



**GHENT
UNIVERSITY**

DISCLAIMER

The information provided in this presentation is based on a **current interpretation of the GDPR**, check the research tips and website for **updates**

This presentation **should not be seen as legal advice**

GDPR AND RESEARCH



Annik Leyman – DOZA – 23/2/2021 - Transferable Skills Seminar Doing research in a non-EU context: funding, ethics and integrity

GDPR

General Data Protection Regulation?

- Came into force on May 25th 2018
- 'New' EU-wide data protection regulation
- The general principles remain the same!
- Goal = modernising and harmonization of European data protection rules

When do you need to comply?

- When you are **processing personal data** within your **research**
- Processing means **any operation or set of operations** which is performed **on personal data or on sets of personal data**, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction



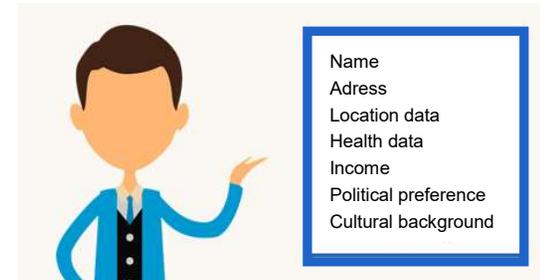
WHAT ARE PERSONAL DATA?

Personal data about a data subject

- Data about **natural living persons** from which they can be **directly or indirectly identified** (name, identification number, location data, online identifier, factors specific to the physical, psychological, genetic, mental, economic, cultural, social,... identity of a natural person)
- (combinations of) indirect identifiers can also lead to identification and are therefore also personal data
- **Data subject** = person who's personal data you will be collecting (i.e. research participants)

Special categories of personal data (sensitive data)

- Racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data, health data, data on sex life or sexual orientation



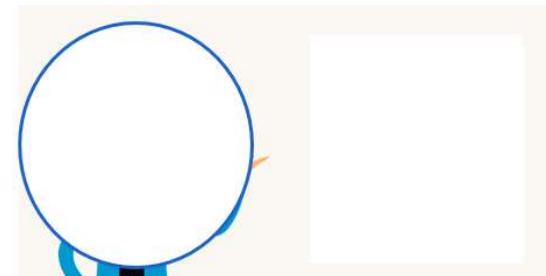
WHAT ARE PERSONAL DATA?

Pseudonymised data

- Personal data are separated from the research data
- Data subject are **only identifiable** with the use of **additional information/identifiers** that is kept separately
- Pseudonymised data are still **personal data** (even if the identifiers are held by another organisation)
- Pseudonymised data = **GDPR!**

Anonymous data

- Do not relate to an **identified or identifiable** natural person
- Data subject is **not or no longer identifiable** (no person in any way)
- Anonymised data **≠ GDPR**
- The handling (**anonymisation**) = **GDPR!**



WHO HAS TO COMPLY?

A (UGent) researcher **based within the EU** who processes **personal data of natural persons**,
from any other country worldwide

A researcher who is based **outside the EU**
but processes data of natural persons in the EU



GDPR & THE SEVEN BASIC PRINCIPLES OF PROCESSING PERSONAL DATA

Purpose limitation

Do you use personal data only for specified and legitimate purposes in your research?

Accuracy

Are the personal data still correct?

Data minimization

Do you only collect personal data that are necessary to achieve the specified goal of your research?

Lawfulness, fairness and transparency

Are the data subjects informed and is the processing of the data undertaken accordingly?

Storage limitation

Do you really need the data after a certain period?

Integrity and confidentiality

Do you process personal data in a manner that ensures appropriate security?

Accountability

Have you taken your responsibility and are you able to demonstrate compliance with the GDPR?

HELP, WHAT DO I NEED TO DO?

Obligations under GDPR

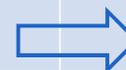
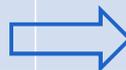
- Design your research according to the general principles of GDPR (privacy by design)
- Document your decisions in the GDPR register of Ghent University (principle of accountability)
- Take into account the [Generic code of conduct for the processing of personal data](#) and confidential information of Ghent University
- If applicable: make sure the necessary contractual agreements are in order (contracten@ugent.be)

GDPR register at UGent

- For every processing activity/project: complete this register at the start of your research
- Incorporated in **DMPonline.be** - Data Management Plans
- Complete the **GDPR template** in your role as data controller on behalf of Ghent University or data processor
- For more information check <https://onderzoektips.ugent.be/en/tips/00001795/> or join a workshop

GDPR IN THE RESEARCH CYCLE

PLANNING	DATA COLLECTION	DATA STRUCTURING AND ANALYSIS	PUBLICATION AND ARCHIVING
<ul style="list-style-type: none"> ✓ Data? ✓ Lawfulness? ✓ Collaboration & partners? ✓ GDPR-Responsability? ✓ Data transfers? ✓ If necessary: processor agreements and/ or agreements for data transfer ✓ Data Protection Impact Assessment (DPIA)? ✓ Research Data Management? ✓ If necessary: ethical clearance 	<ul style="list-style-type: none"> ✓ Transparency? ✓ Data subject rights & exceptions? 	<ul style="list-style-type: none"> ✓ Data protection? ✓ Data breaches? 	<ul style="list-style-type: none"> ✓ Retention of personal data for research? ✓ Reuse of personal data? ✓ Publishing personal data? ✓ Sharing personal data?
<ul style="list-style-type: none"> ✓ Register your processing activity (dmponline.be) 	<ul style="list-style-type: none"> ✓ Update the register if necessary 	<ul style="list-style-type: none"> ✓ Update the register if necessary 	<ul style="list-style-type: none"> ✓ Update the register if necessary



COLLABORATION: DIFFERENT TYPES

Within Ghent university

→ All data will only be available to employees of the same institution

University – other university/ research institution

→ Collaboration with another public institution, such as another college or university.

Public – private

→ Private institution, which may have other (commercial) interests in the data in addition to the research

!!! Collaboration and sharing of personal data outside Ghent University requires contractual agreements

COLLABORATION: DIFFERENT ROLES AND RESPONSIBILITIES

Data controller (on behalf of UGent): the institution / organization that determines the purpose and means of the processing

→ Simply providing funding for research is insufficient to be the data controller in the context of research, eg FWO

Joint controller (on behalf of UGent): the purpose and means of processing are determined by two or more organizations or institutions

→ Data processing agreement necessary between joint controllers

Separate controllers (on behalf of UGent): the purpose and means of the processing are determined by two or more organizations or institutions, but these are each separately responsible for processing for 1 specific processing activity

→ I.e. with clearly separable work packages in a research project

→ Data processing agreement not strictly necessary, but the separation needs to be clarified (in consortium agreement or other)

Processor: the institution, organization or researcher processes personal data on behalf of another institution or organization

→ I.e. services provided by a UGent researcher for the Flemish Government

→ I.e. UGent researcher processes accountancy data for governmental institution, industry association or professional organisation, e.g. Farm Accountancy Data for Ministry of Agriculture

→ I.e. UGent researchers conducts an online survey through Qualtrics. Qualtrics is a data processor on behalf of this researcher (researcher is the controller on behalf of Ghent University)

→ Data Processing Agreement between controller and processor necessary

Data processing agreement: a legally binding document that regulates the particularities of data processing – such as its scope and purpose – as well as the relationship between the controller and the processor. Contracten@ugent.be

COLLABORATION: DATA TRANSFER TO OTHER COUNTRIES

! You do not actually have to 'send' the data to a non-EU country; if one of your partners or service providers is located outside the EEA and is able to access the personal data you have collected, this amounts to a 'data transfer' in the context of the GDPR.

From EU to EU

- **GDPR** applies
- **Data processing agreement or – clauses** necessary!

From EU to non- EU

- **GDPR** does not apply
- **Data processing agreement or – clauses** necessary!
- Ensure that any **international data transfers fulfil at least one of the relevant conditions** :
 - Adequacy decision of the EC: check the 'white list' : https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/adequacy-decisions_en
 - Standard contractual clauses EC (non changeable!)
 - Approved Code of conduct
 - Derogation for special situations determined in art. 49 GDPR

- Implement **appropriate organisational and technical measures** to ensure that personal data are transferred securely

From non- EU to EU

- Ensure that processing, notification, consent and accountability provisions **meet GDPR standards**;
- **Data processing agreement or – clauses or authorisation** necessary!
- Identify any further data protection requirements in **applicable laws in the country** in which data are to be collected (I.e. via <https://www.cnil.fr/en/data-protection-around-the-world>)
- Implement **appropriate organisational and technical measures** to ensure that personal data are transferred securely.

contracten@ugent.be

IMPORTANT DOCUMENTS & LINKS

GDPR

→ <https://eur-lex.europa.eu/legal-content/NL/TXT/?uri=celex%3A32016R0679>

Belgian law

→ http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2018073046

UGent

→ Privacy and research

<https://www.ugent.be/en/research/datamanagement/policies/privacy.htm>

→ Generic code of conduct for the processing of personal data

https://www.ugent.be/intranet/en/regulations/code_of_conduct



Questions?

Hanne Elsen

Data Protection Officer UGent
privacy@ugent.be

Annik Leyman

Policy Advisor Department of Research
Annik.leyman@ugent.be

Data stewards UGent

rdm.support@ugent.be