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Data Literacy Snacks

GDPR Applicability – Introduction to the interactive Virtual Assistant iVA

BERD@NFDI Data Literacy Snack, 23.11.2022

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November 2022



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BERD Academy Data Literacy Snacks

Data Protection Basics by Vasilka Stoilova

9 November 2022 12 p.m. - 12.45 p.m.

GDPR Applicability - Introduction to the Interactive Virtual Assistant iVA by Vasilka Stoilova

23 November 2022 12 p.m. - 12.45 p.m.

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FOCUSED TUTORIAL

Online, University of Mannheim

☺ free

☰ no prerequisites

☑ registration is open

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DFG Deutsche
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On today's menu:

- interactive Virtual Assistant: iVA
 - History and background
 - Navigation
- iVA1: Is the GDPR applicable to your research?
 - Use Case Example



interactive Virtual Assistant: iVA

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Why do we need a data protection assistant?

- **designing research in a compliant manner**
- **minimising the resources of researchers required for achieving this**

History and background

Data Protection Laws & Regulations:

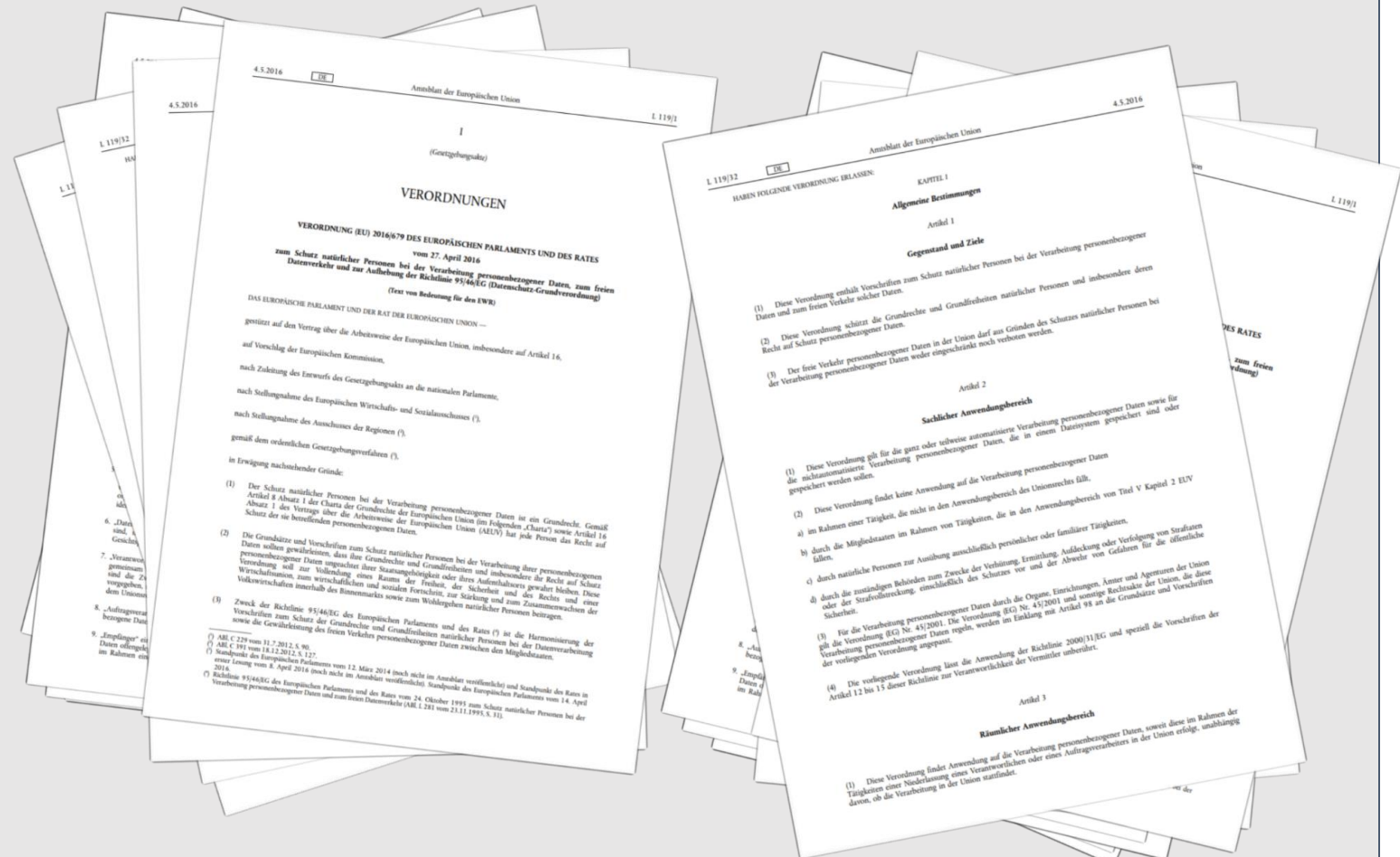
GDPR

German National Data Protection Law

16 State Data Protection Laws

Many special Data Protection Laws

+ regulations, opinions, recommendations, essays, commentaries, etc.



History and background

Data Protection Laws & Regulations:

GDPR

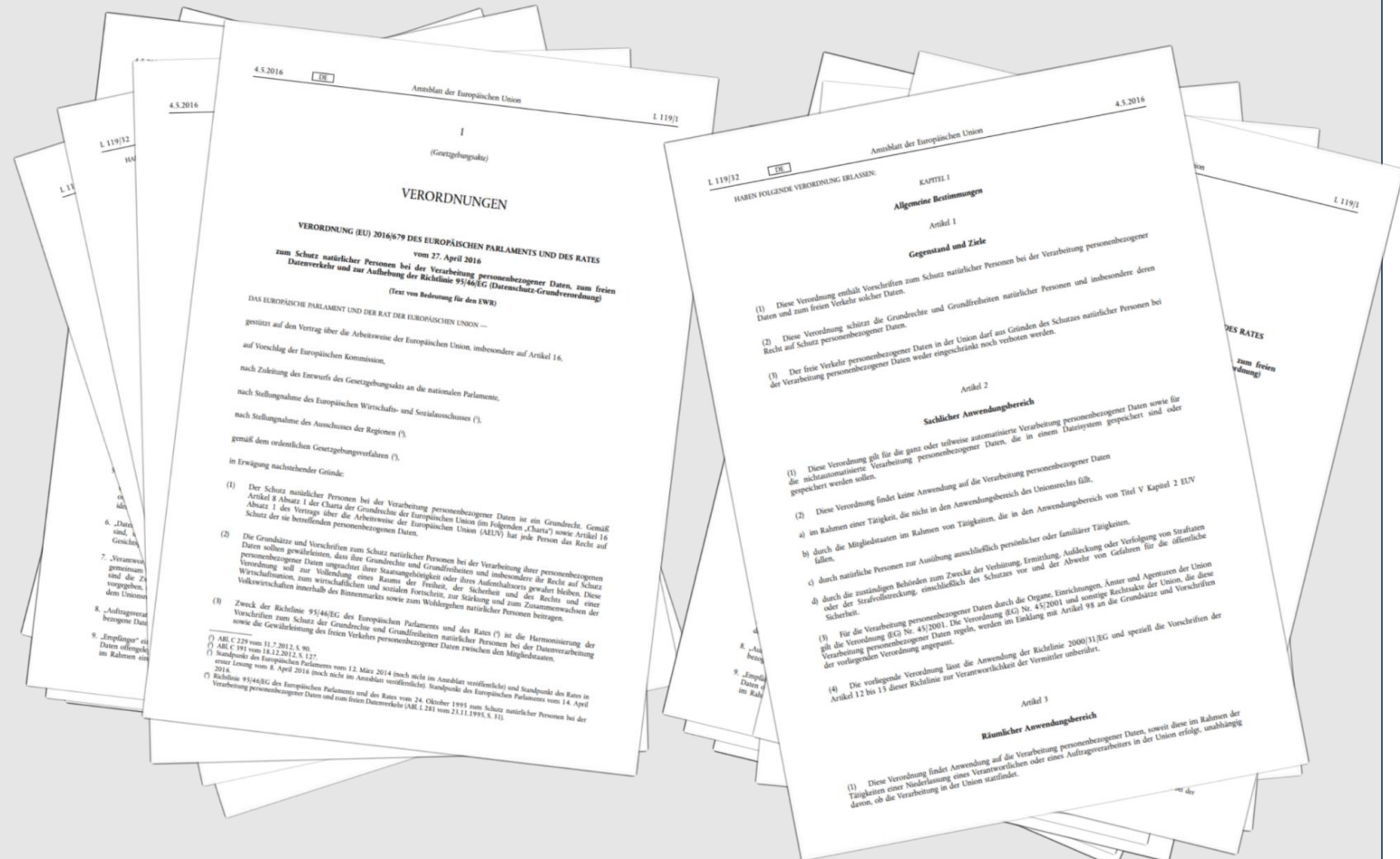
German National Data Protection Law

16 State Data Protection Laws

Many special Data Protection Laws

+ regulations, opinions, recommendations, essays, commentaries, etc.

→ which rules and laws are relevant?





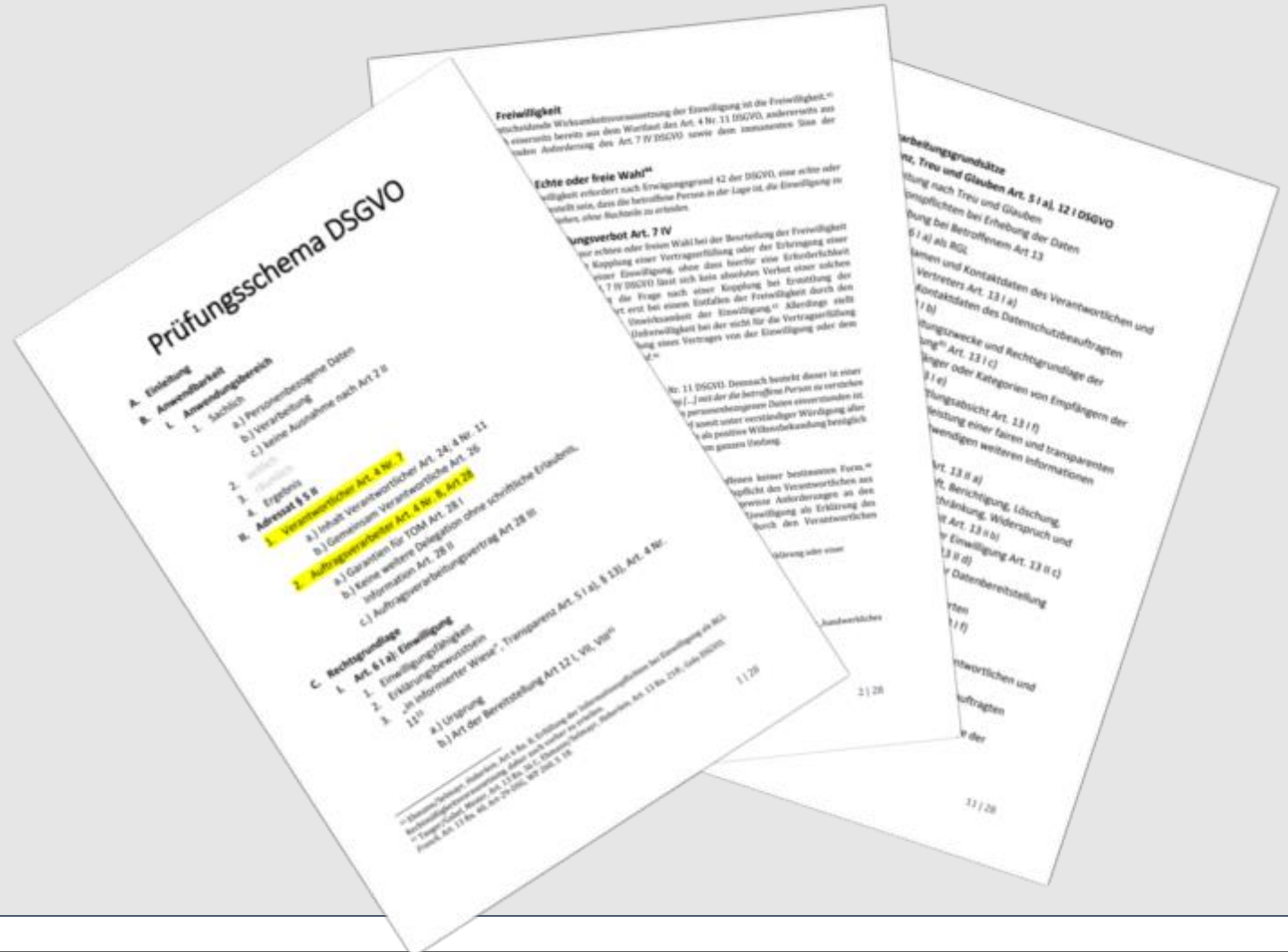
History and background

Kapitel	Inhalt	Abschnitt	Inhalt	§	Inhalt	Rechtsfolge	Tatbestand	Abhängigkeit	Abhängig von	zusätzliche eigene Anforderung	Berechtigter	Verpflichteter	Öffnungsklausel		nationale Regeln	Prüfungsrelevanz	Rechtsfragen	S	T	U		
													Anzahl	Ort								
1	Allgemeine Bestimmungen			1	Ziele			/														
				2	Sachlicher Anwendungsbereich			0	/	Verarbeitung personenbezogener Daten									Anwendungsbereich			
				3	Räumlicher Anwendungsbereich			0	/	Verantwortlicher/Auftragsverarbeiter innerhalb der EU									Anwendungsbereich			
				4	Begriffsbestimmungen											1	Nr. 7			Grundsatz		
2	Grundsätze			5	Verarbeitungsgrundsätze			1	Art. 2	Grundsätze		Verantwortlicher		0			Allgemeine Verarbeitungsanforderungen/ Grundsatz					
				6	Rechtmäßigkeitsgrundlagen					1	Art. 2	Rechtsgrundlage		Verantwortlicher		3	II, III, IV	§§ 5, 13, 14? LDSG	Ermächtigungsgrundlage	- erschöpfende Rechtsgrundlagen, -Möglichkeit kumulativ		
				7	Einwilligung					2	Art. 6 I a)	Betroffener		Verantwortlicher		0			Ermächtigungsgrundlage			
				8	Einwilligung Kinder					2+	Art. 6 I a)	Kind, Informationsgesellschaftsdienst		Verantwortlicher		1	I		Ermächtigungsgrundlage			
				9	Besondere Kategorien					2	//Art. 6 I	besondere Kategorie von Daten		Verantwortlicher		6	II a), g), h), i), j) IV	§§ 22, 27, 28 BDSG, § 9	Ermächtigungsgrundlage			
				10	Daten über Straftaten					2	Art. 6 I	Daten über Verurteilungen/Straftaten		Verantwortlicher		1			Besondere Verarbeitungsbedingungen			
				11	Identifikation nicht mehr notwendig					2+	Art. 6 I	Identifizierung für Verarbeitung	Verantwortlicher	Verantwortlicher		0			Allgemeine Verarbeitungsbedingungen			
3	Rechte Betroffener	1	Transparenz und Modalitäten	12	Transparente Kommunikation			2	Art. 6 I; 13, 14, 15	/	Verantwortlicher, Kommission	Verantwortlicher		0			Allgemeine Verarbeitungsbedingungen					
				13	Informationspflicht Erhebung bei Betroffenen			2+	Art. 6 I	Erhebung bei Betroffenen		Verantwortlicher		0		§ 8 LDSG		Allgemeine Verarbeitungsbedingungen				
				14	Informationspflicht Erhebung bei Dritten			2+	Art. 6 I	Erhebung nicht beim Betroffenen		Verantwortlicher		2	Vc), d)	§ 29 BDSG, § 8 LDSG		Besondere Verarbeitungsbedingungen				
				15	Recht auf Auskunft			2+	Art. 6 I	/	Betroffener, Verantwortlicher	Verantwortlicher		0	vgI Art. 89	§§ 27, 28 BDSG, § 9		Rechte				
				16	Recht auf Berichtigung			2+	Art. 6 I	Unrichtigkeit der Daten	Betroffener	Verantwortlicher		0	vgI Art. 89	§ 27, 28 BDSG, § 9		Rechte				
				17	Recht auf Löschung			2+	Art. 6 I	Löschungsgründe	Betroffener	Verantwortlicher		2	Ie); IIb)	§ 10 LDSG		Rechte				
				18	Recht auf Einschränkung der Verarbeitung			2+	Art. 2	Beschränkungsgründe	Betroffener	Verantwortlicher		?	1	II, vgI Art. 89	§§ 27, 28 BDSG, § 13		Rechte			
				19	Mitteilungspflicht bei Berichtigung, Löschung, Einschränkung			2+	Art. 16/ 17 I, 18	Verhältnismäßigkeit und Mög.	Betroffener	Verantwortlicher		0	vgI Art. 89	§ 14 LDSG		Folge einer Rechtsausübung				
				20	Recht auf Datenübertragbarkeit			2+	Art. 6 I a), b), 9 I	automatisierte Verarbeitung	Betroffener	Verantwortlicher		?	1	III, vgI Art. 89	§ 28 BDSG		Rechte			
				21	Recht auf Widerspruch						Art. 6 I e), f), 89	besondere Situation	Betroffener	Verantwortlicher		0	vgI Art. 89	§§ 27, 28 BDSG, § 13		Rechte		
				22	Recht gegen automatisierte Einzelentscheidungen						Art. 6 I	beachte IV!	Betroffener	Verantwortlicher		1	II b)		Rechte			
4	Verantwortlicher und Auftragsverarbeiter	1	Anwendungsbereich	23	Beschränkungen durch EUR oder natR	Öffnungsklausel		0	Art. 12 - 22, 34		Mitgliedsstaaten			1	I							
				24	Verantwortung			1	Art. 6 I	Art. 4 Nr. 7	Verantwortlicher		0					Allgemeine Verarbeitungsbedingungen				
				25	Technikgestaltung und Voreinstellung			1	Vorfeld Art. 2		Verantwortlicher		0					Allgemeine Verarbeitungsbedingungen				
				26	Gemeinsame Verantwortliche			3			Verantwortlicher & Auftragsverarbeiter		1	I				Allgemeine Verarbeitungsbedingungen				
				27	Verantwortliche außerhalb der EU			3	Art. 3 II		Verantwortlicher		0					Besondere Verarbeitungsbedingungen				
				28	Auftragsverarbeiter			3	Art. 4 Nr. 8	Auftragsverarbeitung	Verantwortlicher & Auftragsverarbeiter		4	III S.1; III a), g), IV				Besondere Verarbeitungsbedingungen				
				29	Verarbeitung auf Weisung			1			Auftragsverarbeiter, unterstellt		1					Besondere Verarbeitungsbedingungen				
				30	Verzeichnis der Verarbeitungstätigkeiten			1			Verantwortlicher, Auftragsverarbeiter		0					Allgemeine Verarbeitungsbedingungen				
				31	Zusammenarbeit mit Aufsichtsbehörde			3			Aufsichtsbehörde	Verantwortlicher, Auftragsverarbeiter		0				Allgemeine Verarbeitungsbedingungen				
				32	TQM			2+			Verantwortlicher & Auftragsverarbeiter		1	IV				Allgemeine Verarbeitungsbedingungen				
				33	Meldepflicht bei Verletzung			2+			Aufsichtsbehörde?	Verantwortlicher & Auftragsverarbeiter		0				Pflichten bei Verletzung				
				34	Berichtspflicht bei Verletzung			2+			Betroffener? Aufsichtsbehörde?	Verantwortlicher		0			§ 11 LDSG		Pflichten bei Verletzung			
				35	Datenschutz-Folgenabschätzung						Aufsichtsbehörde?	Verantwortlicher, Aufsichtsbehörde		1	X			Besondere Verarbeitungsbedingungen				
				36	Konsultationspflicht der Verantwortlichen						Aufsichtsbehörde	Verantwortlicher, Aufsichtsbehörde		1	V			Besondere Verarbeitungsbedingungen				
				37	Unternehmensgruppe						Unternehmensgruppe	Verantwortlicher, Auftragsverarbeiter		1	IV							
				38	Stellung des Datenschutzbeauftragten						Datenschutzbeauftragter, Beauftragter	Verantwortlicher & Auftragsverarbeiter		1	V							

History and background

Expert assessment

- Comprehensive expert assessment for answering the main question ("is my handling of data legal")
- Bundling of all necessary information
- Resolving legal uncertainties and problems



History and background

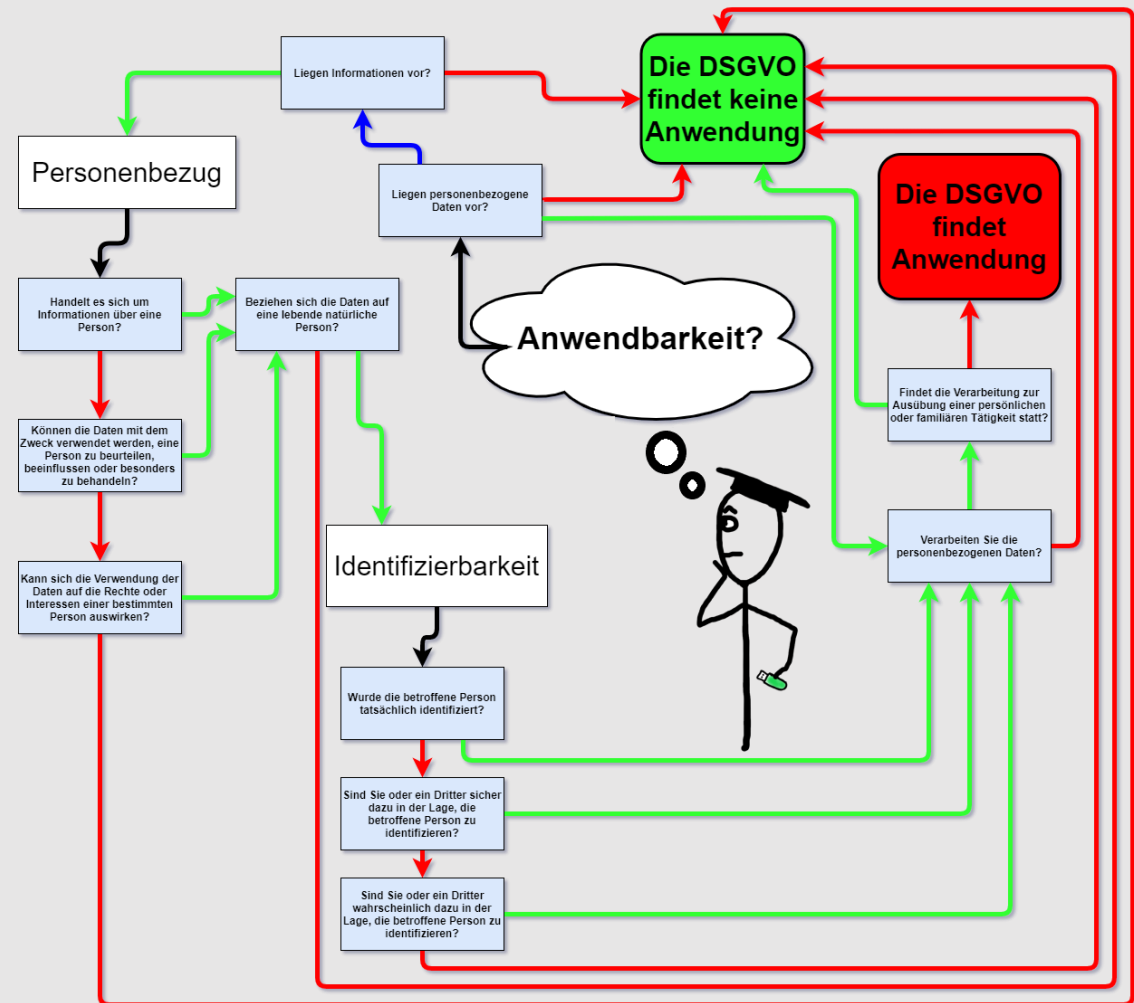
Decision Tree

Advantages:

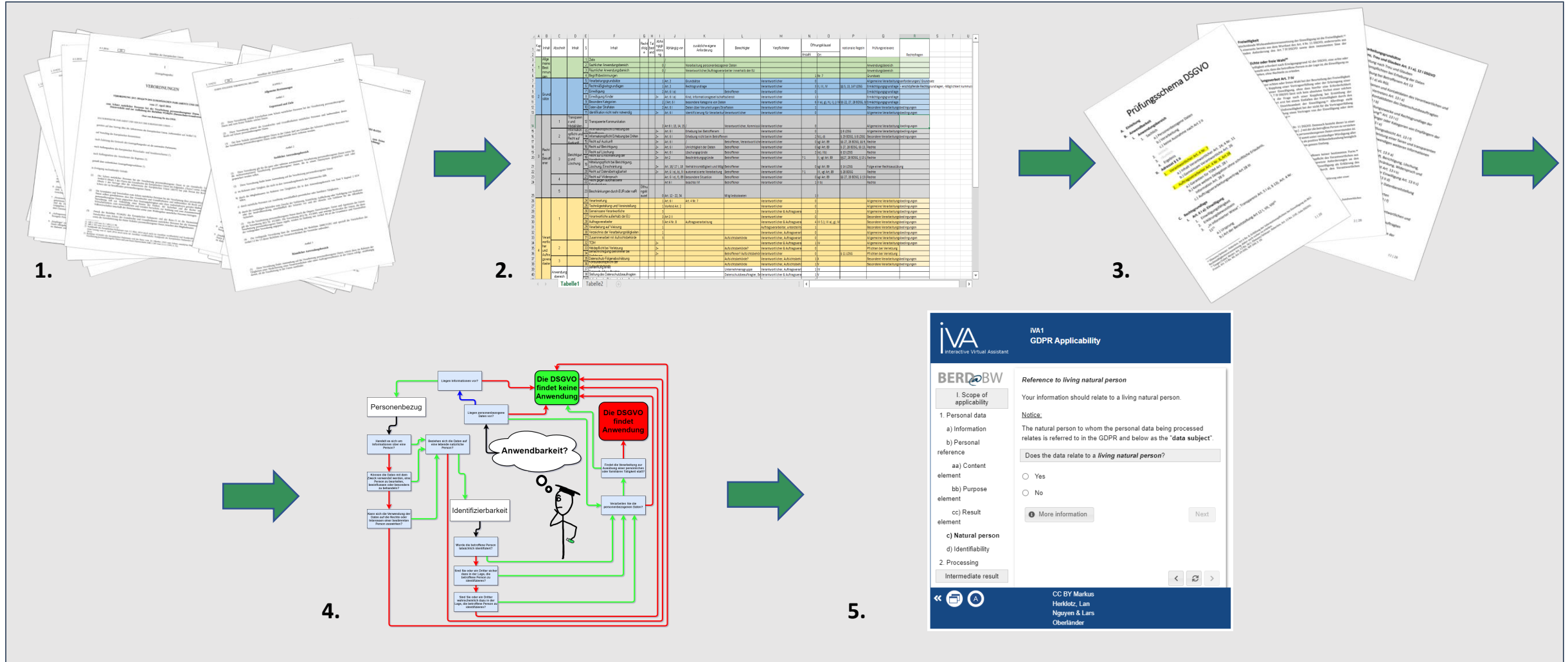
- Clearly comprehensible structure
- Legal consequences presented uniformly
- Reduction of facts to binary questions

Disadvantages:

- Information for answering binary questions missing
- no interactivity
- several decision trees



Process Overview





iVA
Interactive Virtual Assistant

iVA1
GDPR Applicability

BERD@BW

Introduction

iVA1 assists you on your way to achieving compliance with data protection regulations relevant for your research project.

The European General Data Protection Regulation (GDPR) takes precedence over federal and state laws (in Germany: BDSG, LDSG). Therefore, you will be guided step by step through the regulations of the GDPR to determine whether the GDPR applies to your case.

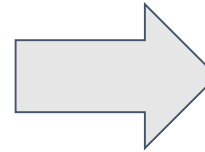
For this purpose, iVA1 provides you with questions and the relevant information to answer them. Please keep in mind your own use case as well as the exact requirements and specifics of your research project.

You should discuss the obtained result with the data protection officers responsible for you. iVA1 is for information purposes only and does not provide nor replace individual legal advice.

Next

< ↻ >

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iVA
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Navigation tips

For your orientation, you will find a **layout** on the left-hand side of the application, in which the respective step of the examination process is highlighted.

You can find more information on the respective questions under "**More information**".

You can get to the next question by clicking on the "**Next**" button. The **arrow buttons** at the bottom right corner can be used to navigate through the questions that have already been answered.

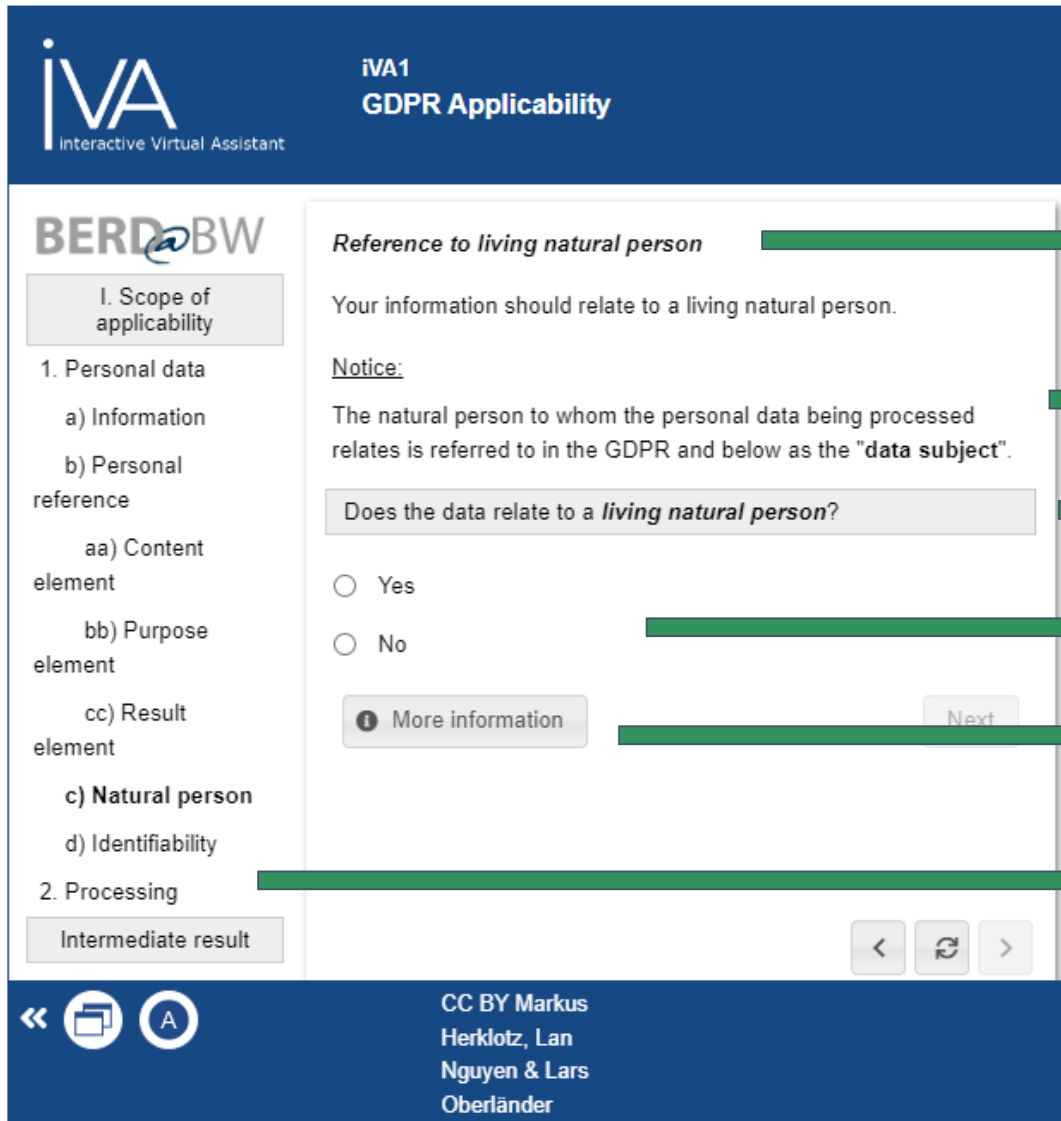
At the end, you can create an overview of your given answers with the "**Overview**" button and copy it to the clipboard with the "**Copy**" button.

Next

< ↻ >

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<https://www.berd-nfdi.de/iva1/>



Criterion

Explanation

Question

Answer Options

More Information

Layout

Embedded as an iFrame on the website with the option for full screen display

<https://www.berd-nfdi.de/iva1/>



iVA1
GDPR Applicability

BERD@BW

I. Scope of applicability

1. Personal data

- a) Information
- b) Personal reference
 - aa) Content element
 - bb) Purpose element
 - cc) Result element
- c) Natural person
- d) Identifiability

2. Processing

Intermediate result

The GDPR does not apply.
No relevant processing of personal data takes place on the basis of your answers. The provisions of the GDPR do not prevent your research project.

You can get an overview of your answers by clicking on the "Overview" button.

Overview

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iVA1
GDPR Applicability

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I. Scope of applicability

1. Personal data

- a) Information
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- d) Identifiability

2. Processing

Intermediate result

Overview:

- i Introduction
- i Navigation tips
- i Personal data
- ? Existence of information
 - > Yes
 - > Other possible answers: No
- i Personal reference
- ? Information about person

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iVA1
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I. Scope of applicability

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- a) Information
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Intermediate result

Overview:

Introduction

Press Ctrl + C to copy

Overview

Introduction iVA1 assists you on your way to achieving compliance with data protection regulations relevant for your research project. The European General Data Protection Regulation (GDPR) takes precedence over federal and state laws (in Germany: BDSG, LDSG). Therefore, you will be guided step by step through the regulations of the GDPR to determine whether the GDPR applies to your case. For this purpose, iVA1 provides you with questions and the relevant information to answer them. Please keep in mind your own use case as well as the exact requirements and specifics of your research project. You should discuss the obtained result with the data

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Applicability of the GDPR

iVA 1 shows you if the General Data Protection Regulation (GDPR) applies to your research data.

[Start here \(DE\)](#)

[Start here \(ENG\)](#)



Consent as legal basis

iVA 2 helps you identify what you have to keep in mind to get a lawful consent for data processing.

[Start here](#)



...other legal bases

We are currently working on iVA 3, which is going to teach you the requirements of lawfully processing personal data without consent of the data subjects.

<https://www.berd-nfdi.de/servicetools/legal-questions-in-data-science/>

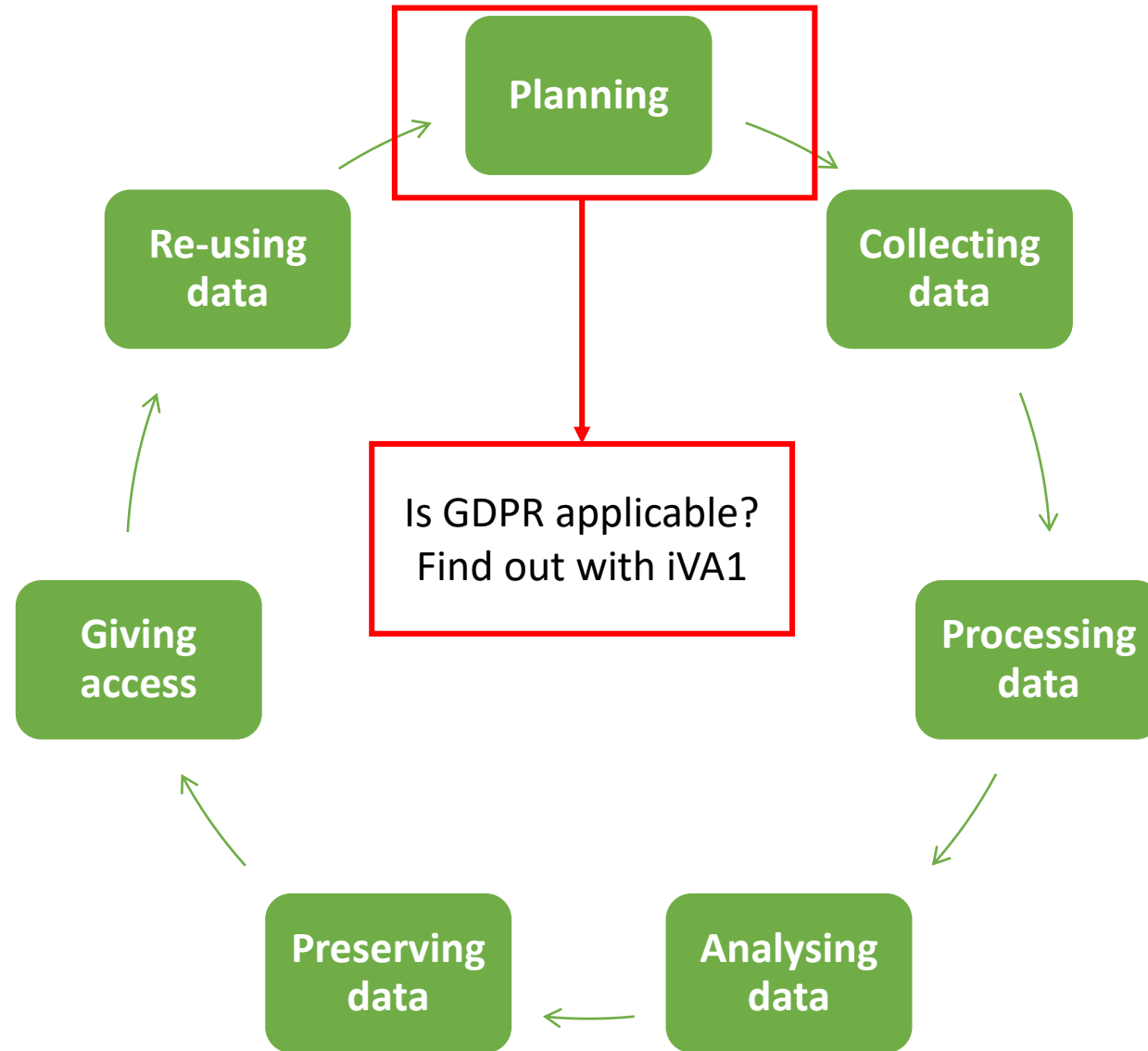
iVA1: Is the GDPR applicable to your research?

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iVA1: Is the GDPR applicable to your research?

- Research Data Lifecycle



Data Protection Basics

- **Data Protection**

GDPR, Recital 1

...“The protection of natural persons in relation to the processing of personal data is a fundamental right.”

- **Personal Data**

Art. 4 (1) GDPR

“personal data’ means any information relating to an identified or identifiable natural person[...].”



Data Protection Basics

- Personal Data

Art. 4 (1) GDPR

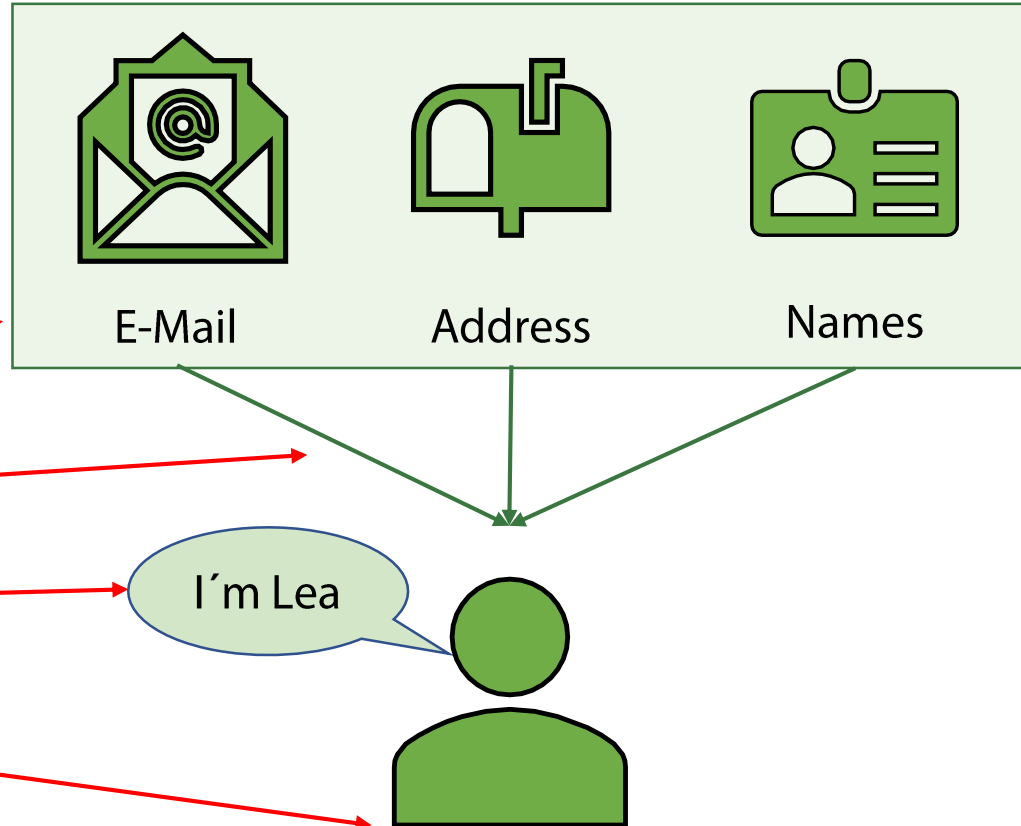
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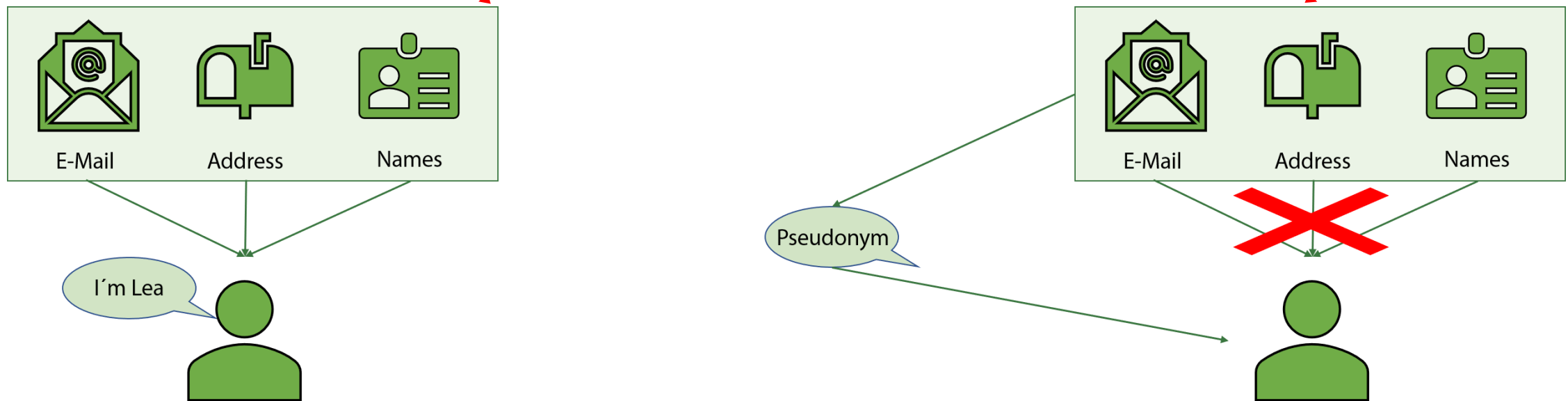


Data Protection Basics

- **Identifiability**

Art. 4 (1) GDPR

“an identifiable natural person is one who can be identified, **directly** or **indirectly** [...]”



- **Use Case Example**

As part of your research project, you need to investigate the use of library computers using a pre-formulated questionnaire. In doing so, the participants have to evaluate the library computers in your university and rank them according to the following criteria: performance, network stability, user interface etc.

The survey takes place exclusively on the publicly accessible computers of the university library in the respective library areas and lasts one week. During this one week the survey window is displayed on the screens every half hour. Participation is voluntary and does not require registration.

It is **theoretically** possible to identify participants, if they have logged on to the computers with their university ID.

The survey includes questions about **age, gender** and **education level**. Contact details such as names or email addresses are **not** requested, stored or processed.

At the end, you will have to evaluate the results of the survey. Based on this, the university would like to take concrete measures to increase library user satisfaction.

- **Use Case Example**

Question:

Do the regulations of the General Data Protection Regulation (GDPR) apply to this project?

Find out with iVA1: <https://www.berd-nfdi.de/iva1/>

- **Use Case Example**

Results:

“It is **theoretically** possible to identify participants, if they have logged on to the computers with their university ID.”

Identifiability?

- **Logged in with University ID**
 - **Theoretically/ possibly identifiable**

Result: The GDPR applies.

- **Not logged in with University ID**
 - **Not identifiable**

Result: The GDPR does not apply.

Thank you!

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<https://www.berd-nfdi.de/>

<https://www.berd-nfdi.de/newsletter-en/>

Overview of iVA:

<https://www.berd-nfdi.de/servicetools/legal-questions-in-data-science/>

iVA1:

<https://www.berd-nfdi.de/iva1/>

iVA2 (soon available in English):

<https://www.berd-nfdi.de/iva2/>

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