



# Personal and non-personal data

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# learning objectives

- case discussion: *Breyer* \*
- personal and non-personal data EU legislation
- special categories of personal data



# 1. Breyer Case



## 2. PERSONAL AND NON- PERSONAL IN EU LAW

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# Personal data

## The GDPR Definition

- **Article 4**
- *Definitions*
- 1. For the purposes of this Regulation (reg. EU 2016/697, or *GDPR*)
- (1) ‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;



# Personal data

the 4 elements of the definition

1. any information

2. relating to

3. identified or identifiable

4. natural person



# 1. Any information

A wording calling for a **wide interpretation**

Any sort of statements about a person

- **objective**
- **subjective**
- **true/false**

Any data providing any sort of information

In whatever form



## 2. Relating to

### CRUCIAL: *about* the individual

- which are the relations/link that matter?
- How to distinguish them?

### more or less evident relation

- object for the subject
- mean for the agent
- content
- purpose
- result
- relationality





# 3. Identified or Identifiable

- **distinguished/distinguishable** from all other members of the group
  - **directly** (name)
  - **indirectly** (unique combination)
- **identifiers:** privileged pieces of information to single someone out



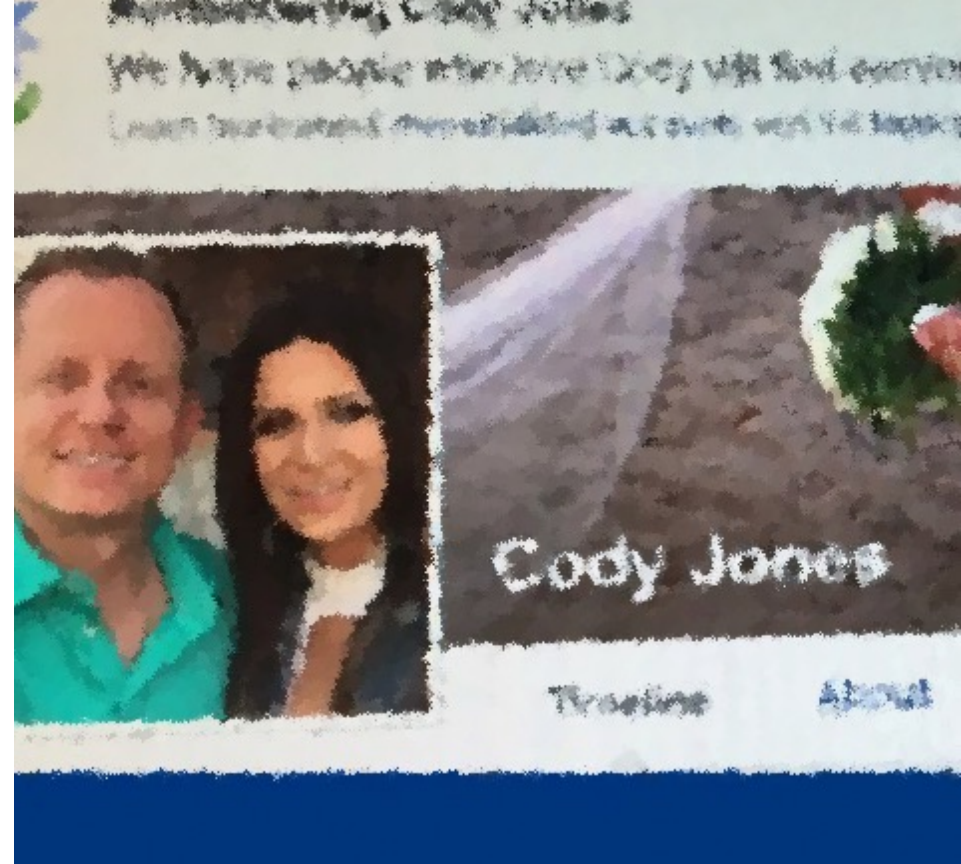


## 4. Natural person

- a living human being (citizen/resident)

### Open issues regulated by national law

- dead person?
- unborn children?
- legal person?





## Means to identify?

### *Recital 26 GDPR*

To determine whether a natural person is identifiable, account should be taken of **all the means reasonably likely to be used**, such as singling out, either by the controller or by another person to identify the natural person directly or indirectly.

account should be taken of **all objective factors**, such as the **costs** of and the amount of **time** required for identification, taking into consideration the **available technology at the time** of the processing and technological developments



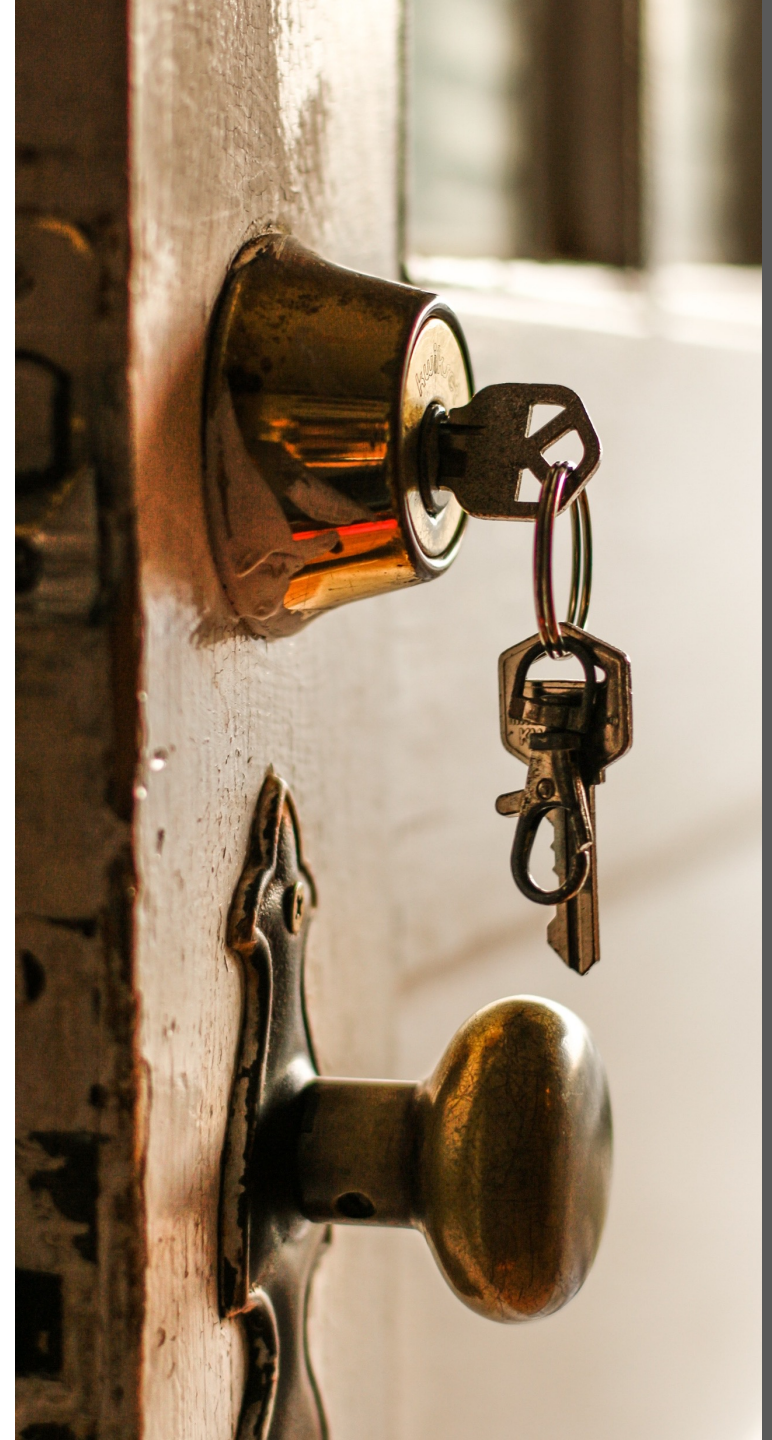
# Pseudonymized Data

## Article 4

### *Definitions*

1. For the purposes of this Regulation (reg. EU 2016/697, or *GDPR*)

(5) '**pseudonymisation**' means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject **without the use of additional information**, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person





# Anonymous Data?

*Recital 26 GDPR*

The principles of data protection should therefore not apply to anonymous information, namely **information which does not relate to an identified or identifiable natural person** (originally)

*or*

**to personal data rendered anonymous in such a manner that the data subject is not or no longer identifiable** (de-personalized)

→ **This Regulation does not therefore concern** the processing of such anonymous information, including for statistical or research purposes.





# → Nonpersonal Data

## Article 3

### *Definitions*

For the purposes of this Regulation (reg. EU 2018/1807):

(1) 'data' means data ***other than personal data*** as defined in point (1) of Article 4 of Regulation (EU) 2016/679

**...a so clear distinction?**



# 3. SPECIAL CATEGORIES OF PERSONAL DATA

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SPECIAL... BUT WHY?

All citizens have **equal** social dignity and are equal before the law, **without distinction of sex, race, language, religion, political opinion, personal and social conditions.**

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ITALIAN CONSTITUTION –  
ARTICLE 3 (1)



The enjoyment of the rights and freedoms set forth in this convention shall be secured **without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.**

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EUROPEAN CONVENTION OF HUMAN  
RIGHTS (ECHR) | ARTICLE 14 –  
PROHIBITION OF DISCRIMINATION



## **Equality before the law**

Everyone is equal before the law.

## **Non-discrimination**

any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited

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**EU CHARTER OF FUNDAMENTAL  
RIGHTS – ARTICLES 20-21**

# Special Categories of Personal Data

Article 9, § 1 GDPR

racial or ethnic origin

political opinions

religious or philosophical beliefs

trade union membership

genetic data, biometric data

data concerning health or

data concerning sex life

sexual orientation