rights in their legislation.

This assessment also highlights where and to what the extent the balancing of rights is left to the data controller rather than laid down in the law.

The analysis of the implementation of Article 85 considered other relevant national legislation, including the constitution and laws regulating the press and media.

The assessment of the implementation of Article 85(2) has been carried out on a chapter by chapter basis. For each chapter, an assessment is made on whether the Member State balanced the rights or the national law requires such balancing. In particular, this report identifies whether Member States provide for a systematic derogation of certain provisions or for an exemption from entire chapters of the GDPR.

The following criteria were assessed with regard to the exemptions or derogations laid down in national law pursuant to Article 85(2) GDPR: 1) whether the law provides exemptions or derogations; 2) whether they respect the essence of the rights and freedoms that need to be reconciled/balanced; 3) whether they are proportionate and necessary for the reconciliation of the two rights.

- **Article 89 GDPR:** This analysis indicates whether the safeguards set out in Article 89(1) are implemented in case of derogations laid down in national law pursuant to Article 89(2) and 89(3). In addition, this analysis identifies cases in which conditions and safeguards were left to the discretion of the data controller rather than set out in the law.

Thus, although other provisions such as Article 9(2) and Article 89(1) were considered within the analysis of the implementation of the specification clauses of the GDPR, this report aims to solely give an overview of national legislation effecting the implementation of Article 8(1), Article 9(4), Article 23(1), points (c) and (e) and Article 23(2), Article 85(1) and (2), Article 89(2), (3) and (4) GDPR.

Please note the information and views set out in this report are solely those of the author, and do not necessarily reflect the position of the European Commission.

This report contains three annexes: Annex 1, listing and describing the abbreviations used in the report, Annex 2 on the implementation of Article 85(2) GDPR, mentioning which Member States provide for derogations or exemptions from Chapters II, III, IV, V, VI, VII and IX and, in such case, specifying which GDPR provisions are concerned by such derogation or exemption, and Annex 3, listing the national implementing measures examined for the purposes of the report.

2. GENERAL OBSERVATIONS

The following general observations can be made in relation to the implementation of the GDPR clauses under assessment.

As regards Article 8(1) GDPR, the majority of the Member States have set an age limit lower than 16 years of age for the validity of the consent of a minor in relation to information society services. Nine Member States set the age limit at 16 years age, while eight Member States opted for that of 13 years, six for that of 14 years and three for 15 years.

With respect to Article 9(4) GDPR, most Member States provide for conditions/limitations with regard to the processing of genetic data, biometric data or data concerning health. Such limitations/conditions typically consist in listing the categories of persons who have access to such data, ensuring that they are subject to confidentiality obligations, or making processing subject to prior authorisation from the competent national authority. No national provision restricting or prohibiting the free movement of personal data within the European Union has been identified.

As regards Article 23(1) GDPR, and irrespective of the areas of public interest assessed under Article 23(1)(c) and (e) GDPR (i.e. public security, public administration, public health, taxation and migration), some Member States provide for restrictions in the area of (i) social security; or (ii) supervision of financial market participants, functioning of the guarantee systems and resolution and macroeconomic analyses. Concerning Article 23(1)(c) GDPR, the majority of Member States allow for restrictions of various provisions referred to in Article 23(1) GDPR. Normally there is a general reference to public security, while more specific areas of processing include the processing of personal data for the investigation and prosecution of crimes, and the use of video cameras for surveillance. Most commonly, the restrictions apply only where certain conditions are met. In some Member States the proportionality and necessity test is not contemplated at all, while in most Member States it is established in law, rather than left to the data controller. The overwhelming majority of Member States do not sufficiently implement the conditions and safeguards under Article 23(2) GDPR.

As regards Article 23(1)(e) GDPR in relation to public administration, half of the Member States provide for restrictions for such purpose. Normally there is a general reference to general public interest or public administration, while more specific areas of processing include discussions of the Council of Ministers and investigation of judicial or 'administrative' police authorities in connection with the commission of a crime or administrative infringement. Most commonly, the restrictions apply only where certain conditions are met. In some Member States the proportionality and necessity test is not contemplated at all, whereas in some other Member States the test is established in law or left to the data controller. No Member State implements all conditions and safeguards under Article 23(2) GDPR.

As regards Article 23(1)(e) GDPR in relation to public health, a minority of the Member States provide for restrictions for such purpose. Normally there is a general reference to public health or general public interest, while more specific areas of processing include the security of food chain and medical files. In most Member States, the applicable restrictions apply only where certain conditions are met. The proportionality and

necessity test is generally established in the law. No Member State implements all conditions and safeguards under Article 23(2) GDPR.

With respect to Article 23(1)(e) GDPR in relation to taxation, a sizeable number of Member States provide restrictions for such purposes. There tends to be a general reference to taxation or general public interest, while more specific areas of processing include recovery of taxes, as well as automated tax data transfer procedures. Normally, the applicable restrictions apply only where certain conditions are met. The proportionality and necessity test is generally left to the data controller. No Member State implements all conditions and safeguards under Article 23(2) GDPR.

As regards Article 23(1)(e) GDPR in relation to migration, a minority of the Member States provide for restrictions for such purpose. Normally there is a general reference to migration or general public interest. The applicable restrictions tend to apply only where certain conditions are met. The proportionality and necessity test is generally left to the data controller. No Member State implements all conditions and safeguards under Article 23(2) GDPR.

As regards Article 85(1) GDPR, the majority of the Member States provide for provisions aiming to reconcile the right to the protection of personal data with the right to freedom of expression and information. These provisions are usually in the national data protection act implementing the GDPR, however, in some instances there are also specific provisions in media laws to this effect.

With respect to Article 85(2) GDPR, most Member States provide exemptions/derogations from the rules set out in Chapters II, III, IV, V, VI, VII and IX GDPR. More often than not, no specific balancing or reconciliation test is identified in the national legislation. A detailed account of the exemptions/derogations can be found in Annex 2 - Implementation of Article 85(2) GDPR.

3. IMPLEMENTATION OF SPECIFICATION CLAUSES

3.1 Implementation of Articles 8(1) and 9(4) GDPR

3.1.1 Article 8(1): Conditions applicable to child's consent in relation to information society services

Pursuant to Article 8(1) GDPR, a child must be at least 16 years old for consent to be valid for the processing of his/her personal data in relation to information society services. Member States are given the option to lower that age limit, but not below 13 years. Where the child is below that age, the processing is lawful only to the extent that the holder of parental responsibility has provided the relevant consent or authorisation of the consent.

DE, HR, HU, IE, LU, NL, PL, RO and **SK** have chosen not to make use of the option and therefore the applicable age in those countries is 16 years. By way of contrast, **CZ, EL** and **FR** opted for the age of 15 years, **AT, BG, CY, ES, IT** and **LT** for 14, and **BE, DK, EE, FI, LV, MT, PT** and **SE** for 13.

Chart 1: Member States that made use of the option under Article 8(1), second subparagraph GDPR

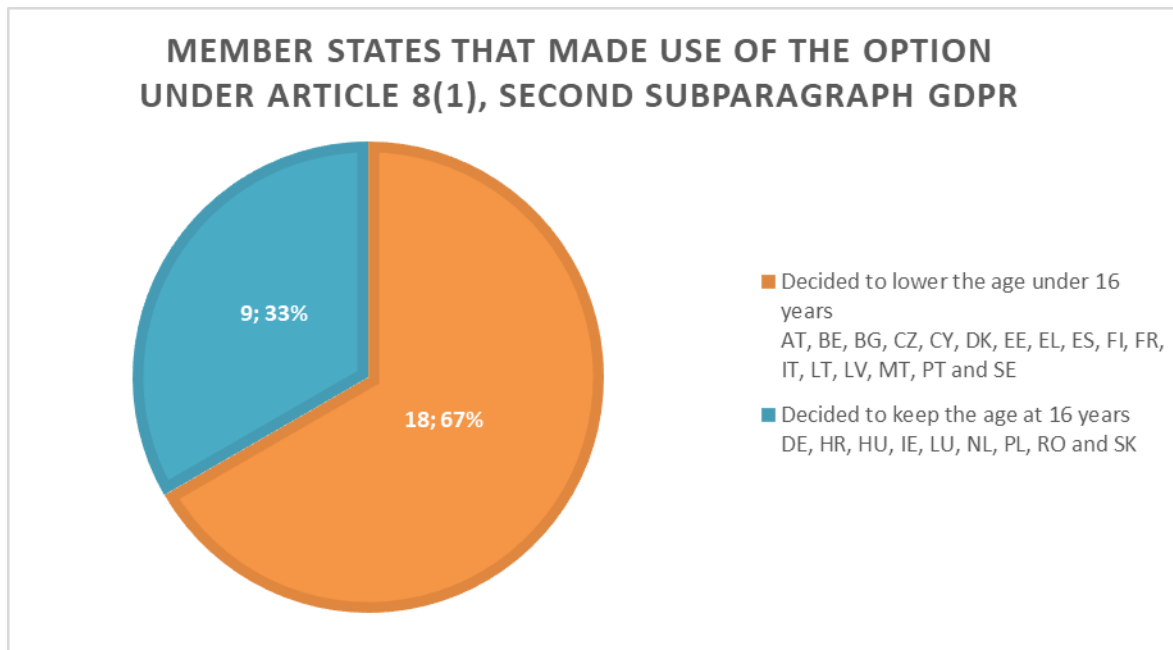


Table 1: Age limits

MS	Age limit of 16 years	Lower age limit
AT		14
BE		13
BG		14
CY		14
CZ		15
DE	16	
DK		13
EE		13
EL		15
ES		14

FI		13
FR		15
HR	16	
HU	16	
IE	16	
IT		14
LT		14
LU	16	
LV		13
MT		13
NL	16	
PL	16	
PT		13
RO	16	
SE		13
SK	16	

3.1.2 Article 9(4): Processing of special categories of personal data

Article 9(4) GDPR allows Member States to maintain or introduce conditions, including limitations, with regard to the processing of genetic data, biometric data or data concerning health.

Most of the Member States (**BE, BG, CY, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT** and **RO**) provide conditions/limitations on the processing of such data, while **AT, CZ, DK, SE** and **SK** do not provide any such specification clause.

With regard to the type of data considered in the national legislations, **BE, BG, DE, EE, FI, FR, HR, HU, IE, LU, LV, MT, NL, PL, PT** and **RO** provide conditions/limitations in relation to genetic data, biometric data and data concerning health. **EL** and **ES** provide conditions/limitations in relation to genetic data and data concerning health, but not biometric data. **CY** law provides conditions/limitations in relation to genetic data and biometric data, but not data concerning health. **LT** law provides conditions/limitations only in relation to data concerning health in the context of biomedical research. **PL** provides conditions for processing biometric data in specific legislation, namely Article 22(1b)(2) of the LABC, Article 59a(6) of the NBP, Article 47a of the PD, Article 6d of the CM and Article 119zn(5) of the TO. **IT** law provides that the national data protection authority may adopt specifications for processing genetic data, biometric data and data concerning health, however the authority has not adopted any measures to this effect thus far.

As regards the types of conditions/limitations in national laws pursuant to Article 9(4) GDPR in the area of **genetic data**, the following have been identified: (i) listing the categories of persons who have access to such data (**BE, EL, ES, HU, LV, NL, PL**); (ii) describing the function of those persons in processing such data (**BE**); (iii) making the list of persons available to the Data Protection Authority (**BE**); (iv) ensuring that those persons are subject to legal, statutory or other similar confidentiality obligations (**BE, DE, ES, PT**); (v) allowing the processing only for specific purposes (**BG, EE, ES, HU, IE, LU, LV, NL, PL, PT, RO**) or excluding the processing for specific purposes (**CY, EL, HR, IE, LU, PT**); (vi) requiring consent for processing to be in writing (**ES, FI, PT**); (vii) requiring separate storage of data (**ES**) or limiting the time period (**LV**); and (viii) requiring processing to be subject to compliance with specifications laid down by the national data protection authority (**FR, IT**) or prior authorisation from the national data protection authority (**FR, MT, PT**), and (ix) requiring anonymisation as a condition for access to data (**PT**).

As regards **biometric data**, the following conditions/limitations under Article 9(4) GDPR have been identified in Member States: (i) listing the categories of persons who have access to such data (**BE, HR, HU, LV, NL, PL**); (ii) describing the function of those persons in processing such data (**BE, LV**); (iii) making the list of those persons available to the Data Protection Authority (**BE**); (iv) ensuring that those persons are subject to legal, statutory or other similar confidentiality obligations (**BE, DE**); (v) allowing the processing only for specific purposes (**EE, HU, HR, IE, LU, NL, PL, PT, RO**) or excluding the processing for specific purposes (**CY, FR**); (vi) requiring consent for processing to be in writing (**FI, PT**); (vii) limiting the storage period (**LU, LV**); (viii) requiring processing to be subject to compliance with specifications laid down by the national data protection authority (**FR, IT**) or to prior authorisation from the national data protection authority (**FR, MT, PT**); and (ix) defining categories of individuals whose biometric data may not be processed (**BG**).

As regards **data concerning health**, the following conditions/limitations under Article 9(4) GDPR have been identified at national level: (i) listing the categories of persons who have access to such data (**BE, BG, EL, ES, HU, LV, NL, PL**); (ii) describing the function of those persons in processing such data (**BE, LV**); (iii) making the list of those persons available to the Data Protection Authority (**BE**); (iv) ensuring that those persons are subject to legal, statutory or other similar confidentiality obligations (**BE, DE, ES, LT, PT**); (v) allowing the processing only for specific purposes (**EE, EL, FR, HR, HU, IE, LU, LV, NL, PL, PT, RO**); (vi) requiring consent for processing to be in writing (**EL, ES, FI, PT**); (vii) requiring separate storage of data (**ES**) or limiting the time period (**LV**); (viii) requiring processing to be subject to compliance with specifications laid down by the national data protection authority (**FR, IT**) or to prior authorisation from the national data protection authority (**FR, MT**); and (ix) requiring anonymisation as a condition for access to data (**PT**). No Member States' legislation contained additional conditions or

limitations with regard to the processing of genetic data, biometric data or data concerning health that could have the impact of restricting or prohibiting the free movement of personal data within the European Union.

In terms of individual countries, in **BE**, pursuant to Article 9 of the Implementing Law, the controller or, where applicable, the processor must designate the categories of persons who have access to personal data, and must describe their capacity with regard to processing. Moreover, they shall make the list of the designated categories of persons available to the competent supervisory authority, upon request. Finally, the controller is required to ensure that the designated persons are bound by a legal obligation or by a contractual provision to respect the confidential nature of the personal data.

In **BG**, under Article 141 of the HA, genetic data may be processed for medical or research purposes provided the tested persons have given informed consent in writing. The data on a person's genome may not be disclosed to employers, health insurance organisations and insurance undertakings. The processing of biometric data of children under the age of 12 years old and persons with physical inability to take fingerprints is banned. Certain persons and entities may process data concerning health, such as medical and healthcare establishments, doctors, regional health inspectors, dentists, pharmacists and other medical specialists and non-medical specialists working in the national healthcare system. The conditions and procedure for processing of medical records are provided under an ordinance of the Minister of Health. The national law also lays down the cases under which health data can be provided to third parties. The national law also bans the processing of data that may lead to identification of donors or recipients of ova or sperm when the donor is a person other than the man or woman who wishes to establish progeny, except in the cases provided for by law. The dissemination of data permitting identification of the donor or recipient is also banned. Specific conditions are set out for the processing of health data for certain purposes of insurance. Processing is authorised for the purpose of establishing the occurrence of an insured event and the damages caused by it, as well as for the purpose of taking out a life insurance contract.

In **CY**, Article 9(1) of Law 125(I)/2018 provides for a blanket prohibition on the processing of genetic and biometric data for purposes of health and life insurance. In addition, a data subject must give his/her separate consent to any further processing of his/her genetic and biometric data where such processing was, in the first instance, based on consent.

In **DE**, at federal level, Section 67b(1) of SGB X provides that the transmission of data is only admissible if a legitimate justification is given pursuant to the national provisions which regulate the transfer of social data to different institutions. Section 29(4) of SG regulates the processing of genetic, biometric or health data for purposes related to the armed forces, including military medical care, definitive identification of soldiers, determining medical and psychological fitness to serve and storing health and personnel files for the armed forces. At regional level, for the processing of biometric, genetic or health data, Länder data protection laws require the consent of the data subject to be given in writing and appropriate safeguards to be implemented for the processing. As regards employers, biometric data of employees may only be processed for authentication purposes if it is contemplated in the employment contract, or if there is an urgent functional need (Section 15(6) BWD SG). Employers may store, modify or use data from medical or psychological tests carried out for determining eligibility where it is necessary for the employment relationship and the initiation of the contract. However, the employer may only obtain the result of the eligibility test and the risk factors identified therein. Documents on medical or psychological tests should not be part of the personnel file, except for the results (Section 26(5) BbgDSG, Section 10(4) MVD SG, Section 12(2) NDSG, Section 18(6), (8) NRWDSG and Section 27(3) ThürDSG).

Concerning civil servants, only the results of medical and psychological tests and examinations may be processed by an automatic procedure within the HR administration to protect these civil servants and if relevant for the eligibility of an individual for a position (Section 83(3) BWLBG, Section 93(3) HBG, Section 95(2) NBG, Section 89(3) NRWBG, Section 118(3) SächsBG, Section 91(3) SABG and Section 85(2) SHBG). As regards prisons, Section 58(2) HessJStVollzG/ HStVollzG provides that for reasons of safety and security of the prison or of identification of the person, the prison staff is permitted to record certain personal data, such as biometrical data, physical characteristics or measures and pictures. With respect to refugees, data and photos can be processed, if necessary, for the authorities' fulfilment of tasks, but it specifically excludes the processing of genetic data (Section 16(1) BWFlüAG). Concerning schools, the results of the school medical examinations are only processed by the school if the consent of the data subject is obtained (Section 57(3) ThürSchulG). Finally, Section 19(5) RLPDSG requires that in case of biometric, genetic or health data and the joint processing of different bodies, the fulfilment of the GDP requirements must be demonstrated before processing can occur.

In **EE**, biometric and genetic data may be processed for forensics and research purposes (Regulation No 91). The data entered into the DNA register shall not be disclosed; however, the processor may disclose such data upon written request and only to the entities mentioned in the law. Fingerprinting data and data from DNA sample analysis of persons shall be stored in the archives of the National Fingerprint Database and the National DNA Database, respectively, for a term of 35 years after archiving of the data in the database. The Tax and Customs authority may process health data and biometric data for taxation and customs purposes, specifically to verify the correctness of the taxes paid, according to sectoral laws (Section 10 of the Tax Administration Act and Section 16 of the Customs Act). Health data may be processed in 'justified cases', but the national law leaves it for the tax authority to determine what is considered as 'justified cases'. The biometric data and/or health data is normally submitted to the Tax or Customs authority, where such authority is carrying out inspections and the data subject wishes to postpone a deadline due to health reasons. The law allows for the processing of health data in the field of insurance. The insurance undertakings may process health data only where the insurance undertaking has the obligation under law to conclude the insurance contract or where the processing is necessary for executing the insurance contract (Section 218(2) of the Insurance Activities Act). Regarding the consular posts, the law provides for processing of biometric data for the purposes of providing consular services (Section 12(3), point 1 of the Consular Act).

In **EL**, Article 23 of Law 4624/2019 prohibits the processing of genetic data for health and life insurance purposes. In addition, in the field of health, the Greek legislature has enacted three limitations. First, the lawful processing of the sensitive personal data in the National Health Registries shall exceptionally be allowed, if the processing is necessary either for purposes of preventive or occupational medicine, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services, even where processing is required under the contract with a health professional or other person who is bound by or supervised by professional secrecy. The data subject's consent must be in writing and not merely explicit. Second, the processing of sensitive personal data within each of the National Health Registries shall not have as a result the processing of personal data for other purposes by third parties, such as employers or insurance companies and banks. Third, the processing of sensitive personal data registered in the Personal Electronic Health Care Record must not have as a result the processing of personal data for other purposes by third parties, such as employers or insurance companies and banks. In this case, the national law states that this prohibition cannot be lifted by the data subject.

In **ES**, access to medical histories for judicial, epidemiologic, public health, research or teaching purposes needs to preserve the identity information of the patient by separating these data from his/her health assistance data, except if the patient has given his/her or her consent to not to separate them (Article 16(3) of Law 41/2002). In order to prevent risks or serious danger to health, the competent health administrations may access the identity data of patients for epidemiological reasons or public health protection; the Administration may access such data only after it has provided due justification, and the only persons who may access the data are health professionals who are subject to professional secrecy or other persons who are subject to an equivalent confidentiality obligation. The transmission of personal data to third parties not involved in the healthcare assistance or biomedical research requires the express consent in writing from the data subject (Article 5 of Law 14/2007). With regard to genetic analyses (Article 48 of Law 14/2007), an express and specific consent in writing from the data subject is required to carry out a genetic analysis. Likewise, an explicit consent in writing from the data subject is required in order to gain access to a genetic screening. The national legislation also sets out (Article 50 of Law 14/2007) limitations to health professionals' access to the patient's medical history and the use of genetic data for epidemiological, research and teaching purposes where an explicit consent from the data subject is required for such processing. Personal genetic data shall be stored for a period of five years and, thereafter, the data subject may ask for their erasure (Article 52 of Law 14/2007).

FI law provides in Article 6 of Data Protection Act 1050/2018 for the processing of special categories of personal data for legal obligations, or insurance, employment, health care, social care, scientific or historical research or for statistical purposes. Research and cultural heritage data, excluding genetic data, may be processed for archiving purposes in the public interest. Data concerning health and genetic information may be processed for anti-doping purposes and in relation to disability sports. Sensitive personal data may be processed only where the controller implements appropriate and specific safeguards for the protection of rights of the subject. The list of detailed safeguards in the law is not exhaustive, it is up to the controller to take appropriate and specific safeguards in a given situation based on the risks related to the processing. Article 5 Data Protection Act 1050/2018 concerning the protection of privacy in employment provides that the written, freely given consent of the employee is required if the data is collected from a source other than the employee. Furthermore, there is an obligation to store the health data separate from other personal data.

In **FR**, under Article 8(1), point 2(c) of the LIL, referring to Article 9(4) of the GDPR, the Data Protection Authority may establish standard regulations to ensure the security of personal data processing systems and to regulate the processing of biometric, genetic and health data. Such standard regulations may prescribe additional technical, organisational and other measures for the processing of biometric, genetic and health data. Furthermore, Article 32 of the LIL provides that any genetic or biometric data processing implemented on behalf of the State in exercising its prerogatives of public authority, which is necessary for the authentication or control of the identity of persons, must be authorised by a decree adopted after consultation with the Council of State and based on the Data Protection Authority's reasoned and published opinion. Processing operations are limited to processing that is strictly necessary to control access to workplaces and to devices and applications used by employees, agents, trainees or service providers in their tasks. Finally, the processing of health-related data for the purposes of research, study or evaluation is permitted only for public research, thereby excluding private research purposes (Articles 44 and 66 of the LIL). Such processing must comply with baseline and standard rules adopted by the Data Protection Authority or otherwise subject to the prior explicit authorisation of the Data Protection Authority (Articles 66 and 67 of the LIL). In addition, in order to issue an authorisation, the Data Protection Authority must seek the opinions of the Competent Committee for the

Protection of Persons and of the Expert Committee for Research, Studies and Evaluations in the field of Health (Article 76 of the LIL).

In **HR**, under Article 20(1) of the AI, genetic data may not be processed for the purposes of concluding or executing life insurance agreements and agreements with endowment clauses, when that data is used to estimate the likelihood of illness and other health aspects of the data subject. As regards biometric data, private bodies may process such data only if this is prescribed by law or where this is necessary for the protection of persons, property, classified information or business secrets or for individual and secure identification of service users, and taking into account that the interests of the data subject which are contrary to the processing of biometric data shall not prevail (Article 22 of the AI). In the field of employment, the national law provides for an obligation to obtain explicit consent of the data subject for processing biometric data for purposes of recording working time and for entering and exiting the premises (Article 23 of the AI). As regards data concerning health, the sharing of data cannot occur without an oral or written statement by the patient about persons who may be informed of his/her admission to the permanent health care institution as well as his/her state of health (Article 25 of the PRA). The patient can also stipulate which persons cannot obtain this information.

In **HU**, the processing of genetic data is only permitted for human genetic examinations and research by legally designated institutions and persons conducting such processing operations (Articles 4 and 5 of the Genvt.). The Genvt. establishes detailed rules on the procedures for exercising the right to information (Article 6 and 7 of the Genvt.) and the right to self-determination (Articles 8 to 11 of the Genvt.) in relation to the processing of genetic data. As regards biometric data, only the National Expert and Research Centre may process biometric data for the purposes of identification at border crossings and for law enforcement (Article 3(3)-(4) of the Anyektv.). The Defence Force and the Military National Security Service may process biometric data for defence and military purposes, e.g. of its personnel (the Honvtv.) The purpose of such processing is compliance with defence and military duties and the investigation of threats and terror-related activities. The national law also regulates the persons who can access such data, the conditions subject to which such data may be forwarded, the retention period (50 years) and the time of deletion (expiry of the retention period and lack of interest in case of a deceased person). Finally, organisers of a sporting event, i.e. matches, may process biometric data for the purposes of issuing club cards (Article 73/B(3) of the Sporttv.). Data concerning health may be processed by healthcare organisations and social security organisations for a broad range of purposes, including the determination of social security services, the operation of official bodies, the improvement and monitoring of the healthcare system and the provision of services, medication and devices, as well as national security interests (Article 4(1)-(2) and Article 5 of the Eüak.). The national law (Eüak.) lays down elaborate rules on such processing, such as providing that recording of data concerning health is considered as part of the medical treatment and regulates those competent to decide which of these data shall be recorded. The law further provides when such data may be disclosed for other purposes such as public health protection, protection from an epidemic or occupational health and safety checks and the processing in the ambit of those purposes.

IE prohibits the processing of genetic data in relation to employment, insurance, life assurance, health insurance, pension arrangements and mortgaging of a property (Section 42(2) of the Disability Act 2005, as updated by Section 202 of the DPA). In addition, there are soft law provisions in the form of a Code of Practice for the Insurance Sector. The Code of Practice has not been updated since the GDPR. The Code stipulates that, in line with the Disability Act 2005, 'an insurer will not request an applicant to have a genetic test. Application or other forms which ask health questions of an individual or his/her doctor must not include any question about genetic tests. Forms which ask health

questions directly of the individual must include a form of words bringing to his/her attention the fact that he/she should not disclose a genetic test result'. Furthermore, Chapter 2 of the DPA lays down justifications allowing for the processing of special categories of data – including data relating to health, genetic data and biometric data – under Article 9(2) GDPR, in particular under Article 9(2)(b), (g), (h), (i), and (j). These justifications are subject to specific safeguards referenced in Sections 36 and 51 of the DPA (pursuant to Section 36(1), such safeguards may include, amongst others, explicit consent of the data subject, limitations on access to the data within a workplace, strict limits for erasure, training, logging mechanisms, pseudonymisation or encryption).

IT Law, namely article 2-septies Legislative Decree 101, provides the Data Protection Authority with the power to adopt specific safeguard measures, at least, every two years for the processing of genetic data, biometric data or data concerning health. Such measures may provide for specifications to the application of the GDPR and must take into account certain criteria which are set by the implementing provision. For instance, with regard to genetic data, such protection measures may require consent from the data subject as a further measure in his/her interest, or other specific requirements, where there is a high level of risk. It is noted that **IT** has not adopted such measures thus far.

In **LT**, Article 5(2) of Law VIII-1679, stipulates that biomedical research may only be carried out by the researchers provided specific conditions are met. Such conditions are: biomedical research has scientific and practical merit; biomedical research cannot be substituted by other research that does not involve human subjects; protection of interests of the subject and confidentiality of his/her health information are ensured; a person's consent to participate in research has been obtained; a person will retain the right to adequate personal health care even if he/she does not consent to participate in the research; comprehensive data of relevant pre-clinical tests is available (applies only to clinical research); the benefits of biomedical research outweigh the risks and inconvenience for the subject concerned; the principal researcher and the sponsor of biomedical research or a health care institution are covered by the third-party insurance for compensation to the subject of the possible damage caused in the course of biomedical research; the documents of the institutions granting the right to conduct biomedical research have been obtained; and there are no prohibitions to carry out the biomedical research in other laws.

In **LU**, the controller may process sensitive personal data, including genetic data, biometric data and/or data concerning health for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes only where certain additional safeguards are in place for the rights of the data subject specifically listed in the law (Articles 64 and 65 of Law 2018). In addition, the processing of genetic data for the purpose of exercising the rights of the controller in the field of labour or insurance law is prohibited. Moreover, the biometric data collected for issuing a resident permit to third country nationals shall be kept in a temporary file and deleted, at the latest, after six months from the issuing of the permit. Finally, a draft law provides that the processing of data concerning health for the creation and use of an electronic individual health record is allowed only upon implementation of measures that ensure a high level of security on the electronic platform and of the previous determination of the procedures for the transmission of data to other Member States of the EU or EEA. **LU** did not adopt these rules at the time of drafting this report.

In **LV**, in the field of human genome research, Articles 10, 11 and 19 of the HGRL set forth a special consent form of the data subject (gene donor), provide for rules on storage of such data, and require that all genetic data must be coded. Such genetic data may only be processed for the purposes of acquiring information that may be utilised for the improvement of the health of the person and the society as a whole. In the field of processing of biometric data, the national law establishes and regulates a unified

biometric data processing system, and defines the categories of data, in which circumstances and who has access to the database, when the data is deleted, etc. In the field of processing of data concerning health, the national legislation establishes and regulates a national information system of data concerning health, defines a limited number of subjects which may have access to data contained in such a data base (the patient himself, medical personnel etc.).

In **MT**, Article 7(a) of the DPA, 2018 requires the controller to consult with and obtain prior authorisation from the Commissioner for Data Protection, where the controller intends to process, in the public interest, genetic data, biometric data or data concerning health for statistical or research purposes. Furthermore, where genetic data, biometric data or data concerning health is required to be processed for research purposes, the Commissioner for Data Protection has to consult a research ethics committee or an institution recognised by the said Commissioner. In addition to the above, pursuant to Regulation 4 of SL 586.10, further conditions apply to the processing of data concerning health for insurance purposes. In this respect, the processing of data concerning health for insurance purposes shall be lawful where: (a) such processing is necessary and proportionate for the purposes of a policy in the business of insurance; (b) the data controller cannot reasonably be expected to obtain the consent of the data subject; and (c) the data controller is not aware that the data subject is withholding consent. Such processing is required to be subject to the suitable and specific measures designed to safeguard the fundamental rights and freedoms of data subjects.

In **NL**, the processing of genetic, biometric or health data may only be conducted to the extent such is necessary for the purposes set out in the law. More precisely, the Code of Criminal Procedure stipulates that the prohibition on processing genetic data does not apply to DNA investigations. The conditions are that such investigations can only be ordered by the Public Prosecutions Officer or the Investigative Judge, and must have the purpose of establishing kinship. Pursuant to the Weapons and Ammunition Act, only the chief of police can allow processing of data concerning health. The Act on Medical Examinations allows for the processing of data on hereditary diseases to be processed when an insurance contract is entered into or amended. The Aliens Act 2000 allows the processing of genetic data, biometrical data, or data concerning health, to the extent such processing is necessary for efficient and effective provision of visa, border control, admittance, residence and deportation of aliens and the supervision of aliens pursuant to the Aliens Act 2000 or the Schengen border code. Such data can only be processed by civil servants appointed by the Minister, or by third persons if such is required by the Aliens Act or the Schengen border code.

In **PL**, Article 22(1b)(2) of the LABC provides that the processing of biometric data is lawful in situations where the provision of such data is necessary due to the control of access to particularly important information, the disclosure of which may expose the employer to detriment or access to premises requiring special protection. Also according to Article 119zn(5) of the TO processing of personal data revealing racial or ethnic origin and biometric data is permitted for the purpose of counteracting the use of the public finance sector to tax fraud. In addition, the purpose of processing is limited to security requirements of Poland's central bank which are related to access control of information and premises. Pursuant to Article 47a of the PD, data processed in the central registry and passport records are permanent and biometric data in the form of fingerprints shall be stored in the central register and passport records until the passport authority has either entered the confirmation of acceptance of the passport document prepared in the passport registry or until the authority enters the reasons for the refusal to issue a passport document in the passport registry. According to Article 6d of the CM, a critical infrastructure operator may request biometric data from the employee in the form of fingerprints, voice, cornea image or web of finger veins, only if the provision of such data

is necessary due to the access control to information on the security of the critical infrastructure object and premises.

In **PT**, Law 12/2005, DL 131/2014, DR 6/2016 and the Data Protection Law 58/2019 provide conditions and limitations on the processing of genetic data, biometric data or data concerning health. Processing of health and genetic data is governed by the need-to-know principle (Article 29(1) of Law 58/2019). Data concerning health may only be used by the health system under the conditions expressed in the written authorisation of the data subject or his/her representative (Article 4(3) of Law 12/2005). Consent of the data subject is also required in the context of genetic data processing in specific cases. Access to health and genetic data shall be made solely by electronic means and the disclosure or subsequent transmission of the data is forbidden (Article 29(3) of Law 58/2019). A duty of secrecy extends to several categories of persons having access to health and genetic data. In cases not covered by the consent of the data subject, data concerning health should only be accessible to third parties if the information is strictly necessary to carry out a direct, personal, legitimate and constitutionally protected interest underlying the access (Article 7(4) of Law 26/2016). The national law also requires health data to be anonymised as a condition for its access in specific cases (e.g. when the data is provided for research purposes, see Article 4(4) of Law 12/2005). More specifically, regarding genetic data, as a rule, the disclosure of genetic data related to the health of a data subject to third parties is prohibited (Article 20(1) of DL 131/2014), subject to exceptions. Genetic information collected for the provision of health care or health research, including epidemiological and population studies, may not be used for a purpose other than that originally consented, unless further consent is specifically provided for that purpose and after authorisation by the Portuguese data protection authority (Article 6(2) of DL 131/2014). Employers may not require their workers to disclose results of genetic testing previously obtained, even if the worker consents to it (Article 13(2) of Law 12/2005). Samples taken for a specific medical or scientific purposes may be processed and used in the context of genetic counselling even without consent of the data subject where information may be relevant to the treatment or prevention of recurrence of a disease in the family, and access to a stored sample is possible for all direct and second degree relatives of the collateral line under specific conditions set out in Article 18(7) of Law 12/2005. As regards biometric data, the processing of workers' biometric data is lawful only for checking attendance and access to the employer facilities (Article 28 Law 58/2019). Under Labour Law, the employer may process biometric data of the worker only after notification to the Portuguese Data Protection Authority and such processing may occur only where it is necessary, appropriate and proportional to the objectives to be achieved.

In **RO**, with regard to the processing of genetic data, biometric data or data concerning health, Article 3 of Law no. 190/2018 stipulates that processing of such data for the purpose of achieving an automated decision-making process or for profiling may occur if it is based on the consent of the data subject or if the processing is carried out under specific legal provisions that provide appropriate safeguards for the rights, freedoms and legitimate interest of the data subject. In addition, processing of data concerning health for the purposes of public health may not be subsequently performed for other purposes by third parties. Pursuant to Article 346⁶ of Law no. 95/2006, two cumulative conditions apply to the processing of health data as part of the electronic health record of the patient: the patient's (data subject's) consent, except for data and information from the "Emergency Summary Module" which are accessible to doctors working in an emergency structure for performing a medical procedure without the patient's consent; and a qualified certificate issued by an accredited provider.

3.2 Implementation of Articles 23(1)(c) and (e) and Article 23(2) GDPR

Pursuant to Article 23(1)(c) and (e) GDPR, the Union and national legislation may restrict the scope of the obligations and rights provided for in Articles 5, 12 to 22 and Article 34 GDPR, where such restrictions respect the fundamental rights and are **necessary** and **proportionate** to safeguard public security and other important objectives of general public Union or national interest. Article 23(2) GDPR stipulates a number of accompanying conditions and safeguards, namely the purposes of the processing or categories of processing; the categories of personal data; the scope of the restrictions introduced; the safeguards to prevent abuse or unlawful access or transfer; the specification of the controller or categories of controllers; the storage periods and the applicable safeguards taking into account the nature, scope and purposes of the processing or categories of processing; the risks to the rights and freedoms of data subjects; and the right of data subjects to be informed about the restriction, unless that may be prejudicial to the purpose of the restriction.

Irrespective of the areas of public interest assessed below under Article 23(1)(c) and (e) GDPR (i.e. public security, public administration, public health, taxation and migration), restrictions are also provided for in the following areas of public interest under Article 23(1) GDPR.

BE, CZ, MT and **SE** enacted restrictions in relation to social security. In **BE**, pursuant to the amended law of 15 January 1990 concerning the establishment and organisation of a Crossroads Bank for Social Security, the social security institutions shall communicate corrections and deletions of personal social data only to the person to whom the data relate, restricting therefore the application of Article 19 GDPR. The restriction applies automatically if the legal conditions provided in Belgian law are met. In **CZ**, the national legislation provides for derogations in the area of organisation of the social security and in area of supplementary retirement savings.

In **MT**, according to Regulation 4 of SL 586.09, any restrictions to the rights of the data subject referred to in Article 23 GDPR shall only apply where such restrictions are a necessary measure required for the safeguarding and maintaining of national security, public security, defence and international relations (Regulation 4(a) of SL 586.09); the prevention, detection, investigation and prosecution of criminal offences and the execution of criminal penalties (Regulation 4(b) of SL 586.09); the administration of any tax, duty, fines, fees or other money due or owing to the State (Regulation 4(c) of SL 586.09); the administration of social security benefits in accordance with the Social Security Act (Regulation 4(d) of SL 586.09); legal claims and legal proceedings which may be instituted under any law (Regulation 4(e) of SL 586.09); the performance of the functions of the Information and Data Protection Commissioner (Regulation 4(f) of SL 586.09); the delivery of professional services in relation to the carrying out of social work or social assistance (Regulation 4(g) of SL 586.09); health data that is processed (Regulation 4(h) of SL 586.09); and matters relating to Maltese citizenship (Regulation 4(i) of SL 586.09). Article 5 of the Data Protection Act provides for the possibility to provide restrictions by regulations pursuant to Article 23 GDPR. In **SE**, pursuant to the social security legislation, Article 21(1) GDPR does not apply to processing that is permitted under said national legislation. The relevant exception is automatic.

In several Member States, including **BG, CY, DK, IE** and **NL**, the national legislation contains provisions of a general nature which refer to the scope of Article 23(1) in its entirety and by extension introduce restrictions for all purposes listed thereunder, including national security, defence, etc.

LV restricts the rights referred to in Article 15 GDPR (access rights of the data subject) for the purpose of ensuring public financial interests in the area of supervision of financial market participants, functioning of the guarantee systems and resolution and macroeconomic analyses.

In **FR**, the national data protection legislation provides for the possibility to impose restrictions in forthcoming legislative measures. Restrictions pursuant to Article 23(1)(c) and (e) of the GDPR are mostly set forth in sectoral laws. In **IE**, Sections 60(1) and (3) of the DPA set out directly applicable restrictions, while sections 60(5) and (6) lay down forward-looking provisions for the introduction of restrictions in future regulations.

3.2.1 Restrictions based on Article 23(1) point (c): Public security

AT, BE, BG, CZ, DE, DK, EE, EL, ES, FI, FR, IE, LU, LV, MT, NL, PL and **PT** provide restrictions for the purposes of public security, while **HR, HU, LT, RO, SE** and **SK** do not. **CY** law refers, without any specification, to the objectives under Article 23(1) GDPR. **IE** law (Section 60(7) DPA) refers to 'preventing threats to public security and public safety' as an important objective of general public interest which may justify the introduction of restrictions to the rights laid down in Articles 5, 12 to 22 and 34 GDPR in future regulations; however, no such measures have been identified.

More precisely, **AT** and **LU** allow for the restriction of Article 15 GDPR; **BE** of Articles 5, 12 to 22 and 34 GDPR; **BG** of Articles 12 to 22 and 34 GDPR; **DE**, at federal level, of Articles 13(3), 14 and 15 GDPR, and, at regional level, of Articles 13 to 15 and 34 GDPR; **DK** of Articles 13 to 15 and 34 GDPR; **CZ** and **EE** of Articles 5, 12 to 22 and 34 GDPR; **EL, FI** and **PL** of Articles 13 to 15 GDPR; **ES** of Articles 13, 15, 16 and 17 GDPR; **FR** of Articles 14 to 17 GDPR; **IT** of Articles 15 to 22 GDPR; **LV** of Articles 13 and 15 to 18 GDPR; **MT** of Articles 5, 12 to 22 and 34 GDPR; **NL** of Articles 12 to 21 and 34 GDPR; and **PT** of Articles 15 and 17 GDPR.

As regards the types of processing in relation to which the restrictions apply, for the majority of Member States there is a general reference without specification to the exercise of official authority (**AT**), to a 'public task' (**PL**) or to 'public security' (**BG, CZ, DE, DK, EE, EL, ES, FI, FR, IE, LV, MT, NL, PT**). In **BE**, the restrictions mainly concern the processing of personal data directly or indirectly originating from the intelligence and security services or from authorities, individuals exercising police functions, judicial authorities, civil servants, public service agents, the Coordination Unit for Threat Analysis and its supporting services; and the processing of personal data relating to the investigation and prosecution of crimes according to the Belgian Code of Criminal Procedures, or to prevent nuisances to public security. **CZ** provides derogations for the purposes of cyber security to the National Office for Cyber and Information Security and the operator of the national CERT. Other restrictions concern: in **BG**, disasters, protection of national security and public order, and counteraction of crime; in **EE**, examination of identity documents; in **FR**, administrative investigations under the Code of Homeland Security; in **IT, LU** and **LV**, money laundering; in **PT**, the use of video cameras and video surveillance systems in taxis; and finally in **IT**, the protection of the victims of racketeering, the activity of the inquiry Parliamentary committees, the investigative activity or the exercise of a right in Court and the need to protect the identity of the employee who makes a complaint in the context of an employment relationship.

In **AT, BE, CZ, DE, EE, EL, ES, FR, IT, LU, LV, MT, PL** and **PT**, the applicable restrictions apply only where certain conditions are met. **NL** gives the controller the possibility to restrict the said data subject rights. **BG** requires specific laws for the establishment of conditions and procedures. In **FI**, the restriction of Articles 13 and 14 GDPR may be applied, while that of Article 15 GDPR is automatic.

In **AT, BE, BG, CZ, DE** there is no proportionality and necessity test required by the data protection act. In **FR, IT, LU, LV, MT, PL** and **PT** the proportionality and necessity test is established in the law. In **DK, EE, ES, EL, FI** and **NL** the proportionality and necessity test is left to the data controller.

As regards the conditions and safeguards under Article 23(2) GDPR, the national legislation in **AT, CZ, DE, DK, EE, FI**, and **PL** lacks the relevant implementing provisions.

BG requires specific laws for the establishment of conditions and procedures. By way of contrast, **MT** and **NL** reflect all elements of Article 23(2) GDPR without any further specification. **BE** implements Article 23(2)(a), (b), (c) and (d) GDPR; **EL** Article 23(2)(h) GDPR; **ES** Article 23(2)(a), (d) and (e) GDPR; **FR** Article 23(2)(a), (b), (d), (e) and (f) GDPR; **IT** Article 23(2)(a), (c), and (h) GDPR; **LU** Article 23(2)(a), (c), (e), (f) and (h) GDPR; **LV** Article 23(2)(a) and (f) GDPR; and **PT** Article 23(2)(a) to (d) and (f) GDPR.

BE could be mentioned as an example to illustrate the manner in which a Member State introduces restrictions under Article 23(1)(c) GDPR for the purposes of public security. Pursuant to Article 11(1) Implementing Law, Articles 12 to 22 and 34 GDPR, as well as the principle of transparency of the processing referred to in Article 5, do not apply to the processing of personal data directly or indirectly originating from the intelligence and security services or from authorities, individuals exercising police functions, judicial authorities, civil servants, public service agents, the Coordination Unit for Threat Analysis and its supporting services. The controller who is in possession of such data shall not disclose them to the data subject concerned unless it is compelled to do so by law in the context of a litigation procedure, or the authority referred to authorises it to do so. Article 11(4) Implementing law requires that the controller takes appropriate technical or organisational measures to ensure that access to the data and the processing operations are limited to that necessary for the performance of duties or for operational requirements, and to protect the personal data against accidental or unauthorised destruction, against accidental loss, alteration or against any other form of unauthorised processing of the personal data concerned. In accordance with Article 23(2) GDPR, Article 11 Implementing Law provides specific provisions as regards the purposes of the processing, the categories of personal data, the scope of the restrictions as well as safeguards to prevent abuses. Article 12 Implementing Law provides that the data controller disclosing personal data to the Armed Forces and the Coordination Unit for Threat Analysis and its support services is not subject to Articles 14(1)(e) and 15(1)(c) GDPR and is prohibited to inform the concerned individual that such data is being transmitted.

EL provides another fitting example. The Greek law provides restrictions on the rights of information (Articles 31(1)(b); 31(1)(c); 31(1)(e); 32(1)(a)(aa) and (bb); and 32(1)(b)(bb) of Law 4624/2019 as regards Article 13 and 14 GDPR) and the right of access by the data subject (Article 33(1)(a) of Law 4624/2019 as regards Article 15 GDPR). Therefore, the data subject does not have the right of information (Article 13 GDPR) when the provision of further processing information endangers the national or public security. The data subject does not have the right of information (Article 14 GDPR) when the provision of information, in the case of public bodies, endangers the performance of the task of the controller within the meaning of Article 23(1)(a) to (e) GDPR (including public security). The data subject does not have the right of information (Article 14 GDPR) when the provision of information, in the case of public bodies, endangers national security or public security. The data subject does not have the right of access (Article 15 GDPR) when, in the case of private entities, the data subject had not been informed, because the competent public authority has indicated to the controller that disclosure of data would endanger national defence, national security and public security. The Greek legislature has not enacted any specific provisions addressing the issues of Article 23(2) GDPR, except as regards the right of data subjects to be informed about the restriction.

3.2.2 Restrictions based on Article 23(1), point (e): Public Administration, Public Health, Taxation and Migration

Public administration

AT, BG, CZ, DE, DK, EE, EL, FI, IE, LV, NL, PL and **SE** provide restrictions for the purposes of public administration, whereas **BE, ES, FR, HR, HU, IT, LT, LU, MT, PT, RO**

and **SK** do not. **CY** law refers, without any specification, to the objectives under Article 23(1) GDPR.

In **ES**, national law (Article 4(1) of Law 40/2015) refers to the possibility for public administrations to restrict individuals' rights, which does not appear to have been enacted. In **FR**, Article 48(5) of the LIL provides for the possibility to provide by law for the restriction of the right to information (Articles 12 to 14) where processing is implemented by the public administrations, which has not been enacted yet.

More precisely, **AT** and **LV** allow for restriction of Article 15 GDPR; **BG** of Articles 12 to 22 and 34 GDPR; **CZ** of Articles 5, 13 to 19, 21, 22 and 34 GDPR; **DE**, at federal level, of Articles 13, to 15 and 21 GDPR, and, at regional level, Articles 13(3) and (4), 15 and 21 GDPR; **DK** of Articles 13 to 15 and 34 GDPR; **EE** and **IE** of Articles 5, 12 to 22 and 34 GDPR; **EL**, **SE** and **PL** of Articles 13 to 15 GDPR; **FI**, in sectoral law, of Article 18 GDPR; **NL** of Articles 15, 16, 18, 19 and 21 GDPR in relation to public registers.

As regards the types of processing for which the restrictions are provided for, there is a reference to the exercise of official authority (**AT**) or general public interest (**BG**, **DE**, **DK**), or public administration (**IE**, **LV**, **SE**) or public tasks (**PL**). Some of the restrictions under **SE** law are also applicable to private entities. Specific laws concern: access to public files (**DK**); public registers and land registry (**NL**); access to public buildings and National Audit Office (**EE**); population register systems or the systems related to the functions of the certifier of the Population information Centre (**FI**); discussions of the Council of Ministers or investigation of judicial, 'administrative' police or military authorities in connection with the commission of a crime or administrative infringement (**EL**); personal data kept by the Data Protection Commission for the performance of its functions, by the Information Commissioner for the performance of his functions, or by the Controller and Auditor General for the performance of his functions (**IE**); and processing of personal data by the Czech National Bank in the area of financial stability care and supervision in the financial market, as regards the protection and security of the Bank's monetary operations, the administration of building savings, the administration of capital market undertakings and processing of personal data by the Financial Analytical Office in relation to measures against legitimisation of the proceeds of crime and the financing of terrorism (**CZ**).

In **AT**, **CZ**, **DE**, **EL**, **EE**, **IE**, **LV** and **PL**, the applicable restrictions apply only where certain conditions are met. **BG** requires specific laws for the establishment of conditions and procedures. By way of contrast, in **FI**, **NL** and **SE** the restrictions are automatic.

In **AT**, **BG**, **CZ**, **DE**, **EE**, **IE** (Section 60(3)(c) DPA) and **SE** no proportionality and necessity test is required by the data protection act. In **FI** and **PL** the proportionality and necessity test is established in the law. In **DK**, **EL**, **IE** (Section 60(3)(a) DPA) and **LV** the proportionality and necessity test is left to the data controller.

As regards the conditions and safeguards under Article 23(2) GDPR, the national legislation in **AT**, **BG**, **CZ**, **DE**, **DK**, **EE**, **FI**, **IE**, **LV**, **PL** and **SE** lacks the relevant implementing provisions. By way of contrast, **EL** implements Article 23(2)(e) and (f) GDPR. **BG** requires specific laws for the establishment of conditions and procedures. In **IE**, Section 60(4) of the DPA provides that the Minister may prescribe requirements to be complied with when the rights and obligations are restricted in accordance with Section 60(1)(3) of the DPA.

NL provides under Article 47 GDPR Implementation Act that data subject's rights at Articles 15, 16, 18, 19 GDPR do not apply to public registers established by law where, pursuant to that law, a special procedure which regulates the rectification, addition, erasure or data restriction exists. Also, Article 21 GDPR does not apply to public registers established by law, without requiring a special procedure. Dutch legislation provides a list of public registers from which the application of the above rights is exempt, such as the Land Registry Act, which contains a specific procedure for the access to and foreclosure of data. With respect to the conditions and safeguards of Article 23(2) GDPR in national

law, the main implementing measure seems to provide the purpose of the processing (Article 23(2)(a) GDPR). As regards the categories of personal data (Article 23(2)(b) DGPR) and the scope of the restrictions (Article 23(2)(c) of the DGPR), the restrictions stipulated in the main implementing measure apply to all personal data contained by public registers established by law. As regards prevention of abuse or unlawful access or transfer (Article 23(2)(d) GDPR), specification of the controller or categories of controllers (Article 23(2)(e) of the DGPR), and the risks to the rights and freedoms of data subjects Article 23(2)(g) of the DGPR), some laws provide for such safeguards, while others do not. Dutch law did not implement the safeguards associated with storage periods (Article 23(2)(f) of the DGPR) and the right of data subjects to be informed about the restriction (Article 23(2)(h) of the DGPR).

Public health

AT, BE, BG, CZ, DK, EL and **NL** provide restrictions for the purposes of public health, whereas **EE, ES, FI, FR, HR, HU, IT, LT, LU, LV, MT, PT, RO, SE** and **SK** do not; however, it is noted that **FI** restricts Article 15, where the information may present a serious danger to the health or care of the data subject. **DE** and **PL** laws refer generally to 'public tasks' or 'public interest'. **CY** law refers, without any specification, to the objectives under Article 23(1) GDPR. **IE** law (Section 60(7) DPA) refers to the protection of health as an important objective of general public interest which may justify the introduction of restrictions to the rights laid down in Articles 5, 12 to 22 and 34 GDPR in future regulations; no such measures have been identified.

More precisely, **AT** allows in sectoral law for restriction of Article 15 GDPR; **BE** of Articles 13 to 16 and 18 GDPR; **BG** of Articles 12 to 22 and 34 GDPR; **CZ** of Articles 16, 18(1)(a) and (d) and 21 GDPR; **DE**, at federal level, of Articles 13 to 15 and 21 GDPR, and, at regional level, Articles 13(3) and (4), 15 and 21 GDPR; **DK** of Articles 13 to 15 and 34 GDPR; **EL** of Articles 13 and 14 GDPR; **NL** of Articles 12 to 21 and 34 and, in sectoral law, of Article 17, which in fact specifies Article 17(3)(b) and (c) GDPR; and **PL** of Articles 13 to 15 GDPR.

As regards the types of processing for which the restrictions apply, there is a general reference to public health (**AT, BG, BE, DK, EL**) or general public interest (**DE**) or public tasks (**PL**). Processing related to the security of food chain (**BE**), medical files (**NL**) and public health insurance and public sickness insurance (**CZ**) is also contemplated.

In **AT, CZ** and **DE**, a proportionality and necessity test is not required by the law. In **EL**, and **PL**, the proportionality and necessity test is established under law. In **BE** and **DK**, the proportionality and necessity test is left to the data controller.

As regards the conditions and safeguards under Article 23(2) GDPR, the national legislation in **AT, CZ, DE, DK**, and **PL** lacks the relevant implementing provisions. **EL** applies only Article 23(2)(h) GDPR. **BG** requires specific laws for the establishment of conditions and procedures.

DE provides an example of the manner in which a Member State implements Article 23(1)(e) GDPR for the purposes of public health. The federal law (Sections 32(1), 33(1), 34(1) and 36 BDSG) restricts Articles 13, 14, 15 and 21 GDPR for objectives of general public interest, including public health. For example, section 33(1) BDSG limits, in addition to Article 13(3) GDPR, the information requirement if the information would jeopardise the proper performance of tasks of public bodies pursuant to, *inter alia*, Article 23(1)(e) GDPR, or if the provided information would endanger a confidential data transmission to public bodies. Section 33(1) BDSG restricts the information obligations under Article 14 GDPR, if the provision of information would jeopardise the performance of public tasks within the meaning of, *inter alia*, Article 23(1)(e) GDPR. **DE** does not appear to have implemented the conditions and safeguards under 23(2) GDPR.

Taxation

BE, BG, DE, DK, CZ, EE, EL, ES, FI, FR, IE, LV, NL, and SE provide restrictions for the purposes of taxation, whereas **AT, HR, HU, IT, LT, LU, MT, PT, RO** and **SK** do not provide restrictions specifically for these purposes. **DE** and **PL** laws refer generally to 'public tasks' or 'public interest'. **CY** law refers, without any specification, to the objectives under Article 23(1) GDPR. In **FR**, Article 48(5) of the LIL provides for the possibility to enact restrictions or limitations of the right to information (Articles 12 to 14) where processing is implemented by the public administrations for the purposes of controlling or recovering taxes. Article 52(1) and (3) of the LIL also provides for the possibility to enact laws restricting the rights of access, rectification and erasure (Articles 15, to 17) with respect to public administrations and private persons entrusted with a public service mandate whose task is to control or recover taxes, as well as for processing carried out by the financial courts in the performance of their non-judicial tasks. **FR** does not appear to have enacted restrictions based on these provisions thus far; on the other hand, Order of 19 May 2016 provides restrictions for taxation purposes (analysed further below).

BE provides for a restriction of Articles 13 to 16 and 18 GDPR; **CZ** of Articles 16, 18(1)(a) and (d) and 21 GDPR; **DE**, at federal level, of Articles 13, to 15 and 21 GDPR, and, at regional level, Articles 13(3) and (4), 15 and 21 GDPR; **DK** of Articles 13 to 15 and 34 GDPR; **EE** of Articles 12 to 22 and 34 GDPR; **EL** of Articles 13 to 15 GDPR; **ES** of Articles 13 and 15 to 17 GDPR; **FI** of Articles 13, 14 and 15 GDPR; **FR** in sectoral law of Article 21 GDPR; **IE** of Articles 5, 12 to 22 and 34 GDPR; **LV** of Article 15 GDPR; **NL** of Articles 12 to 21 and 34, and in the Tax Act, of Articles 15 and 18 GDPR; **PL** of Articles 13 to 15 GDPR; and **SE** of Articles 13 to 19 and 21(1) GDPR.

As regards the types of processing to which restrictions apply, national legislations refer to taxation (**BG, CZ, DK, EE, EL, ES, FI, IE, LV, NL, SE**), general public interest (**DE**) or public tasks (**PL**). More specific types concern the budgetary, monetary and fiscal objectives (**BE**) and automated tax data transfer procedures (**FR**).

Further, in **BE, DE, EE, EL, ES, IE, LV, NL** and **PL**, the applicable restrictions apply only where certain conditions are met. **BG** requires specific laws for the establishment of conditions and procedures. By way of contrast, in **CZ, FR** and **SE** the restrictions are automatic. In **FI**, the restriction of Articles 13 and 14 GDPR may be applied, while that of Article 15 GDPR is automatic.

The data protection acts in **BG, CZ, DE, FR, LV** and **SE** does not provide for the proportionality and necessity test. In **PL**, the applicable restrictions apply only where certain conditions are met. In **BE, DK, EE, EL, ES, FI, IE** and **NL**, the proportionality and necessity test is left to the data controller.

As regards the conditions and safeguards under Article 23(2) GDPR, the national legislation in **CZ, DE, DK, FI, IE, LV** and **PL** lacks the relevant implementing provisions. **BE** specifies Article 23(2)(a) and (h) GDPR; **EE** specifies Article 23(2)(e) and (f) partially (i.e. only the retention period) GDPR; **EL** applies only Article 23(2)(e) and (f) GDPR; **ES** Article 23(2)(a), (d), and (e) GDPR; **FR** Article 23(1)(a), (b), (e), and (f) GDPR; **NL** Article 23(2)(a), (b) and (c) GDPR; and **SE** Article 23(2)(a), (b), (c), (d), (e), (f), (g), (i) and (j) GDPR. **BG** requires specific laws for the establishment of conditions and procedures. In **IE**, section 60(4) of the DPA provides that the Minister may prescribe requirements to be complied with when the rights and obligations are restricted in accordance with Section 60(1)(3).

SE provides an example of the manner in which a Member State implements Article 23(1)(e) GDPR for the purposes of taxation. The national legislation on tax, customs and enforcement states that Article 21(1) GDPR on the right to object for the data subject, does not apply to such processing that is permitted under that legislation. It appears that the exception is automatic once the applicable conditions are met. The purpose of the restriction is to ensure that the Swedish Tax Agency, the Swedish Customs and the Swedish Enforcement Agency can carry out their mission efficiently. The national

legislation contains several requirements of Article 23(2) GDPR in relation to the restriction under consideration. Thus, as regards the requirements of Article 23(2), points (a) and (b) GDPR, the purposes of the processing and the categories of personal data are defined in specific provisions of the national legislation depending on the subject matter (e.g. in the area of the Swedish Tax Agency's marriage register and activities for estate inventory, for the restriction provided in Article 10 Act 2018:232, the categories of the processing are defined in Article 2 Act 2015:898). In relation to Article 23(2), point (c) GDPR, Acts No 2018:228-233 state that the restriction only applies to such processing that is permitted under the Act or regulations that have been notified in connection with the Act. Safeguards reflecting those of Article 23(2), point (d) GDPR can be found in various legislative acts depending on the subject matter (e.g. pursuant to Chapter 2, Article 9 Act 2001:185 on the processing of data in the Customs Administration's activities, only name, national identification number and information about the registration of public documents may be used as search terms; personal data relating to criminal convictions and offences may not be used as search terms). Along the same lines, in relation to Article 23(2), points (e) and (f) GDPR, the controllers and storage periods are specified in specific provisions of the national legislation depending on the subject matter (see e.g. Article 5 Act 2015:898 and Chapter 1, Article 8 Act 2001:181). Finally, safeguards reflecting Article 23(2), point (h) GDPR have not been identified in the national legislation.

Migration

Only a minority of the Member States provide for restrictions for the purposes of migration, namely **AT, BG, DK, EE, FR, and SE** whereas **BE, CZ, ES, FI, HR, HU, IT, LT, LU, LV, MT, NL, PT, RO and SK** do not. **DE** and **PL** laws refer generally to 'public tasks' or 'public interest', while **EL** law provides general restrictions for ensuring the proper performance of the tasks of a public body, without specifying this for migration. **CY** law refers, without any specification, to the objectives under Article 23(1) GDPR. **IE** law (Section 60(7) DPA) refers to the immigration system as an important objective of general public interest which may justify the introduction of restrictions to the rights laid down in Articles 5, 12 to 22 and 34 GDPR in future regulations; no such measures have been identified.

More precisely, **AT** sectoral law allows for restriction of Articles 15, 18 and 21 GDPR; **DE**, at federal level, of Articles 13, 15 and 21 GDPR, and, at regional level, Articles 13(3) and (4), 15 and 21 GDPR; **DK** of Articles 13 to 15 and 34 GDPR; **EE** of Articles 15-21 and 34 GDPR; **EL** of Articles 13 and 14 GDPR; **FR** sectoral law of Article 21 GDPR; **PL** of Articles 13 to 15 GDPR; and **SE** of Article 21(1) and Article 34 GDPR.

As regards the types of processing to which restrictions apply, there is a general reference to migration (**AT, EE, SE**) or general public interest (**BG, DE, DK**) or public tasks (**PL**) or tasks of a public body (**EL**). More specific types concern the management of the files of third country nationals (**FR**).

In **DE, EE, EL** and **PL**, the applicable restrictions apply only where certain conditions are met. **BG** requires specific laws for the establishment of conditions and procedures.

In **BG, DE, FR** and **SE**, a proportionality and necessity test is not required by the law. In **AT**, and **PL**, the proportionality and necessity test is established in the law. In **DK, EE** and **EL** the proportionality and necessity test is left to the data controller.

As regards the safeguards under Article 23(2) GDPR, the national legislation in **AT, DE, DK, EL** and **PL** lacks the relevant implementing provisions. **EE** only specifies Article 23(2)(e) and (f) partially (i.e. only the retention period) GDPR; **FR** specifies Article 23(2)(a), (b), (d), (e) and (f); and **SE** Article 23(2)(a) to (g) GDPR. **BG** requires specific laws for the establishment of conditions and procedures.

EE provides a fitting example of the manner in which a Member State implements Article 23(1)(e) GDPR for the purposes of migration. The national legislation on migration

provides restrictions to Articles 15-21 and 34 GDPR. Section 131(4) of AGIPA allows for restrictions to be imposed on the right of a data subject to receive information and access to personal data collected about him/her. These restrictions may be applied where the disclosure of information could damage the rights and freedoms of another person or endanger the security of Estonia, an EU Member State or NATO Member States. According to Section 131(5) of AGIPA the person is excluded from knowing what type of personal data is collected about him, from which sources, the legal bases for collection, the extent of processing of personal data or the reasons for processing of personal data. The AGIPA establishes the retention periods as well as identifies the controller, but does not include other elements set out in Article 23(2) of the GDPR.

3.3 Provisions relating to specific processing situations pursuant to Article 85 GDPR

Article 85 GDPR requires Member States to reconcile by law the right to the protection of personal data with the right to freedom of expression and information. In particular, for processing carried out for journalistic purposes or the purpose of academic, artistic or literary expression, Member States shall provide for exemptions or derogations from Chapters II to VII and IX, if they are necessary to reconcile the right to the protection of personal data with the freedom of expression and information. The Commission must be notified of any exemptions or derogation from the aforementioned Chapters².

3.3.1 Article 85(1): Reconciliation of the right to the protection of personal data with the right to freedom of expression and information

Overall, the majority of the Member States (**AT, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, MT, NL, PL, PT, RO, SE** and **SK**) provide general provisions for reconciling the right to the protection of personal data with the right to freedom of expression and information, whereas only **BE, HR, LU** and **LV** do not provide for such general provisions. However, it must be noted that **BE** and **LU** have implemented specific derogations pursuant to Article 85(2) GDPR in the national data protection law implementing the GDPR. In **LV**, a High Court decision provides guidance on the balancing mechanism between the right to personal data protection and the right to freedom of expression (as detailed further below). As regards **DE**, the assessment is based on the overview of the relevant provisions at regional level in the Länder data protection and media laws; there are no relevant provisions in the BDSG due to the absence of legislative competence on the federal level. In **BG, CZ, DK, EE, EL, ES, FI, IE, IT, LT, MT, NL, PT, RO** and **SE**, the relationship between the right to protection of personal data and the right to freedom of expression and information has been addressed through general law, which is normally the national data protection act implementing the GDPR; in **AT, CY, PL** and **SK** through general law and laws regulating the media; in **HU** partly through the Constitution (Articles VI(3), IX(2) and X(1) of the Alaptv.) and partly through the general law implementing the GDPR (Chapter III of the Infotv.); and in **FR** through the Civil Code, the Criminal Code and the Freedom of the Press Law.

AT provides an example through which a Member State implements Article 85 GDPR. The national law provides several exemptions and derogations from the right to the protection of personal data in relation to Article 85 GDPR. These are set out in Article 9 DSG and the preamble and Article 7a of the Media Law. Article 9(1) DSG provides for a blanket exclusion of the application of Chapters II, III, IV, V, VI, VII and IX GDPR in

² Notifications from the Member States are published at: https://ec.europa.eu/info/law/law-topic/data-protection/data-protection-eu/eu-countries-gdpr-specific-notifications_en

relation to the processing of personal data for journalistic purposes by media owners, publishers, media staff and employees of a media company within the meaning of the media law. That provision further stipulates that in relation to the processing of personal data by media owners, publishers, media staff and employees of a media company or service, the data protection authority must observe the protection of editorial secrecy. There are no indications that such a measure must be the least restrictive possible nor does the law require a balancing act of the right to the protection of personal data with freedom of expression and information. The preamble to the Media Law sets out that the Media Law itself is intended to safeguard the right to freedom of expression and information, guaranteeing complete freedom of media. Restrictions are subject to the conditions specified in Article 10(2) of the ECHR. Article 7a of the Media Law provides a right to compensation for persons covered in media publications where such persons warranted protection due to them being: victims of an offence punishable by the courts; persons suspected of having committed an offence punishable by the courts; or witnesses in a parliamentary investigation. If the media breached their right to the protection of personal data and such breach is not outweighed by an overriding public interest in the publication of such information, the person affected may claim compensation up to EUR 20 000 from the media owner for the harm suffered. Section 9(2) DSG provides, in relation to the processing of personal data for academic, artistic or literary purposes, exemptions from Chapters III, V, VI, VII, IX and most of the provisions of Chapters II and IV GDPR, to the extent necessary for reconciliation.

CY provides another example. The national law provides a number of exemptions and derogations from the right to the protection of personal data. These exemptions and derogations are contemplated in the main implementing act, i.e. Law 125(I)/2018, as well as in the national provisions regulating the media. Firstly, Article 29(1) Law 125(I)/2018 seeks to reconcile the right to the protection of personal data with the right to freedom of expression and information by generally permitting the processing of personal data, special categories of personal data and personal data relating to criminal convictions and offences, for journalistic or academic purposes or for purposes of artistic or literary expression. That is so provided that the curtailing of the right to personal data protection is proportionate to the aim pursued and fundamental human rights and freedoms are respected. Article 29(2) of that law sets out that Articles 14 and 15 GDPR shall apply to the extent that they do not impair the right to freedom of expression and information, and journalistic secrecy. In addition, a degree of balancing between the right to personal data protection and the right to freedom of expression for journalistic purposes is also present in media provisions, which place certain restrictions on the media in revealing the identity of private individuals in order to protect the right to privacy and human dignity. More precisely, Article 26(1) Radio and Television Broadcasters Law of 1998 requires, *inter alia*, that the broadcasts of each licensed television or radio broadcaster be governed by the principle of respect to the personality, reputation and private life of the individual and to the ideals of democracy and human rights. Moreover, the binding regulations issued by the Cyprus Radio Television Authority contain further provisions restricting broadcasting where this would violate a person's private life. In particular, the said regulations prohibit: (i) the secret filming, recording and photography of individuals, whether in private or public places, and the broadcasting of the relevant material, without such persons' consent, except where public interest mandates otherwise; (ii) the disclosure of the identity of minors involved in police investigations or legal proceedings; and (iii) the disclosure of the identity of persons participating in live tv shows by phone, without their prior consent. Binding regulations issued by the Cyprus Radio Television Authority prohibit the disclosure of the identity of minors involved in police investigations or legal proceedings.

DE, at federal level, does not provide specific provisions implementing Article 85(1) GDPR. However, in the context of the implementation of the GDPR, the existing laws, such as the KUG (Act on Copyright for Work of Art), are arguably considered to implement the GDPR. At regional level, the data protection acts of the Länder contain

specific provisions in relation to the processing for journalistic, artistic or literary purposes. It has to be noted that there are different laws for different parts of the media. On the one hand, there is the Broadcasting State Treaty (RStV), to which all Länder are parties, which is the legal framework for public and private broadcasting as well as 'telemedia'. Additionally, there are laws and treaties for each public broadcaster, as well as regional laws and treaties for private broadcasters which are partly applicable to providers of 'telemedia', and there are laws of the Länder on the press.

For journalistic purposes, the RStV stipulates in Section 9c(3) and 57(3) RStV that a data subject has the right to request information, when personal rights have been violated through reporting. This right can be derogated from, if and to the extent providing the information would allow for the data subject to identify informants or persons involved in the preparation, production or distribution of broadcasts or the journalistic task and independence would be jeopardised in any other way through the exercise of the right. Further, it clarifies that the rights of both sides have to be balanced with each other. A similar provision is included, for example, in Sections 54(2) NSMedienG, 11, 51a SMG, 6(3) ThürLMG, 13(3) LMG RP and 37(3) MStV HSH.

In **DK**, Section 3(1) and 3(3) DBL provides for an absolute exclusion of the application of the GDPR where this would be contrary to freedom of expression and information and also for the processing as part of the parliamentary work of the Danish Parliament. In addition, Danish law also provides for absolute exclusion of the application of GDPR for processing covered by the Danish Information Databases Act. In **IT**, Article 138 of the national data protection law, excludes the right to protection of personal data in order to protect freedom of expression, where the data subject requests information about the source of personal data pursuant to Article 15(1)(g) GDPR. In this case the provisions on secrecy of journalists apply solely with regard to the source of the news. Finally, in **LT**, Articles 4 and 7(2) of Law I-1374 provide for absolute exclusions of the application of the GDPR provisions where personal data is processed for journalistic purposes or the purpose of academic, artistic or literary expression.

In **IE**, Section 43(1) of the DPA provides that the processing of personal data for the purpose of exercising the right to freedom of expression and information, including processing for journalistic purposes or for the purposes of academic, artistic or literary expression, shall be exempt from compliance with a provision of the Data Protection Regulation specified in subsection (2) where, having regard to the importance of the right of freedom of expression and information in a democratic society, compliance with the provision would be incompatible with such purposes. Irish law therefore allows for a case-by-case reconciliation of the two rights. Section 43(5) of the DPA states that the right to freedom of expression shall be 'interpreted in a broad manner', which is also articulated in Recital 153 of the GDPR.

In **LV**, judgment N° SKA2-276/2017 of the High Court of the Republic of Latvia carried out an in-depth analysis on the reconciliation of the two rights, and provided for principles and a balancing test (also by referring to judgments of the Court of Justice of the European Union and the European Court of Human Rights) that should apply to such reconciliation. Factors that should be taken into account include, *inter alia*: whether the publication enhances a topical public debate in the society; recognition of the person and the topic of the publication; and means of obtaining the information and its reliability.

In **PL**, Article 2 of the PDP exempts the application of Articles 5 to 9, Article 11, Articles 13 to 16, Articles 18 to 22, Article 27, Article 28(2)-(10) and Article 30 GDPR in relation to activities consisting of editing, preparing, creating or publishing press materials within the meaning of the PRESS LAW. Article 13, Article 15(3) and (4), Article 18, Article 27, Article 28(2)-(10) and Article 30 GDPR do not apply to academic expression.

In **SE**, according to Act No 2018:218, the GDPR and the Act shall not apply where this would breach the Freedom of the Press Act or the Fundamental Law on Freedom of Expression. The national legislation provides for an automatic exemption from the data

protection provisions, without a case-by-case assessment. The Freedom of the Press Act regulates the freedom of the press and is therefore especially relevant for news outlets, archives, and press libraries. The Fundamental Law on Freedom of Expression applies to radio, TV, films, sound and picture recordings, video and CD recordings, as well as websites and blogs with a journalistic focus. Chapter 1, Sections 5 and 6 of the Freedom of the Press Act contain rules on issuing certificates of no legal impediment to publication. When such a certificate has been issued, the entity to which the certificate has been granted falls under the supervision of the Attorney General, and not the data protection authority. A natural person would not be granted protection equivalent to that provided for in the GDPR.

3.3.2 Article 85(2): Exemptions and derogations from Chapters II, III, IV, V, VI, VII and IX

Chapter II

AT, BE, BG, CZ, DE, DK, EL, FI, FR, IE, IT, LT, LU, LV, MT, NL, PL, RO and **SE** provide exemptions/derogations from rules set out in this Chapter, whereas, **ES, HR, HU** and **PT** do not. **CY, EE** and **SK** do not refer specifically to this Chapter, but overall processing for these purposes is permitted.

More precisely, **CZ, DK** and **SE** derogate from the entire Chapter, while **IE** and Länder laws in **DE** also derogate from the entire Chapter, except for Article 5(1)(f) GDPR; **AT** from Articles 6 to 11 GDPR and, as regards media, the entire Chapter; **BE** from Articles 7, 8, 9, 10, 11(2) GDPR; **BG** from Articles 6, 9, 10 GDPR; **EL** from Articles 6 to 11 GDPR; **FI** from Articles 5, 6, 7, 9, 10 and Article 11(2) GDPR; **FR** from Articles 4(5), 6 and 46 of the LIL (corresponding to Articles 5(1)(e), 9 and 10 GDPR); **IT** from Articles 9 and 10; **LT** from Article 8 GDPR; **LU** from Articles 9(1) and 10 GDPR; **LV** from Articles 6 to 11 GDPR; **MT** from Articles 5(1)(a)-(e), 6, 7, 10, 11(2); **NL** from Articles 7(3), 9, 10 and 11(2) GDPR; **PL** from Articles 5 to 9, 11 and 13 to 16 GDPR for processing under the Press law. **RO** provides, in Article 7 of Law no. 190/2018, for the possibility of exempting the entire Chapter in three specific situations, namely where personal data were manifestly made public by the data subject or are closely related to the data subject's position as a public person or to the public nature of the infringement. The exemption of the said provisions of the GDPR is laid down by law without a specific balancing or reconciliation test in **BE, BG, CZ, DE, DK, FI** (except for Article 5(1)(a) and (b) and 5(2)), **IT** (for article 9(4) GDPR), **NL** (except for Articles 9 and 10), **PL, RO** and **SE**. **AT** (outside the scope of the media law), **EL, FR, IE, IT** (except for Article 9(4) GDPR) **LU, LV, MT, NL** (for Articles 9 and 10) require an assessment, if necessary, for reconciliation.

Chapter III

AT, BE, BG, CY, CZ, DE, DK, EL, FI, FR, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE provide exemptions/derogations from rules set out in this Chapter, whereas **EE, ES, HR, HU** and **SK** do not. More precisely, **AT, CZ, DE, EL, FI, IE, LT, LV, NL** and **SE** derogate from the entire Chapter; **BE** from Articles 13, 14, 15, 16, 18, 19, 20, 21(1) GDPR; **BG** from Articles 12 to 21 GDPR; **CY** from Articles 14 and 15 GDPR where these provisions impair the right to freedom of expression and information and journalistic secrecy; **FR** from Articles 48 to 50 and 53 of the LIL (corresponding to Articles 13, 15 to 18 GDPR); **IT** from Articles 13, 14 and 15(1)(g) GDPR; **LU** from Articles 13, 14 and 15 GDPR; **MT** from Articles 13(1), 14(1)-(4), 15(1)-(3), 17(1)-(2), 18(1)(a),(b),(d), 20(1)-(2), 21(1) GDPR; **PL** provides exemptions from Articles 13 to 16 and 18 to 22 GDPR for processing under the Press law and from Articles 13, 15(3) and (4) and 18 GDPR for academic expression; **RO** provides for the possibility of exempting from the entire Chapter in the specific situations mentioned above; and **PT** from Article 16 GDPR.

The exemption of the said provisions of the GDPR is laid down by law without a specific balancing or reconciliation test in **BE, BG** (except for capturing an image in the public)

CZ, DE, FI, IT, LT, NL, PL, PT, RO and **SE**. **AT** (outside the scope of the media law), **CY, EL, FR, IE, LU, LV** and **MT** require an assessment, if necessary, for reconciliation.

Chapter IV

AT, BE, BG, CZ, DE, DK, EL, FI, IE, LT, LV, MT, NL, PL, RO and **SE** provide exemptions/derogations from rules set out in this Chapter, whereas **CY, EE, ES, FR, HR, HU, IT, LU, PT** and **SK** do not.

More precisely, **LV** and **IE** derogate from the entire Chapter, while Länder laws in **DE** derogate from the entire Chapter with the exception of Articles 24 and 32 GDPR; **AT** from Articles 24 to 27, 30, 31 and 33 to 43 GDPR, and, as regards media, the entire Chapter; **BE** from Articles 30(4), 31, 33 and 36 GDPR; **BG** from Articles 30 and 34 GDPR; **CZ** from Articles 33 and 34 GDPR; **DK** from the entire Chapter only with the exception of Articles 28 and 32 GDPR; **EL** from Articles 24 to 27, 30, 31, 33 to 43 GDPR; **FI** from Articles 24-27, 30, 31, 34(1)-(3), 35, 36, 39, 40 and 42 GDPR; **LT** from Articles 25, 30, 33 to 39, and 41 to 43 GDPR; **MT** from Articles 25, 27, 30, 33, 34, 42, 43; **NL** from the entire Chapter with the exception of Articles 24, 25, 28, 29 and 32 GDPR; **PL** from Articles 27, 28(2)-(10) and 30 GDPR for processing under the Press law and from Articles 27, 28(2)-(10) and Article 30 GDPR for academic expression; **RO** provides for the possibility of exempting from the entire Chapter in the specific situations mentioned above; and **SE** exempts the entire Chapter with exception of Articles 31 to 34 GDPR. The exemption of the said provisions of the GDPR is laid down by law without a specific balancing or reconciliation test in **BG, CZ, DE, DK, LT, NL, PL, RO, SE** and, except for Articles 31, 39, 40 and 42 GDPR, in **FI**. **AT** (outside the scope of media law), **EL, IE, LV** and **MT** require an assessment, if necessary, for reconciliation. **BE** requires the assessment of whether the application of the said provisions would lead a planned publication to be compromised or would constitute a control measure prior to the publication of an article.

Chapter V

AT, BE, BG, CZ, DE, DK, EL, FI, FR, IE, IT, LT, LU, LV, NL, RO and **SE** provide exemptions/derogations from the rules set out in this Chapter, whereas **CY, EE, ES, HR, HU, IE, MT, PL, PT** and **SK** do not.

More precisely, **AT, BE, BG, CZ, DE, EL, FI, FR, IE, IT, LT, LU, LV, NL**, and **SE** derogate from the entire Chapter. **RO** provides for the possibility of exempting from the entire Chapter in the specific situations mentioned above.

The exemption of the said provisions of the GDPR is laid down by law without a specific balancing or reconciliation test in **BG, CZ, DE, IT, LT, LU, NL, RO** and **SE**. **AT** (outside the scope of the media law), **BE, EL, FI, FR, IE** and **LV** require an assessment, if necessary, for reconciliation.

Chapter VI

AT, BE, CZ, DE, DK, FI, FR, IE, LT, LV, NL and **RO** provide exemptions/derogations from the rules set out in this Chapter, whereas **CY, DK, EE, EL, ES, HR, HU, IT, LU, MT, PL, PT, SE** and **SK** do not.

More precisely, **AT, DK, IE, LV** and **NL** derogate from the entire Chapter; **CZ** from Articles 56 and 58; **BE** from Article 58 GDPR; **FI** from Articles 56, 57 and 58 GDPR; **FR** from Article 58(1)(a) GDPR; **LT** from Articles 57(1)(j) to (l) and (n) to (t), 58(1)(b) and (c), 58(2)(e), (g), (h) and (j), and 58(3)(a), (c) and (e) to (j) GDPR. **BG** provides that the exercise of investigative powers under Article 58(1) may not affect the secrecy of information sources. **DE** Länder laws provide an exemption for the entire Chapter, or, for example in Article 18(1) BayDSG, from Article 58 GDPR. **RO** provides for the possibility of exempting from the entire Chapter in the specific situations mentioned above.

The exemption of the said provisions of the GDPR is laid down by law without a specific balancing or reconciliation test in **CZ, LT, NL** and **RO**. In **FR**, Article 19 (3) of the LIL provides that secrecy cannot be invoked in case of an investigation carried out by CNIL's

members and agents, except when such secrecy is aimed at protecting journalistic sources. **AT** (outside the scope of the media law) and **IE** require an assessment, if necessary, for reconciliation. In **BE**, Article 58 GDPR does not apply where its application would provide indications as to the information sources or would constitute a control measure prior to the publication of an article. The balancing is left to the data controller in **FI** and **LV**.

As regards the Member States that provide derogations from this Chapter, in **BE**, **CZ** and **FR** the Data Protection Authority is competent to act in the media field. In **IE**, Section 43(3) of the DPA provides that the Data Protection Commission may refer to the High Court of Ireland for a judgment, on its own initiative, any question of law involving consideration of whether processing of personal data is exempt from certain provisions of the GDPR on freedom of expression and information grounds. In **IE** the Press Council established as part of self-regulation by the press as a non-governmental organisation is charged with the examination of complaints against violations of good journalistic practice. It examines complaints on the basis of its Guidelines, which contains only general provisions on the privacy of people. The Press Council cannot impose sanctions, and can only issue opinions.

In **AT**, **FI**, **LT**, **LV**, **NL** and, in the specific situations mentioned above, **RO** national law excludes the competence of the Data Protection Authority in the media area. In **AT** and **RO** there is no other body for the supervision of processing related to freedom of expression and information. In **FI** the Council for Mass Media is a body that supervises the media in general, with no power over data processing by media. **LT** entrusts the monitoring and supervision of the GDPR for the purposes of Article 85 of the DDPR to the Inspector of Journalist Ethics, which is also responsible for the monitoring and implementation of Lithuanian media law. In **LV**, while there exists a National Electronic Media Supervisory Council that, in accordance with the Electronic Media Law, supervises electronic media players, its powers do not include matters related to personal data processing. In **DE**, the competencies of the Länder Data Protection Authorities are, as regards the processing for journalistic purposes, limited with regard to self-regulation. Sections 57(1)(6) RStV, as well as for example 6 ThürLMG, state that Chapter VIII of the GDPR shall not be applicable to certain bodies of the press insofar as they are subject to self-regulation through the German Press Code and Council (Pressekodex, Presserat), similarly see for example Article 11(3) BayPRG, Section 13(1) LMG RP.

Chapter VII

AT, **CZ**, **DE**, **DK**, **EL**, **FI**, **IE**, **LV**, **MT**, **NL** and **RO** provide exemptions/derogations from the rules set out in this Chapter, whereas **BE**, **BG**, **CY**, **EE**, **ES**, **FR**, **HR**, **HU**, **IT**, **LT**, **LU**, **PL**, **PT**, **SE** and **SK** do not.

More precisely, **AT**, **CZ**, **DE**, **DK**, **EL**, **IE**, **LV**, **MT** and **NL** derogate from the entire Chapter, and **FI** from Articles 60 to 67 and 70 GDPR. **RO** provides for the possibility of exempting from the entire Chapter in the specific situations mentioned above.

The exemption of the said provisions of the GDPR is laid down by law without a specific balancing or reconciliation test in **CZ**, **DE**, **DK**, **NL**, **RO** and, except Articles 64 and 70, in **FI**. **AT** (outside the scope of the media law), **EL**, **IE**, **LV** and **MT** require an assessment, if necessary for reconciliation.

Chapter IX

AT, **CZ**, **DE**, **DK**, **EL**, **LT**, **LV**, **MT** and **RO** provide exemptions/derogations from the rules set out in this Chapter, whereas **BE**, **BG**, **CY**, **EE**, **ES**, **FI**, **FR**, **HR**, **HU**, **IE**, **IT**, **LU**, **NL**, **PL**, **PT**, **SE** and **SK** do not.

More precisely, **AT**, **CZ**, **DE**, **DK**, **EL**, **LV** and **MT** derogate from the entire Chapter, and **LT** from Articles 88 to 91 GDPR. **RO** provides for the possibility of exempting from the entire Chapter in the specific situations mentioned above.

The exemption of the said provisions of the GDPR is laid down by law without a specific balancing or reconciliation test in **CZ, DE, DK, LT** and **RO. AT** (outside the scope of the media law), **EL** and **MT** require an assessment, if necessary for reconciliation. The balancing between the right to the protection of personal data and the freedom of expression and information is laid down in the law in **LV**.

3.4 Provisions relating to specific processing situations pursuant to Article 89 GDPR

Pursuant to Article 89(1) GDPR, processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes is subject to appropriate safeguards in order to ensure respect for the principle of data minimisation. Article 89(2) GDPR gives the Member States the option to derogate from certain data subject rights where personal data are processed for scientific or historical research purposes or statistical purposes, subject to certain conditions and safeguards. Article 89(3) GDPR contains similar provisions in relation to processing for archiving purposes in the public interest. Article 89(4) GDPR requires that any such derogations must apply only to processing for the aforementioned purposes.

3.4.1 Article 89(2): derogations for scientific or historical research purposes or statistical purposes

Scientific or historical research purposes

BE, CZ, DE, EE, EL, FI, FR, IE, IT, LU, LV, MT, PL, PT and **RO** provide derogations relating to the processing of personal data for both scientific and historical research purposes, while **AT, BG, CY, HR, HU, LT, SE** and **SK** do not provide any derogations for either of those purposes. In **SK**, Section 78(9) of the data protection law provides for the possibility to restrict the rights for processing for scientific or historical research purposes by means of a special regulation or international treaty, however no such measures were adopted yet. In **SE**, Act 2018:218 provides that the government may issue further provisions on restrictions in accordance with Article 89(2) GDPR; however no such derogation has been adopted. **DK, ES** and **NL** provide relevant derogations only for scientific and not for historical research purposes.

In **BE**, the national law (Article 186 of the Implementing Law) provides derogations from the rights referred to in Articles 15, 16, 18 and 21. The wording of the GDPR is faithfully reproduced in the national law, which also contains a direct cross-reference to Article 89(2) GDPR and its conditions. As to the safeguards of Article 89(1) GDPR, the national legislation (Articles 191 to 206 Implementing Law) requires data controllers to maintain a number of elements in their record of processing activities, including the justification for the use of pseudonymised or non-pseudonymous data, the grounds which confirm that the exercise of rights may seriously impede or render impossible the achievement of the purpose, and, where applicable, the data protection impact assessment. Secondly, data subjects shall be informed, upon the collection of the personal data of whether such data will be anonymised. Moreover, an agreement shall be concluded between the controller and the controller of the original processing, where the personal data were not collected directly from data subjects; however the law provides for derogations where a specific law, decree or ordinance gives the controller of further processing the task of processing data for scientific or historical research purposes. Finally, the use of anonymous data, pseudonymised or personal data in their original form shall be subject to a graded approach.

In **CZ**, the national law (Article 16(3) Act 110/2019) stipulates that Articles 15, 16, 18 and 21 and, to their extent, Article 5 GDPR shall apply with the necessary modifications or the fulfilment of the controller's or processor's obligation, or the assertion of the data subject's rights shall be postponed, if it is necessary and proportionate to fulfil the

purpose of processing for scientific or historical research purposes. Further, the national law (Article 16(3) Act 110/2019) stipulates that where personal data is processed for the purposes of scientific research, Article 15 and, to its extent, Article 5 GDPR shall not apply if the disclosure of information would require a disproportionate effort. The derogations referred to above are subject to the conditions and safeguards under Article 89(1) GDPR (Article 16(1) and (2) Act 110/2019).

In **DE**, at federal level, the law (Article 27(2) BDSG) provides derogations from the rights under Articles 15, 16, 18 and 21 GDPR if those rights would make the achievement of the historical research purposes impossible or would seriously impair them. As a safeguard, the law (Article 27(4) BDSG) states that personal data may only be published with the consent of the data subject or if indispensable for the presentation of results of historical research. Further safeguards (anonymisation, separation, etc) are only provided for special categories of personal data. At regional level, similar provisions exist in the Länder data protection laws, but not in all Länder with such safeguards.

DK, LV, MT and RO explicitly apply derogations from Articles 15, 16, 18 and 21 GDPR; however, neither the conditions of Article 89(2) GDPR nor the safeguards of Article 89(1) GDPR are contemplated.

In **EE**, the conditions of Article 89(2) GDPR are explicitly set out in the national legislation. Article 6 PDPA provides that the controller or processor may derogate from the rights under Articles 15, 16, 18 and 21 GDPR insofar as the exercise of these rights is likely to make the achievement of the objectives of the scientific and historical research impossible or impedes it to a significant extent. As regards the safeguards of Article 89(1) GDPR, personal data shall be processed in a pseudonymised manner or in a format providing equivalent level of protection (Article 6 PDPA). (De)pseudonymisation or any similar technique is only allowed for the needs of scientific or historical research. The controller shall designate a person, identified by name, who has access to the information allowing for (de)pseudonymisation. Finally, the collected data will be disseminated in a manner that precludes the possibility of identification (Article 35(1) OSA). The processing of special categories of personal data for scientific or historical research purposes requires a verification of the ethics committee of the area concerned or of the Estonian Data Protection Inspectorate.

EL (Article 30(2) Law 4624/2019) provides for two derogations. Firstly, the data subject's rights in articles 15, 16, 18 and 21 GDPR are limited, where their exercise is likely to render impossible or seriously impede the fulfilment of the scientific or historical research purposes, and these limitations are considered necessary for their fulfilment. Secondly, the right of access by the data subject (Article 15 GDPR) is not applied where the personal data are necessary for scientific purposes and the provision of information requires a disproportionate effort. No specific safeguards are provided in case of such derogations in national law.

In **ES**, the national legislation provides for derogations from the rights referred to in Articles 15, 16, 18 and 21 GDPR for the processing of data with regard to health research and, in particular, biomedical research. The derogations require that these rights are directly exercised before the researchers or research centres that use anonymised or pseudonymised data; those rights refer to the results of the research; and the research has the purpose of an essential public interest related to the State security, the defence, the public security or other important objectives of general public interest (Paragraph 2(e) of the Seventeenth Additional Provision of the LOPD). These conditions are cumulative and do not permit or no longer permit the identification of data subjects. A data protection impact assessment must be carried out, which shall determine the risks arising from the processing in the cases laid down in Article 35 GDPR or determined by the control authority (Paragraph 2(f) of the Seventieth Additional Provision of the LOPD).

This assessment shall specifically include the risks of re-identification related to the anonymisation or pseudonymisation of the data, in line with the conditions and safeguards referred to in Article 89(1) GDPR. In addition, where applicable, measures are to be taken to ensure that researchers do not access identification data of the data subjects.

FI provides, under Article 33 Data Protection Act, for the possibility to derogate from Articles 15, 16, 18 and 21 GDPR for scientific or historical research purposes, provided that: the processing is based on an appropriate research plan; there is a person or a team responsible for the research; the personal data is used and disclosed only for scientific or historical research purposes; and it is further ensured that the personal data is not revealed to third parties. If the data processed for these purposes is sensitive data as described in Article 9(1) and 10 GDPR, the derogation from data subject's rights requires also that a data protection impact assessment referred to in Article 35 GDPR is carried out or a code of conduct is complied with.

FR (Articles 49(3), 78 and 79 LIL) provides for derogations from the rights laid down in Articles 15, 16, 18 and 21 GDPR which are possible only to the extent that the rights derogated from make it impossible or seriously impede the achievement of scientific or historical research purposes and subject to specific conditions and safeguards. French law (in particular Article 116 Data Protection Decree) imposes several conditions on the controller and the processor, including the respect of the specific purposes established by the law, the restriction of access and rectification to authorised persons and anonymisation prior to the dissemination of the data (unless the interest of third parties in such dissemination overrides the interests or fundamental rights and freedoms of the data subject).

In **IE**, the national provision (Section 61(2) DPA) mirrors the restriction in Article 89(2) GDPR, which allows derogations from data subject's rights in Articles 15, 16, 18 and 21 GDPR if the exercise of those rights would be likely to render impossible, or seriously impair, the achievement of those purposes. Any restriction must be subject to a necessity test in accordance with the GDPR. Suitable and specific measures must be taken to safeguard the fundamental rights and freedoms of data subjects in accordance with Article 89 GDPR (Section 42(1) DPA).

In **IT**, national law provides for the processing of personal data for scientific or historical research purposes for a longer period than what is necessary to fulfil different purposes from those for which such data had been previously collected or processed. Furthermore, such data may be kept or given to another controller (Article 99 Data Protection Code). Where the processing operations for scientific purposes concern data collected for other purposes, the data controller is not required to provide information to the data subject if it entails a disproportionate effort compared to the right subject to protection (Article 105(4) Data Protection Code), provided appropriate publicity measures are taken in compliance with the relevant Code of Conduct. When the data are processed for scientific research purposes, the controller will have to take into account all the means that can be reasonably used to identify the data subject, also considering the technological advancements available (Article 104 Data Protection Code). In case of derogations, the national law provides for certain safeguards, including the prohibition on using personal data that is processed for scientific purposes to take decisions or impose measures with respect to the data subject or to otherwise process data for different purposes (Article 105 Data Protection Code). Moreover, the Data Protection Authority has approved the code of conduct for data processing for scientific research. That code applies only to data processing for statistical purposes or scientific research performed by universities or similar institutions and researchers. The code establishes that whenever it becomes necessary to make changes to the personal data concerning the data subject, the data controller must indicate, in a specific field or register, the changes requested by the data subject, without changing the data originally entered into the archive. As regards

historical research, the national law prohibits the adoption of administrative acts or provisions that are contrary to the interests of the data subject using the personal data that are collected for historical research purposes (Article 101 Data Protection Code). Pursuant to Article 102 Data Protection Code, the Data Protection Authority has approved the code of conduct for data processing for archiving purposes in the public interest or for historical research purposes. Article 7 of that Code of Conduct provides for a derogation from Article 15 of the GDPR and identifies appropriate safeguards for the rights and freedoms of the data subject.

In **LU**, derogations from Articles 15, 16, 18 and 21 are possible only where the rights derogated from would render impossible or seriously hinder the achievement of scientific or historical research purposes (Article 63 Law 2018). In case of such derogations, national law provides that the data controller must adopt the safeguards listed in the Article 65 of the law. These include recourse to a third party for pseudonymisation and anonymisation of data, the appointment of a data protection officer, the encryption of data, log files, restrictions on access to personal data within the controller, technologies strengthening the protection of private life of data subjects, awareness raising of the staff, a regular audit of the effectiveness of the measures adopted, the adoption of a preventive plan of data management and of codes of conduct for the specific sector. The controller is not required to adopt all the listed measures, but only those necessary in view of the specific nature of the risks involved in the activities pursued. However, an obligation rests on the controller to give account and justify the non-adoption of one of the listed measures.

NL (Article 44 EA) permits derogations from Articles 15, 16 and 18 GDPR, if the processing is done by institutions or services for scientific research or statistics, provided that the necessary safeguards are in place to ensure that the personal data is used exclusively for statistical or scientific purposes. However, Dutch law provides no further conditions or safeguards to be taken into account by the controller when it applies the derogation, nor does it specify any limits to the derogations. Furthermore, the national law does not contain provisions for the safeguarding of the principle of data minimisation and the other conditions and safeguards referred to in Article 89(1) GDPR.

In **PL**, Article 469b LHES provides that Articles 15, 16, 18 and 21 GDPR shall not apply derogations if these rights will make it impossible or seriously hinder the achievement of research and development objectives, and if these derogations are necessary to achieve these goals. The data controller shall implement appropriate technical and organisational safeguards for the rights and freedoms of natural persons whose personal data are processed in accordance with the GDPR (Article 469b LHES). This can be done in particular by pseudonymisation or encryption of data, granting the right to process to the minimum number of persons necessary to conduct historical research and development works, by controlling the access to premises where personal documents are stored, and by preparing a procedure specifying the method of securing data.

PT provides derogations from the rights in Articles 15, 16, 18 and 21 GDPR, to the extent necessary, when rights are likely to render impossible or seriously impair the achievement of the scientific or historical research purposes for which personal data are processed (Article 31(2) Law 58/2019). The national law (Article 31(1) Law 58/2019) also provides for safeguards, i.e. processing for scientific or historical research purposes must respect the principle of data minimisation and must include data anonymisation or pseudonymisation whenever the intended purposes may be achieved by one of these means.

Statistical purposes

BE, BG, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT and **SK** provide derogations relating to the processing of personal data for statistical

purposes, while **AT, CY, RO** and **SE** do not. In **SE**, Act 2018:218 provides that the government may issue further provisions on restrictions in accordance with Article 89(2) GDPR; however no such derogation has been adopted.

In **BE**, the national law (Article 186 of the Implementing Law) provides derogations from the rights referred to in Articles 15, 16, 18 and 21. The wording of the GDPR is faithfully reproduced in the national law, which also contains a direct cross-reference to Article 89(2) GDPR and its conditions. As to the safeguards of Article 89(1) GDPR, the national legislation (Articles 191 to 206 Implementing Law) requires data controllers to maintain a number of elements in their record of processing activities, including the justification for the use of pseudonymised or non-pseudonymous data, the grounds which confirm that the exercise of rights may seriously impede or render impossible the achievement of the purpose, and, where applicable, the data protection impact assessment. Secondly, data subjects shall be informed, upon the collection of the personal data of whether such data will be anonymised. Moreover, an agreement shall be concluded between the controller and the controller of the original processing, where the personal data were not collected directly from data subjects; however the law provides for derogations where a specific law, decree or ordinance gives the controller of further processing the task of processing data for statistical purposes. Finally, the use of anonymous data, pseudonymised or personal data in their original form shall be subject to a graded approach.

BG, DK, HU, LV and **MT** explicitly provide for derogations from Articles 15, 16, 18 and 21 GDPR, without however making any reference to the conditions of Article 89(2) GDPR and safeguards under Article 89(1) GDPR.

In **CZ**, the national law (Article 16(3) Act 110/2019) stipulates that Articles 15, 16, 18 and 21 and, to their extent, Article 5 GDPR shall apply with the necessary modifications or the fulfilment of the controller's or processor's obligation, or the assertion of the data subject's rights shall be postponed, if it is necessary and proportionate to fulfil the purpose of processing for statistical purposes. Further, the national law (Article 16(3) Act 110/2019) stipulates that where personal data is processed for the purposes of scientific research, Article 15 and, to its extent, Article 5 GDPR shall not apply if the disclosure of information would require a disproportionate effort. The derogations referred to above are subject to the conditions and safeguards under Article 89(1) of the Regulation (Article 16(1) and (2) Act 110/2019).

In **DE**, at federal level, the law (Section 27(2) BDSG) provides derogations from the rights under Articles 15, 16, 18 and 21 GDPR, if those rights would make the achievement of statistical purposes impossible or would seriously impair them. Safeguards such as anonymisation and separation are provided for special categories of personal data. At regional level, similar provisions exist in some Länder but not necessarily with such safeguards.

In **EE**, the conditions of Article 89(2) GDPR are explicitly set out in the national legislation. Article 6 PDPA provides that the controller or processor may derogate from the rights under Articles 15, 16, 18 and 21 GDPR insofar as the exercise of these rights is likely to make the achievement of the objective of official statistics impossible or impedes it to a significant extent. As regards the safeguards of Article 89(1) GDPR, the personal data shall be processed in a pseudonymised manner or in a format providing equivalent level of protection (Article 6 PDPA). (De)pseudonymisation or any similar technique is only allowed for statistical purposes. The controller shall designate a person, identified by name, who has access to the information allowing for (de)pseudonymisation. Finally, the collected data will be disseminated in a manner that precludes the possibility of identification (Article 35(1) OSA).

EL (Article 30(2) Law 4624/2019) provides that the data subjects rights in Articles 15, 16, 18 and 21 GDPR are limited, where their exercise is likely to render impossible or

seriously impede the fulfilment of the statistical purposes, and these limitations are considered necessary for their fulfilment. No specific safeguards are provided in case of such derogations in national law.

In **ES**, the national legislation provides for derogations from the rights referred to in Articles 15 to 22 GDPR for the processing of data with regard to government statistics (Article 25(3) LOPD). The bodies responsible for performing the government statistics function may refuse requests from data subjects to exercise the rights established in Articles 15 to 22 GDPR, where these data are protected by the guarantees of statistical confidentiality laid down in State or regional legislation.

FI provides, under Article 33 of the Data Protection Act, for the possibility to derogate from Articles 15, 16, 18 and 21 GDPR when data is processed for scientific or historical research purposes, provided that: the statistics or the information that is the purpose of the statistics may not be produced without processing personal data; the production of the statistics has an objective relation to the data controllers' activities; and the information will not be disclosed or made accessible in a way that enables identification of a data subject, unless the information is disclosed for a public statistic. If the data processed for these purposes is sensitive data as described in Article 9(1) and 10 GDPR, the derogation from data subject's rights requires also that a data protection impact assessment referred to in Article 35 GDPR is carried out or a code of conduct is complied with.

In **FR**, Articles 49(3), 78 and 79 LIL provide for derogations from the rights laid down in Articles 15, 16, 18 and 21 which are possible only to the extent that the rights derogated from make it impossible or seriously impede the achievement of statistical purposes and subject to specific conditions and safeguards. French law (Articles 116 Data Protection Decree, and Statistical Matters Law) imposes several conditions on the controller and the processor, including the respect of the specific purposes established by the law, the restriction of access and rectification to authorised persons and anonymisation prior to the dissemination of the data (unless the interest of third parties in such dissemination overrides the interests or fundamental rights and freedoms of the data subject). In addition, national law establishes a Statistics Confidentiality Committee called upon to rule on any question relating to the secrecy of statistics and to guarantee the confidentiality of data provided for this specific purpose. Finally, data related to natural persons (with the exclusion of data on sexual life) and collected within the framework of its mission by an administration, a legal person of public law, or a legal person of private law managing a public service may be provided to public statistics institutions and services subject to specific conditions. Above all, processing of such data should not allow the identification of persons, with the exception of those situations where effective statistics requires the direct or indirect identification of persons and subject to the provisions of the LIL (Article 7 bis of the Statistical Matters Law).

In **HR**, Article 33 AI sets out that the bodies producing official statistics are not required to provide the data subjects with the right of access to personal data (Article 15 GDPR), the right to rectification (Article 16 GDPR), the right to restrict processing (Article 18 GDPR) and the right to object (Article 21 GDPR). Those restrictions are placed in order to ensure gathering of data for statistical purposes, and in so far as such rights of a data subject are likely to render impossible or seriously impair the achievement of statistical purposes and such restriction of rights is necessary for the fulfilment of statistical purposes. The national law provides that the bodies responsible for the production of official statistics are required to put in place technical and organisational measures for the protection of data collected for the purposes of official statistics. In addition, the processing of personal data for statistical purposes must not allow the identification of the person to whom the data relates to.

HU provides restrictions to data subject's rights for the processing of personal data for statistical purposes. Derogations apply with respect to the right of access (Article 15 of the GDPR) pursuant to Article 39(6a) of the Stt., subject to exceptions, the right to rectification (Article 16 of the GDPR pursuant to Article 40(4) of the Stt.) and the right to restriction of processing (Article 18 of the GDPR) pursuant to Article 23(7) of the Stt. The derogations apply automatically when the conditions of the law are met and do not allow for a case-by-case determination.

In **IE** Section 61(2) DPA mirrors the restriction in Article 89(2) GDPR, which allows derogations from data subject's rights in Articles 15, 16, 18 and 21 GDPR if the exercise of those rights would be likely to render impossible, or seriously impair, the achievement of statistical purposes. Any restriction must be subject to a necessity test in accordance with the GDPR. Suitable and specific measures must be taken to safeguard the fundamental rights and freedoms of data subjects in accordance with Article 89 GDPR (Section 42(1) DPA).

In **IT**, where the processing operations for statistical purposes concern data collected for other purposes, the data controller is not required to provide information to the data subject if it entails a disproportionate effort compared to the right subject to protection (Article 105(4) Data Protection Code), provided appropriate publicity measures are taken in compliance with the relevant Code of Conduct. National law provides for the processing of personal data for statistical purposes for a longer period than what is necessary to fulfil different purposes from those for which such data had been previously collected or processed. Furthermore, such data may be kept or given to another controller (Article 99 Data Protection Code). When the data are processed for statistical purposes, the controller will have to take into account all the means that can be reasonably used to identify the data subject, also considering the technological advancements available (Article 104 Data Protection Code). In case of derogations, the national law provides for certain safeguards, including the prohibition on using personal data that is processed for statistical purposes to take decisions or impose measures with respect to the data subject or otherwise process data for different purposes (Article 105(1) of the Data Protection Code). Moreover, the Data Protection Authority has approved a code of conduct for data processing for statistical purposes or scientific research, which applies to data processing for statistical purposes or scientific research performed by universities or similar institutions and researchers.

In **LT**, Article 5(4) of Law I-270 provides for conditional and unconditional derogations when personal data is processed for official statistical purposes by the Lithuanian bodies managing official statistics. First, the national law sets out the unconditional derogations with regard to the right to restriction of data processing and right to object (i.e. Articles 18 and 21 GDPR). Under Lithuanian law, the provision of statistical information, including personal data, is an obligation of the respondents; they have to provide their data if required by the legal acts of the EU or Lithuania. Second, the national law establishes conditional derogations as regards the right of access and the right to rectification (Articles 15 and 16 GDPR). More specifically, Lithuanian bodies managing official statistics may not apply the two aforementioned data subject's rights if they are likely to render impossible the achievement of the specific objectives of official statistics. The above-mentioned derogations can be applied when the bodies managing official statistics ensure the conditions set out in Article 89(1) GDPR and the appropriate safeguards for the protection of personal data. Moreover, the body managing official statistics has to take organisational, technological and technical measures to protect personal data and other information, as well as to implement information technology.

In **LU**, Article 63 Law 2018 allows derogations from Articles 15, 16, 18 and 21 GDPR only where the rights derogated from would render impossible or seriously hinder the achievement of statistical purposes. In case of such derogations, national law provides that the data controller must adopt the safeguards listed in Article 65 of the law. These

include recourse to a third party for pseudonymisation and anonymisation of data, the appointment of a data protection officer, the encryption of data, log files, restrictions on access to personal data within the controller, technologies strengthening the protection of private life of data subjects, awareness raising of the staff, a regular audit of the effectiveness of the measures adopted, the adoption of a preventive plan of data management and of codes of conduct for the specific sector. The controller is not required to adopt all the listed measures, but only those necessary in view of the specific nature of the risks involved in the activities pursued. However, an obligation rests on the controller to give account and justify the non-adoption of one of the listed measures.

In **PL**, Article 35h of the PS derogates from Articles 15, 16, 18 and 21 GDPR. The requirements of Articles 89(1) and 89(2) GDPR are accomplished by a set of provisions regulating the processing of the personal data, which includes pseudonymisation. No reference is made in the national legislation to achievement of the specific purposes being rendered impossible or seriously impaired or to the necessity of such derogations for the fulfilment of statistical purposes.

PT provides derogations from the rights in Articles 15, 16, 18 and 21 GDPR, to the extent necessary, when rights are likely to render impossible or seriously impair the achievement of the statistical purposes (Article 31(2) Law 58/2019). Article 31(1) Law 58/2019 also provides for safeguards, i.e. processing for statistical purposes must respect the principle of data minimisation, and must include data anonymisation or pseudonymisation whenever the intended purposes may be achieved by one of these means. National legislation also requires that the data be anonymised or pseudonymised, in order to safeguard the protection of data subjects, particularly as regards the impossibility of re-identification as soon as the statistics processing operations are completed (Article 31(5) of Law 58/2019).

In **SK**, Article 78(9) Act 18/2018 provides that where personal data are processed for statistical purposes, the rights of a data subject referred to in Articles 15, 16, 18 and 21 GDPR may be restricted by a special regulation or international treaty binding on the Slovak Republic in so far as such rights are likely to render impossible or seriously impair the achievement of such purposes and such restriction of rights is necessary for fulfilment of those purposes. The national law contains a condition that where such rights are restricted, proportionate conditions and safeguards referred to in the national provision corresponding to Article 89(1) GDPR must be adopted by controllers and processors. National law lays down derogations from the rights in Article 15, 16, 18 and 21 GDPR in relation to processing for statistical purposes (Section 30a(2) to (6) of Act No 540/2001 on state statistics).

3.4.2 Article 89(3): derogations for archiving purposes in the public interest

BE, BG, CZ, DE, EE, EL, FI, FR, IE, IT, LU, LV, MT, NL, PL, PT, RO provide derogations relating to the processing of personal data for archiving purposes in the public interest, while **AT, CY, DK, ES, HR, HU** and **LT** do not. In **SK**, the law provides for the possibility to restrict the rights for processing for archiving purposes by means of a special regulation or international treaty, however no such measures were adopted. In **SE** Act 2018:218 provides that the government may issue further provisions on restrictions in accordance with Article 89 (3) GDPR; however no such derogation has been adopted.

In **BE**, the national law (Article 186 of the Implementing Law) provides for derogations to the rights referred to in Articles 15, 16, 18, 19, 20 and 21 GDPR. The wording of GDPR is faithfully reproduced in the national law, which also contains a direct cross-reference to Article 89(3) GDPR and its conditions. The derogations therefore must be necessary for archiving purposes in the public interest. The derogations are accompanied by appropriate safeguards. The data controller which processes data for archiving purposes

in the public interest must include the following in the record of processing activities: (i) the justification of the public interest of the preserved archives; and (ii) the grounds on which the exercise of the rights of the person concerned may render impossible or seriously impede the achievement of the purposes (Article 192 Implementing Law). Secondly, data subjects shall be informed, upon the collection of the personal data of whether such data will be anonymised, and the grounds which confirm that the exercise of rights may seriously impede or render impossible the achievement of the purpose (Article 193 Implementing Law). Moreover, an agreement shall be concluded between the controller and the controller of the original processing in the case of further processing where the personal data were not collected directly from data subjects; however the law provides for derogations particular where a specific law, decree or ordinance gives the controller of further processing the task of processing data for archiving purposes in the public interest (Article 194 Implementing Law).

BG and **MT** explicitly provide for derogations from Articles 15, 16, 18 – 21 GDPR, without however making any reference to the conditions of Article 89(3) GDPR and safeguards under Article 89(1) GDPR.

In **CZ**, the national law (Article 78(4) Act 499/2004) stipulates that the right of the data subject to access to personal data contained in archival materials pursuant to Article 15 GDPR and, to its extent, Article 5 GDPR shall be exercised only by means of inspection of the archival materials in the premises of the archive. A derogation from the application of Articles 16 and 18 to 21 and, to their extent, Article 5 GDPR is also contemplated (Article 78(5) Act 499/2004). The national law does not provide the safeguards set out in Article 89(1) GDPR.

In **DE**, at federal level Article 28(2)-(4) BDSG excludes the application of Article 15 GDPR if the archiving material does not allow the controller to identify the relevant individual with reasonable effort, for example if the data is not indexed by name, restrict the right to rectification (whereby the individual may only add a counter-statement) and provides that Article 18(1) (a), (b) and (d) and Articles 20 and 21 GDPR do not apply, if such rights are likely to render impossible or seriously impair the achievement of archiving purposes in the public interest. Regional legislation implements Article 89(3) along the above lines. No specific safeguards are identified, nor does the law establish the necessity requirement.

EE provides for general derogations where personal data are processed for archiving purposes in the public interest (Article 7 PDPA). The rights of the data subject set forth in Articles 15, 16 and 18-21 GDPR may be restricted insofar as the exercise of these rights is likely to make the achievement of the purpose of archiving in the public interest impossible or impedes it to a significant extent, and insofar as not to endanger the condition, reliability, integrity, usability and authenticity of the records. The national law does not expressly refer to the safeguards of Article 89(1) GDPR.

EL provides for derogations from the rights referred to in Articles 15, 16, 18(1)(a), (b) and (d), 20 and 21 GDPR, where personal data are processed for archiving purposes in the public interest (Article 29, second, third and fourth paragraphs Law 4624/2019). No specific safeguards are provided in case of such derogations in national law.

In **FI**, Article 32 Act 1050/2018 provides for a derogation from Articles 15, 16 and 18 - 21 GDPR where personal data are processed for archiving purposes in the public interest. No specific safeguards are provided in case of such derogations in national law, but the law refers directly to requirements set out in Article 89(3) GDPR is made.

In **FR**, derogations apply to the rights provided for in Articles 15, 16, and 18 to 21 GDPR where personal data are processed for archiving purposes in the public interest only to the extent that these rights make it impossible or seriously impede the achievement of those purposes and under the conditions set out in the Heritage Code and other laws and

regulations applicable to public archives (Articles 7, 78(1) and 79 LIL). The public archives administration has the obligation to select the data to be stored beyond the time period necessary to achieve the purposes of the processing and to erase any data devoid of administrative utility or of scientific, statistical or historical interest. Moreover, any authorisation to access public archives may be granted to persons who so request only insofar as the interest to consult them does not lead to an excessive infringement of the interests that the law intended to protect. The public archives administration may also, after agreement with the authority with which the documents originate, decide on the anticipated opening of all or parts of the public archives. Any infringement of these rules triggers criminal responsibility and penalties.

In **IE**, Section 61(1) DPA mirrors the restriction in Article 89(3) GDPR, allowing derogations from data subject's rights in Articles 15, 16, 18, 19, 20 and 21 GDPR if the exercise of those rights would be likely to render impossible, or seriously impair, the achievement of archiving purposes in the public interest. There is also the requirement for a restriction to be subject to a necessity test in accordance with the GDPR. Suitable and specific measures must be taken to safeguard the fundamental rights and freedoms of data subjects in accordance with Article 89 GDPR (Section 42(1) DPA).

IT law provides for general derogations from the right under Article 15 GDPR, where personal data are processed for archiving purposes in the public interest (Articles 99, 101 and 102 Data Protection Code and Article 7 Code of conduct for data processing for archiving purposes in the public interest or for historical research purposes). National law provides for the possibility to carry out the processing of personal data for a longer period than that necessary to fulfil different purposes from those for which they had previously collected or processed. Furthermore, such data may be kept or given to another controller (Article 99 Data Protection Code). In case of such derogations, national law provides for some safeguards, including the prohibition on adopting administrative acts or provisions that are contrary to the interests of the data subject and which use the personal data that are collected for archiving purposes in the public interest (Article 101(1) Data Protection Code). Documents containing personal data that are processed for archiving purposes in the public interest may be used, taking into account their nature and only if suitable and necessary for the achievement of that purpose (Article 101(2) Data Protection Code). Pursuant to Article 102 Data Protection Code, the Data Protection Authority has approved the code of conduct for data processing for archiving purposes in the public interest or for historical research purposes, which identifies appropriate safeguards for the rights and freedoms of the data subject.

In **LU**, Article 19(2), (3) and (4) of Law on Archiving provides for general derogations from the rights under Article 16, 18, 20 and 21 GDPR where personal data are processed for archiving purposes in the public interest. In particular, national law provides that data subjects cannot request the rectification of the data nor the restriction of processing; are not entitled to receive the personal data concerning them in a structured and machine-readable format, where the data was not originally provided in that form; and cannot object to the processing of personal data concerning them.

In **LV**, Article 30(1) PDPL sets out a general, horizontal derogation from the data subject's rights under Article 15 and Article 16 GDPR, making the use of such rights subject to sectoral laws applicable to archives. No specific derogations could be located in such laws applicable to archives. A general derogation is provided from the data subject's rights under Article 18, Article 19, Article 20 and Article 21 GDPR, when personal data are processed for the archiving purposes in the public interest in order to create, collect, evaluate, preserve and use national documentary heritage. The derogation applies insofar as it is necessary to achieve the archiving purpose and where the use of such rights might render impossible or seriously impair achievement of that purpose. The national law does not provide further conditions or safeguards in respect of these derogations.

NL provides in Article 45 Data protection law for derogations from Articles 15, 16 and 18(1)(a) and 20 GDPR for processing under the Public Records Act. However, the provision provides for a right of access to the records, unless requests for access are so imprecise that it cannot reasonably be complied with and, in case of incorrect personal data, to right of the data subject to add his/her own statement to the archival record concerned. Article 5 Public Records Act stipulates that the data processor shall draft lists to determine which archival records must be deleted. Public authorities are responsible for the deletion thereof. No further conditions or safeguards have been identified.

PL contains exemptions from Articles 16 and 18(1)(a) and (b) GDPR (Article 22b NARA). Article 16 GDPR is excluded in such a way that the correction or supplement is obtained from the data subject concerning his/her or her personal data, without interfering with archival materials. The correction or supplement is stored and made available separately from archival materials, and information about their submission is appropriately noted. Article 18(1)(a) and (b) GDPR is excluded to the extent necessary to ensure the use of archival materials, without prejudice to the protection of personal data contained in these materials, also in the event when the original collection of data was unlawful or in the event of inaccuracy or incompleteness of data. In case of Article 15(1) and (3) GDPR, the performance of the obligation shall take place to the extent to which personal data to be disclosed can be determined by means of existing record-keeping measures. Safeguards include the processing of protected personal data only by employees under a written authorisation issued by the controller and under a written commitment of the employees referred to above to keep the data processed in confidence.

PT provides derogations from the rights referred to in Articles 15, 16, 18 and 21 GDPR, when personal data are processed for archiving purposes in the public interest in case such rights are likely to render impossible or seriously impair the achievement of those purposes (Article 31(2) Law 58/2019). The national law does not however provide derogations from the rights laid down in Articles 19 and 20 GDPR. In line with the GDPR, the national law sets out a condition of necessity ('to the extent necessary'). The processing must respect the principle of data minimisation and provide for their anonymisation or pseudonymisation whenever the intended purposes may be achieved by one of these means (Article 31(1) Law 58/2019). Article 31(3) of Law 58/2019 provides that the processing of personal data for archiving purposes in the public interest must ensure that access to documentation kept in public archives respects the restrictions resulting from the legislation on access to administrative documents (DL 16/93).

RO provides for general derogations where personal data are processed for archiving purposes in the public interest (Article 8(3) Law 190/2018). No specific safeguards are provided in case of such derogations in national law, but the law makes a direct reference to requirements set out in Article 89(3) and 89(1) GDPR.

3.4.3 Article 89(4): application of derogations exclusively for the purposes set out in Article 89(2) and (3)

In **BE, BG, CZ, EE, EL, ES, FI, FR, HR, HU, IE, IT, LU, LV, MT, PL, PT, RO** and **SK**, the derogations apply only to processing of personal data for the purposes referred to in Article 89(2) and (3) even when the processing serves another purpose at the same time. **NL** provides for the exclusive use for scientific and statistical purposes. By way of contrast, **DK** and **LT** do not provide the above assurance. In **DE** no provision specifically reflecting Article 89(4) GDPR was identified at federal level; however, at regional level, most of the Länder specify that data collected or stored for the purposes of Article 89(2) and (3) GDPR may be used for these purposes only.

4. ANNEXES

ANNEX 1 – ABBREVIATIONS

The following country codes have been used in compliance with the *Interinstitutional style guide*³:

Member State	Country Code	Member State	Country Code	Member State	Country Code
Austria	AT	Spain	ES	Latvia	LV
Belgium	BE	Finland	FI	Malta	MT
Bulgaria	BG	France	FR	The Netherlands	NL
Cyprus	CY	Croatia	HR	Poland	PL
Czech Republic	CZ	Hungary	HU	Portugal	PT
Germany	DE	Ireland	IE	Romania	RO
Denmark	DK	Italy	IT	Sweden	SE
Estonia	EE	Lithuania	LT	Slovakia	SK
Greece	EL	Luxembourg	LU		

³ The Interinstitutional Style Guide of the EU is available here: <https://publications.europa.eu/code/en/en-000100.htm>

The following abbreviations have been used throughout the report:

Abbreviation	Full Name
Act 110/2019	Act No 110/2019 Coll. on the processing of personal data (CZ)
Act 18/2018	Act No 18/2018 Coll. on personal data protection and amending and supplementing certain acts (SK)
Act 2001:181	Act No 2001:181 on the processing of data in the Swedish Tax Agency's taxation activities (SE)
Act 2001:185	Act No 2001:185 on the processing of data in the Customs Administration's activities (SE)
Act 2015:898	Act No 2015:898 on the processing of personal data in the Swedish Tax Agency's marriage register and record keeping activities (SE)
Act 2018:232	Act No 2018:232 amending Act No 2015:898 on the processing of personal data in the Swedish Tax Agency's marriage register and activities for estate inventory (SE)
Act 499/2004	Act No 499/2004 Coll. on archiving and records service and on the amendment of certain acts (CZ)
Act No 2001:181	Act No 2001:181 on the processing of data in the Swedish Tax Agency's taxation activities (SE)
Act No 2001:185	Act No 2001:185 on the processing of data in the Customs Administration's activities (SE)
Act No 2015:898	Act No 2015:898 on the processing of personal data in the Swedish Tax Agency's marriage register and record keeping activities (SE)
Act No 2018:218	Act No 2018:218 containing supplementary provisions to the EU General Data Protection Regulation (SE)
Act No 2018:232	Act No 2018:232 amending Act No 2015:898 on the processing of personal data in the Swedish Tax Agency's marriage register and activities for estate inventory (SE)

Act No 540/2001	Act No 540/2001 Coll. on state statistics (SK)
Acts No 2018:228-233	Act No 2018:228 amending Act No 2001:181 on processing of data in the Tax Agency's taxation activities; Act No 2018:229 amending Act No 2001:182 on processing of personal data in the Swedish Tax Agency's public accounting activities; Act No 2018:230 amending Act No 2001:184 on processing of data in the activities of the Enforcement Authority; Act No 2018:231 amending Act No 2001:185 on processing of data in Swedish Customs operations; Act No 2018:232 amending Act No 2015:898 on the processing of personal data in the Swedish Tax Agency's marriage register and activities for estate inventory; Act No 2018:233 amending Act No 2015:899 on identity cards for national registered in Sweden (SE)
AGIPA	Act Granting International Protection to Alien (EE)
AI	The Act on the Implementation of the General Data Protection Regulation (HR)
Alaptv	The Fundamental Law of Hungary (Constitution) (HU)
Anyektv.	Act CLXXXVIII of 2015 on the face photograph analysis register and the face analysis system (HU)
BayPRG	Bavarian Pres Act (DE)
BbgDSG	Data Protection Act of the federal state of Brandenburg (DE)
BDSG	Federal Data Protection Act (DE)
BWDSG	Data Protection Act of the federal state of Baden-Württemberg (DE)
BWLBG	Law on Public Servants [of the federal state of Baden-Württemberg] (DE)
CM	Act of 26 April 2007 on crisis management (PL)
Code of conduct for data processing	Code of conduct for the processing of personal data for the exercise of journalistic profession (IT)

Code of Practice	Code of Practice on Data Protection for the Insurance Sector (Approved by the Data Protection Commissioner under Section 13 (2) of the Data Protection Acts, 1988 and 2003) (IE)
Data Protection Act	Data Protection Act 1050/2018 (FI)
Data Protection Code	Legislative Decree No 196 of 18 August 2003 – Data Protection Code concerning provisions for the adaptation of Italian legislation to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (IT)
Data Protection Decree	Decree no. 2019-536 of 29 May 2019 adopted pursuant to Law no. 78-17 of 6 January 1978 relating to data, files and civil liberties (FR)
DBL	Act no. 502 of 23 May 2018 on supplementary provisions to the regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the Data Protection Act) (DK)
Disability Act 2005	Disability Act 2005, (Act number 14 of 2005) (IE)
DL 131/2014	Decree-Law regulating Law 12/2005 as regards the protection and confidentiality of genetic information, human genetic databases for health care and health research, the conditions of supply and conducting genetic testing and the terms on which medical genetics appointments are ensured (PT)
DL 16/93	Decree-Law setting out the general regime of archives and archival heritage (PT)
DPA	Data Protection Act 2018 (IE)
DPA, 2018	Data Protection Act (Chapter 586 of the Laws of Malta) (MT)
DR 6/2016	Regulatory Decree regulating medically assisted reproduction, and more particularly Article 5 and 16(2) of Law 32/2006 (PT)
DSG	Federal Law concerning the Protection of Personal Data (AT)
EA	Law containing rules for the execution of Regulation 2016/679 (NL)

ECHR	European Convention on Human Rights
Eüak.	Act XLVII of 1997 on the processing and protection of data concerning health and the personal data related thereto (HU)
Freedom of the Press Act	Freedom of the Press Act (1949:105) (SE)
Gentv.	Act XXI of 2008 on the protection of human genetic data, the rules on human genetical analyses and research, and the operation of bio banks (HU)
HA	Health Act (BG)
HBG	Hessian Act on Civil Servants (DE)
HessJStVollzG	Hessian Juvenile Prison Act (DE)
HGRL	Human Genome Research Law (LV)
Honvtv.	Act XCVII of 2013 on data processing for defence purposes, certain military administration duties in relation to carrying out defense obligations (HU)
HStVollzG	Prison Act of the federal state of Hessen (DE)
Implementing Law	Law on the protection of natural persons with regard to the processing of personal data (BE)
Information Databases Act	Act no. 430 of 1 June 1994 on information databases (DK)
Infotv.	Act CXII of 2011 on the right to informational self-determination and the freedom of information (HU)
LABC	The Act of June 26, 1974 - Labor Code (PL)
Law 12/2005	Law regulating personal genetic information and health information (PT)
Law 125(I)/2018	Law 125(I)/2018, Law providing for the protection of natural persons with regard to the processing of personal data and for the free movement of such data (CY)

Law 14/2007	Law 14/2007, of 3 July, on biomedical research (ES)
Law 190/2018	Law no. 190 of 18 July 2018 on measures to implement Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (RO)
Law 2018	Law on the organisation of the National Commission for data protection and implementation of Regulation 2016/679, amending the Labour Code and the amended Law of 25 March 2015 governing the salaries and conditions and procedures for promotion of civil servants (LU)
Law 40/2015	Law 40/2015 on the Legal Regime of the Public Sector (ES)
Law 41/2002	Law 41/2002 regulating the autonomy of patients and rights and obligations on clinical information and documents (ES)
Law 4624/2019	Law 4624/2019 – Data Protection Authority, implementing measures of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and transposition into national legislation of the Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 and other provisions (EL)
Law 58/2019	Law ensuring the implementation in the national legal order of Regulation (EU) 2016/679 of the Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (GDPR) (PT)
Law I-270	Law on the Official Statistics of the Republic of Lithuania, No. I-270 (LU)
Law no. 95/2006	Law no 95 of 14 April 2006 on healthcare reform – Republished (RO)
Law on archiving	Law of 17 August 2018 on archiving and modifying 1° the amended law of 25 June 2004 on the reorganisation of the cultural institutes of the State ; 2° the amended electoral law of 18 February 2003 ; 3° the amended decree of 18 June 1811 containing the regulation on the administration of justice in criminal, correctional and simple police matters and general fees (LU)

Law VIII-1679	Law on Ethics of Biomedical Research of the Republic of Lithuania, No. VIII-1679 (LT)
Legislative Decree 101	Legislative Decree No 101 of 10 August 2018 – Provisions for the adaptation of national legislation to the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (IT)
LHES	Law on Higher Education and Science (PL)
LIL	Law on information technology, data files and civil liberties (FR)
LMG RP	State Media Act of the federal state of Rhineland-Palatinate (DE) (DE)
LOPD	Organic Law on Personal Data Protection and guarantee of digital rights (ES)
Media Law	Federal Law of 12 June 1981 on the Press and other Publication Media (AT)
MStV HSH	State Treaty on Media Law in Hamburg and Schleswig-Holstein (DE)
MVDSG	Data Protection Act for the federal state of Mecklenburg-Vorpommern (DE)
NARA	The Act of 14 July 1983 on national archival resources and on archives (PL)
NBG	Civil Servants Act of the federal state of Lower-Saxony (DE)
NBP	The Act of 29 August 1997 on the National Bank of Poland (PL)
NDSG	Data Protection Act of the federal state of Lower-Saxony (DE)
NRWBG	Civil Servants Act of the federal state of Northrhine-Westphalia (DE)
NRWDSG	Data Protection Act of the federal state of Northrhine-Westphalia (DE)

NSMedienG	Media Act of Lower- Saxony (DE)
OSA	Official Statistics Act (EE)
PD	The Act of 13 July 2006 on passport documents (PL)
PDP	The Act of 10 May 2018 on personal data protection (PL)
PDPA	Personal Data Protection Act (EE)
PDPL	Personal Data Processing Law (LV)
PRA	The Patients' Rights Act (Official Gazette 169/04, 37/08) (HR)
PS	Act of 29 June 1995 on public statistics (PL)
Regulation No 91	Regulation No 91 of the Government of the Republic "Establishing the national DNA-registry and the statutes for the registry" (EE)
RLPDSG	Data Protection Act of the federal state of Rhineland-Palatinate (DE)
RStV	Twenty-first State contract to amend the broadcasting law state contracts (DE)
SABG	Civil Servant Act of the federal state of Saxony-Anhalt (DE)
SächsBG	Civil Servants Act of the federal state of Saxony (DE)
SG	Act on the legal status of soldiers (DE)
SGB X	Social Security Statute, 10th Book (DE)
SHBG	Civil Servant Act of the federal state of Schleswig-Holstein (DE)

SL 586.10	Processing of Data concerning Health for Insurance Purposes Regulations, Subsidiary Legislation 586.10 (MT)
SMG	State Media Act of the federal state of Saarland (DE)
Statistical Matters Law	Law no. 51-711 of 7 June 1951 on obligation, coordination and the secret in statistical matters (FR)
Stt	Act CLV of 2016 on official statistics (HU)
ThürDSG	Data Protection Act of the federal state of Thuringia (DE)
ThürLMG	State Media Act of the federal state of Thuringia (DE)
ThürSchulG	Law on Schools of the federal state of Thuringia (DE)
TO	The Act of 29 August 1997 - Tax Ordinance (PL)

ANNEX 2 - IMPLEMENTATION OF ARTICLE 85(2) GDPR

MS		CHAPTER II: Principles	CHAPTER III: Rights of the data subject	CHAPTER IV: Controller and processor	CHAPTER V: Transfer of personal data to third countries or international organisations	CHAPTER VI: Independent supervisory authorities	CHAPTER VII: Cooperation and consistency	CHAPTER IX: Specific data processing situations
AT	Derogations/ Exemptions	YES	YES	YES	YES	YES	YES	YES
		Art. 6 to 11 GDPR; as regards media, the entire Chapter	Entire Chapter	Art. 24 to 27, 30, 31 and 33 to 43 GDPR as regards media, the entire Chapter	Entire Chapter	Entire Chapter	Entire Chapter	Entire Chapter
BE	Derogations/ Exemptions	YES	YES	YES	YES	YES	NO	NO
		Arts 7, 8, 9, 10, 11(2) GDPR	Arts 13, 14, 15, 16, 18, 19, 20, 21(1) GDPR	Arts 30(4), 31, 33 and 36 GDPR	Arts 44, 45, 46, 47, 48, 49 and 50 GDPR	Art. 58 GDPR	N/A	N/A
BG	Derogations/ Exemptions	YES	YES	YES	YES	YES	NO	NO
		Art. 6, 9, 10 GDPR	Art. 12 to 21 GDPR	Art. 30 and 34 GDPR	Entire Chapter	Art. 58(1) GDPR may not affect the secrecy of sources	N/A	N/A
CY	Derogations/ Exemptions	NO	YES	NO	NO	NO	NO	NO
		not specifically from this Chapter, but general permission for	Art. 14 and 15 GDPR	N/A	N/A	N/A	N/A	N/A

		processing						
CZ	Derogations/ Exemptions	YES	YES	YES	YES	YES	YES	YES
		Entire Chapter	Entire Chapter	Arts 33 and 34 GDPR	Entire Chapter	Arts 56 and 58 GDPR	Entire Chapter	Entire Chapter
DE	Derogations/ Exemptions	YES	YES	YES	YES	YES	YES	YES
		Entire Chapter, except Art. 5 (1)(f) GDPR	Entire Chapter	Entire Chapter, except Art. 24 and 32 GDPR	Entire Chapter	Article 58 GDPR	Entire Chapter	Entire Chapter
DK	Derogations/ Exemptions	YES	YES	YES	YES	YES	YES	YES
		Entire Chapter	Entire Chapter	Entire Chapter except Art. 28 and 32 GDPR	Entire Chapter	Entire Chapter	Entire Chapter	Entire Chapter
EE	Derogations/ Exemptions	NO	NO	NO	NO	NO	NO	NO
		Not specifically from this Chapter, but general permission for processing	N/A	N/A	N/A	N/A	N/A	N/A
EL	Derogations/ Exemptions	YES	YES	YES	YES	NO	YES	YES
		Arts 6 to 11 GDPR	Entire Chapter	Arts 24 to 27, 30, 31, 33 to 43 GDPR	Entire Chapter	N/A	Entire Chapter	Entire Chapter
ES	Derogations/ Exemptions	NO	NO	NO	NO	NO	NO	NO

		N/A	N/A	N/A	N/A	N/A	N/A	N/A
FI	Derogations/ Exemptions	YES	YES	YES	YES	YES	YES	NO
		Art. 5, 6, 7, 9, 10 and Article 11(2) GDPR	Entire Chapter	Art. 24-27, 30, 3134(1)-(3), 35, 36, 39, 40, 42 GDPR	Entire Chapter	Art. 56 -58 GDPR	Art. 60--67 and 70 GDPR	N/A
FR	Derogations/ Exemptions	YES	YES	NO	YES	YES	NO	NO
		Arts 4(5), 6 and 46 LIL (corresponding to Articles 5(1)(e), 9 and 10 GDPR)	Arts 48 to 50 and 53 LIL (corresponding to Articles 13, 15 to 18 GDPR)	N/A	Entire Chapter	Art. 58(1)(a) GDPR	N/A	N/A
HR	Derogations/ Exemptions	NO	NO	NO	NO	NO	NO	NO
		N/A	N/A	N/A	N/A	N/A	N/A	N/A
HU	Derogations/ Exemptions	NO	NO	NO	NO	NO	NO	NO
		N/A	N/A	N/A	N/A	N/A	N/A	N/A
IE	Derogations/ Exemptions	YES	YES	YES	YES	YES	YES	NO
		Entire chapter, except 5(1)(f)	Entire chapter	Entire chapter	Entire chapter	Entire chapter	Entire chapter	N/A
IT	Derogations/ Exemptions	YES	YES	NO	YES	NO	NO	NO

		Arts 9 and 10 GDPR	Arts 13, 14 and 15(1)(g) GDPR	N/A	Entire Chapter	N/A	N/A	N/A
LT	Derogations/ Exemptions	YES	YES	YES	YES	YES	NO	YES
		Art. 8 GDPR	Entire Chapter	Arts 25, 30, 33 to 39, and 41 to 43 GDPR	Entire Chapter	Arts 57(1)(j) to (l) and (n) to (t); 58(1)(b) and (c); 58(2)(e), (g), (h) and (j), and 58(3)(a), (c) and (e) to (j) GDPR	N/A	Arts 88 to 91 GDPR
LU	Derogations/ Exemptions	YES	YES	NO	YES	NO	NO	NO
		Arts 9(1) and 10 GDPR	Arts 13, 14 and 15 GDPR	N/A	Entire Chapter	N/A	N/A	N/A
LV	Derogations/ Exemptions	YES	YES	YES	YES	YES	YES	YES
		Arts 6 to 11 GDPR	Entire Chapter	Entire Chapter	Entire Chapter	Entire Chapter	Entire Chapter	Entire Chapter
MT	Derogations/ Exemptions	YES	YES	YES	NO	NO	YES	NO
		Art. 5(1)(a)-(e), 6, 7, 10, 11(2) GDPR	Art. 13(1)-(3), 14(1)-(4), 15(1)-(3), 17(1)-(2), 18(1)(a)(b)-(d), 20(1)-(2), 21(1) GDPR	Art. 25, 27, 30, 33, 34, 42, 43 GDPR	N/A	N/A	Entire Chapter	N/A
NL	Derogations/ Exemptions	YES	YES	YES	YES	YES	YES	NO

		Art. 7(3), 9, 10 and 11(2) GDPR	Entire Chapter	Entire Chapter with the exception of Arts 24, 25, 28, 29 and GDPR	Entire Chapter	Entire Chapter	Entire Chapter	N/A
PL	Derogations/ Exemptions	YES	YES	YES	NO	NO	NO	NO
		Art. 5 to 9, 11 GDPR for processing under the Press Law	Art. 13 to 16, 18 to 22 GDPR for processing under the Press Law Art. 13, 15(3)-(4) and 18 GDPR for academic expression	Art. 27, 28(2)-(10) and 30 GDPR for processing under the press law Art. 27, 28(2)-(10) and 30 for academic expression	N/A	N/A	N/A	N/A
PT	Derogations/ Exemptions	NO	YES	NO	NO	NO	NO	NO
		N/A	Art. 16 GDPR	N/A	N/A	N/A	N/A	N/A
RO	Derogations/ Exemptions	YES	YES	YES	YES	YES	YES	YES
		Entire Chapter in specific situations	Entire Chapter in specific situations	Entire Chapter in specific situations	Entire Chapter in specific situations	Entire Chapter in specific situations	Entire Chapter in specific situations	Entire Chapter in specific situations
SE	Derogations/ Exemptions	YES	YES	YES	YES	NO	NO	NO
		Entire Chapter	Entire Chapter	Arts 24 to 30 and 35 to 43 GDPR	Entire Chapter	N/A	N/A	N/A
SK	Derogations/ Exemptions	YES	NO	NO	NO	NO	NO	NO

		Not specifically from this Chapter, but general permission for processing	N/A	N/A	N/A	N/A	N/A	N/A
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ANNEX 3 – NATIONAL IMPLEMENTING MEASURES TABLE

Member State	List of the National Implementing Measures
AT	<p>Bundesgesetz über den Schutz personenbezogener Daten (Datenschutzgesetz - DSG), Federal Law concerning the Protection of Personal Data (DSG), https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10001597</p> <p>Datenschutz-Deregulierungs-Gesetz 2018, Data Protection Deregulation Law 2018, https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2018_I_24/BGBLA_2018_I_24.html</p> <p>Materien-Datenschutz-Anpassungsgesetz 2018, Material Data Protection Adaptation Law 2018, https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2018_I_32/BGBLA_2018_I_32.html</p> <p>2. Materien-Datenschutz-Anpassungsgesetz 2018, 2 Material Data Protection Adaptation Law 2018, https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2018_I_37/BGBLA_2018_I_37.html</p> <p>Bundesgesetz vom 12. Juni 1981 über die Presse und andere publizistische Medien (Mediengesetz – MedienG), Federal Law of 12 June 1981 on the Press and other Publication Media (Media Law – MedienG), https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000719</p> <p>Allgemeines bürgerliches Gesetzbuch für die gesamten deutschen Erbländer der Oesterreichischen Monarchie, General civil code for the entire German crown-lands of the Austrian monarchy, https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10001622</p> <p>Bundesgesetz vom 9. September 1955 über die Allgemeine Sozialversicherung (Allgemeines Sozialversicherungsgesetz – ASVG.), Federal Law of 9 September 1955 on the General Social Insurance (General Social Insurance Law - ASVG.), https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008147</p> <p>Datenschutzverordnung für die gesetzliche Sozialversicherung (SV-Datenschutzverordnung 2018 – SV-DSV 2018), Data protection regulation for the statutory social security (SV data protection regulation 2018 - SV-DSV 2018), https://www.ris.bka.gv.at/Dokumente/Avsv/AVSV_2018_0079/AVSV_2018_0079.pdf</p> <p>Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreiseteil (Fremdenpolizeigesetz 2005 – FPG), Federal law on the rights of the aliens police, the issuing of documents for aliens and the granting of entry documents (Aliens Police Act 2005 - FPG), https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004241</p> <p>Bundesgesetz über das polizeiliche Meldewesen (Meldegesetz 1991 – MeldeG), Federal Law on Registering with the Police (Registration Act 1991 - MeldeG), https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10005799</p> <p>Bundesgesetz, mit dem Arbeiten mit gentechnisch veränderten Organismen, das Freisetzen und Inverkehrbringen von gentechnisch veränderten Organismen und die Anwendung von Genanalyse und Gentherapie am Menschen geregelt werden (Gentechnikgesetz – GTG), Federal Law regulating the use of genetically modified organisms, the release and placing on the market of genetically modified organisms and the application of gene analysis and gene therapy to humans (Genetic Engineering Law - GTG), https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10010826</p>
BE	30 juillet 2018 – Loi relative à la protection des personnes physiques à l'égard des traitements de données à caractère

	<p>personnel (M.B. 5 septembre 2018), 30 July 2018 – Law on the protection of natural persons with regard to the processing of personal data (M.B. 5 September 2018), http://www.ejustice.just.fgov.be/eli/loi/2018/07/30/2018040581/justel (FR) and http://www.ejustice.just.fgov.be/eli/wet/2018/07/30/2018040581/justel (DU)</p> <p>3 décembre 2017 – Loi portant création de l’Autorité de protection des données (M.B. 10 janvier 2018), 3 December 2017 – Law on the creation of the Data Protection Authority (M.B. 10 January 2018), http://www.ejustice.just.fgov.be/eli/loi/2017/12/03/2017031916/justel (FR) and http://www.ejustice.just.fgov.be/eli/wet/2017/12/03/2017031916/justel (DU)</p> <p>5 septembre 2018 – Loi instituant le comité de sécurité de l'information (M.B. 10 septembre 2018), 5 September 2018 – Law on the creation of an Information Security Committee (M.B. 10 September 2018), http://www.ejustice.just.fgov.be/eli/loi/2018/09/05/2018203892/justel (FR) and http://www.ejustice.just.fgov.be/eli/wet/2018/09/05/2018203892/justel (DU)</p>
BG	<p>Закон за защита на личните данни, Personal Data Protection Act, http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?sessionId=17AC48BEC0100FB28FDA0294DE0C9CC0?idMat=135056</p> <p>Закон за Министерството на вътрешните работи, Law on the Ministry of Interior, https://www.lex.bg/laws/ldoc/2136243824.</p> <p>Закон за здравето, Health Act, https://www.lex.bg/laws/ldoc%20/2135489147</p> <p>Закон за трансплантация на органи, тъкани и клетки, Law on Transplantation of Organs, Tissues and Cells, https://www.lex.bg/laws/ldoc/2135471868</p> <p>Кодекс за застраховането, Insurance Code, https://www.lex.bg/bg/laws/ldoc/2136717797</p> <p>Закон за българските лични документи, Law on Bulgarian Identification Documents, https://www.lex.bg/bg/laws/ldoc/2134424576</p>
CY	<p>Νόμος 125(Ι)/2018, Ο περί της Προστασίας των Φυσικών Προσώπων Έναντι της Επεξεργασίας των Δεδομένων Προσωπικού Χαρακτήρα και της Ελεύθερης Κυκλοφορίας των Δεδομένων αυτών Νόμος, Law 125(I)/2018, Law providing for the protection of natural persons with regard to the processing of personal data and for the free movement of such data, http://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/all/DE97F6F59835A03AC22582DD003D895E/\$file/%CE%9D%CF%8C%CE%BC%CE%BF%CF%82%20125(%CE%99)_2018.pdf?openelement</p>
CZ	<p>Zákon č. 110/2019 Sb., o zpracování osobních údajů, Act No 110/2019 Coll. on the processing of personal data, https://www.zakonyprolidi.cz/cs/2019-110</p> <p>Zákon č. 300/2016 Sb., o centrální evidenci účtů, Act No 300/2016 Coll. on central account records, https://www.zakonyprolidi.cz/cs/2016-300</p> <p>Zákon č. 374/2015 Sb., o ozdravných postupech a řešení krize na finančním trhu, Act No 374/2015 Coll. on recovery and resolution of the financial market, https://www.zakonyprolidi.cz/cs/2015-374</p> <p>Zákon č. 181/2014 Sb., o kybernetické bezpečnosti a o změně souvisejících zákonů (zákon o kybernetické bezpečnosti), Act No 181/2014 Coll. on cyber security and amendment of related acts (Cyber security act), https://www.zakonyprolidi.cz/cs/2014-181</p> <p>Zákon č. 300/2013 Sb., o Vojenské policii a o změně některých zákonů (zákon o Vojenské policii), Act No 300/2013 Coll. on the</p>

Military Police and on the amendment of certain acts (Military Police Act), <https://www.zakonyprolidi.cz/cs/2013-300>

Zákon č. 17/2012 Sb., o Celní správě České republiky, Act No 17/2012 Coll. on the Customs Administration of the Czech Republic, <https://www.zakonyprolidi.cz/cs/2012-17>

Zákon č. 89/2012 Sb., občanský zákoník, Act No 89/2012 Coll. Civil Code, <https://www.zakonyprolidi.cz/cs/2012-89>

Zákon č. 456/2011 Sb., o Finanční správě České republiky, Act No 456/2011 Coll. on the Financial Administration of the Czech Republic, <https://www.zakonyprolidi.cz/cs/2011-456>

Zákon č. 427/2011 Sb., o doplňkovém penzijním spoření, Act No 427/2011 Coll. on supplementary pension savings, <https://www.zakonyprolidi.cz/cs/2011-427>

Zákon č. 372/2011 Sb., o zdravotních službách a podmínkách jejich poskytování (zákon o zdravotních službách), Act No 372/2011 Coll. On health services and conditions of their provision (Act on Health Services), <https://www.zakonyprolidi.cz/cs/2011-372>

Zákon č. 341/2011 Sb., o Generální inspekci bezpečnostních sborů a o změně souvisejících zákonů, Act No 341/2011 Coll. on the General Inspection of the Security Corps and amending related acts, <https://www.zakonyprolidi.cz/cs/2011-341>

Zákon č. 280/2009 Sb., daňový řád, Act No 280/2009 Coll. tax code, <https://www.zakonyprolidi.cz/cs/2009-280>

Zákon č. 273/2008 Sb., o Policii České republiky, Act No 273/2008 Coll. on the Police of the Czech Republic, <https://www.zakonyprolidi.cz/cs/2008-273>

Zákon č. 253/2008 Sb., o některých opatřeních proti legalizaci výnosů z trestné činnosti a financování terorismu, Act No 253/2008 Coll. on certain measures against legitimisation of the proceeds of crime and the financing of terrorism, <https://www.zakonyprolidi.cz/cs/2008-253>

Zákon č. 187/2006 Sb., o nemocenském pojištění, Act No 187/2006 Coll. on sickness insurance, <https://www.zakonyprolidi.cz/cs/2006-187>

Zákon č. 499/2004 Sb., o archivnictví a spisové službě a o změně některých zákonů, Act No 499/2004 Coll. on archiving and records service and on the amendment of certain acts, <https://www.zakonyprolidi.cz/cs/2004-499>

Zákon č. 256/2004 Sb., o podnikání na kapitálovém trhu, Act No 256/2004 Coll. on capital market business, <https://www.zakonyprolidi.cz/cs/2004-256>

Zákon č. 6/2002 Sb., o soudech, soudcích, přísedících a státní správě soudů a o změně některých dalších zákonů (zákon o soudech a soudcích), Act No 6/2002 Coll. on courts, judges, lay judges and the state administration of courts and amending certain other acts (Courts and Judges Act), <https://www.zakonyprolidi.cz/cs/2002-6>

Zákon č. 231/2001 Sb., o provozování rozhlasového a televizního vysílání a o změně dalších zákonů, Act No 231/2001 Coll. On the operation of radio and television broadcasting and on amendments to other acts, <https://www.zakonyprolidi.cz/cs/2001-231>

Zákon č. 46/2000 Sb., zákon o právech a povinnostech při vydávání periodického tisku a o změně některých dalších zákonů (tiskový zákon), Act No 46/2000 Coll. On Rights and Obligations in the Periodical Press and on Amendments to Some Other Acts (Press Act), <https://www.zakonyprolidi.cz/cs/2000-46>

Zákon č. 48/1997 Sb., o veřejném zdravotním pojištění a o změně a doplnění některých souvisejících zákonů, Act No 48/1997 Coll. on public health insurance and on amendment and supplement of certain related acts, <https://www.zakonyprolidi.cz/cs/1997-48>

Zákon č. 96/1993 Sb., o stavebním spoření a státní podpoře stavebního spoření a o doplnění zákona České národní rady č. 586/1992 Sb., o daních z příjmů, ve znění zákona České národní rady č. 35/1993 Sb., Act No 96/1993 Coll. on building savings and

	<p>state support of building savings and on amendment of the Act of the Czech National Council No 586/1992 Coll. on income tax, as amended by the Act of the Czech National Council No 35/1993 Coll. https://www.zakonyprolidi.cz/cs/1993-96</p> <p>Zákon České národní rady č. 6/1993 Sb., o České národní bance, Act of the Czech National Council No 6/1993 Coll. on the Czech National Bank, https://www.zakonyprolidi.cz/cs/1993-6</p> <p>Zákon č. 182/1993 Sb., o Ústavním soudu, Act No 182/1993 Coll. on the Constitutional Court, https://www.zakonyprolidi.cz/cs/1993-182</p> <p>Zákon České národní rady č. 358/1992 Sb., o notářích a jejich činnosti (notářský řád), Act of the Czech National Council No 358/1992 Coll. on Notaries and Their Activities (Notarial Code), https://www.zakonyprolidi.cz/cs/1992-358</p> <p>Zákon České národní rady č. 582/1991 Sb., o organizaci a provádění sociálního zabezpečení, Act of the Czech National Council No 582/1991 Coll. on organisation and implementation of social security, https://www.zakonyprolidi.cz/cs/1991-582</p> <p>Zákon č. 111/2019 Sb., kterým se mění některé zákony v souvislosti s přijetím zákona o zpracování osobních údajů, Act No 111/2019 Coll. amending certain acts in connection with the adoption of the Act on the processing of personal data, https://www.zakonyprolidi.cz/cs/2019-111</p>
DE	<p>Gesetz zur Anpassung des Datenschutzrechts an die Verordnung (EU) 2016/679 und zur Umsetzung der Richtlinie (EU) 2016/680, Act to Adapt Data Protection Law to Regulation (EU) 2016/679 and to Implement Directive (EU) 2016/680, https://www.bmi.bund.de/SharedDocs/downloads/EN/gesetze/testexte/datenschutzanpassungsumsetzungsgesetz.pdf?__blob=publicationFile&v=1</p> <p>Bundesdatenschutzgesetz, Federal Data Protection Act, https://www.gesetze-im-internet.de/englisch_bdsq/englisch_bdsq.pdf</p> <p>Gesetz über die Rechtsstellung der Soldaten (Soldatengesetz – SG), Act on the legal status of soldiers (Soldier Act – SG), http://www.gesetze-im-internet.de/sg/index.html</p> <p>Zehntes Sozialgesetzbuch – Sozialverwaltungsverfahren und Sozialdatenschutz (SGB X), Tenth Social Security Statute Book – Social Administration Procedure and Social Data Protection (SGB X), https://www.gesetze-im-internet.de/sgb_10/SGB_10.pdf</p> <p>Landesdatenschutzgesetz (LDSG) [des Landes Baden-Württemberg], State Data Protection Act [of the Land Baden Württemberg], http://www.landesrecht-bw.de/jportal/portal/t/bbv/page/bsbawueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=40&fromdoctodoc=yes&doc.id=jlr-DSGBW2018rahmen&doc.part=X&doc.price=0.0&doc.hl=1#focuspoint</p> <p>Gesetz zur Regelung des Zugangs zu Informationen in Baden-Württemberg (Landesinformationsfreiheitsgesetz- LIFG) [des Landes Baden-Württemberg], Act to regulate the Access to Information in Baden-Württemberg (State Information Freedom Act – LIFG) [of the Land Baden-Württemberg], http://www.landesrecht-bw.de/jportal/portal/t/bh7/page/bsbawueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=13&fromdoctodoc=yes&doc.id=jlr-InfFrGBWrahmen&doc.part=X&doc.price=0.0&doc.hl=1#focuspoint</p> <p>Gesetz über Aufnahme von Flüchtlingen (Flüchtlingsaufnahmegesetz – FlüAG) [des Landes Baden-Württemberg], Act on the Reception of Refugees (Refugees reception Act – FlüAG) [of the Land Baden-Württemberg], http://www.landesrecht-bw.de/jportal/portal/t/c45/page/bsbawueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=29&fromdoctodoc=yes&doc.id=jlr-Fl%C3%BCAGBW2014rahmen&doc.part=X&doc.price=0.0&doc.hl=1#jlr-Fl%C3%BCAGBW2014V3P16</p> <p>Gesetz über die Aufnahme von Flüchtlingen, spätausgesiedelte und weiteren aus dem Ausland zugewanderten Personen im Land Brandenburg sowie zur Durchführung des Asylbewerberleistungsgesetzes (Landesaufnahmegesetz), Law on the admission</p>

of refugees, resettled and other immigrants from abroad in the federal state of Brandenburg and the implementation of the Asylum Seekers Benefits Act, <https://bravors.brandenburg.de/gesetze/laufng>

Landesbeamtengesetz (LBG) [des Landes Baden-Württemberg], Law on Public Servants [of the federal state Baden-Württemberg], http://www.landesrecht-bw.de/jportal/portal/t/d1o/page/bsbawueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=112&fromdoctodoc=yes&doc.id=jlr-BGBW2010rahmen&doc.part=X&doc.price=0.0&doc.hl=1#jlr-BGBW2010pP1

Bayerisches Datenschutzgesetz (BayDSG), Bavarian Data Protection Act (BayDSG), <http://www.gesetze-bayern.de/Content/Document/BayDSG/true>

Gesetz zum Schutz personenbezogener Daten in der Berliner Verwaltung (Berliner Datenschutzgesetz – BInDSG), Berlin Data Protection Act, http://gesetze.berlin.de/jportal/portal/t/13ks/page/bsbeprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=1&fromdoctodoc=yes&doc.id=jlr-DSGBE2018rahmen&doc.part=X&doc.price=0.0#focuspoint

Gesetz zum Schutz personenbezogener Daten im Land Brandenburg (Brandenburgisches Datenschutzgesetz – BbgDSG), Act on the Protection of Personal Data in the federal state of Brandenburg (Brandenburg Data Protection Act – BbgDSG), <https://bravors.brandenburg.de/gesetze/bbgdsq>

Bremisches Ausführungsgesetz zur EU-Datenschutz-Grundverordnung (BreDSG), Bremen Implementation Act for the GDPR (BreDSG), https://www.transparenz.bremen.de/sixcms/detail.php?qsid=bremen2014_tp.c.116884.de&asl=bremen203_tpgesetz.c.55340.de&template=20_gp_ifg_meta_detail_d

Bremisches Landesmediengesetz, Media Act of the Federal State of Bremen, https://www.transparenz.bremen.de/sixcms/detail.php?qsid=bremen2014_tp.c.117017.de&asl=bremen203_tpgesetz.c.55340.de&template=20_gp_ifg_meta_detail_d

Hamburgisches Datenschutzgesetz (HmbDSG), Data Protection Act of the federal state of Hamburg (HmbDSG), <http://www.landesrecht-hamburg.de/jportal/portal/page/bshaprod.psml?showdoccase=1&st=lr&doc.id=jlr-DSGHA2018rahmen&doc.part=X&doc.origin=bs>

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