

Test Answers -- Padova, February 22, 2024

Law & Data

***Here are the correct answers for the multiple-choice questions.
We provide a skeleton of the right answers for the open questions.***

1. Please describe the structure of the “proportionality scrutiny” in no more than 200 words. (up to 6 pts)

The answer should describe the three-steps or four-steps proportionality scrutiny that courts often employ to balance competing rights and interests. The sequence is extremely relevant because the scrutiny is a test: if a measure fails to pass one step, the measure is unlawful and the scrutiny is over.

The steps are the following:

- 1. Does the measure under scrutiny pursue a legitimate goal?*
- 2. Is the measure concretely connected with the purported goal (this is the “rational connection” step—some courts omit it)?*
- 3. Is the measure necessary to pursue that goal? (This is the “least restrictive means” step)*
- 4. Are the benefits more than the sacrifices that the measure causes to the interests and rights that are involved?*

2. Which of the following statements is correct (2 pts)

- a. Synthetic data is protected by GDPR
- b. the GDPR does not cover the protection of synthetic data
- c. the GDPR prohibits the creation and the dissemination of synthetic data
- d. Synthetic data and anonymized data are the same notion

3. Please, explain what ‘personal data’ means according to the EU personal data protection legislation and the difference with sensitive personal data in no more than 200 words (up to 8 pts)

- a. definition of personal data according to article 4(1) of the GDPR*
- b. definition of sensitive data, even involving article 9 GDPR*
- c. differences in the processing of personal data and sensitive personal data*
- d. lawful reasons for processing personal data and sensitive personal data with or without data subjects’ consent*
- e. possible references to the origins of the definition of personal data and sensitive personal data (Convention 108, OECD Guidelines)*

4. Please, describe which are the main rights recognized to a data subject by the GDPR in max 250 words. (up to 8 pts)

- a. Right to access*
- b. Right to data rectification*
- c. Right to data erasure – right to be forgotten*
- d. Right to processing restriction*
- e. Right to data portability*
- f. Right to limit the processing*
- g. Right to object to data processing*
- h. Right to lodge a complaint before the NSA*

i. *Right to seek legal redress before Courts*

5. The processing of personal data pursuant to the GDPR may be lawfully carried out (2 pts):

- a. When data subjects expressed their own consent
- b. Based on the controller's free choice
- c. When there is no consent by data subjects, but the processing is needed for protecting the data subjects' or other individuals' vital interests
- d. When there is no consent, but the processing must take place to perform a contract between the controller and any third party

6. The Charter of fundamental rights recognizes the right to privacy and the right to data protection to (1 pt):

- a. only to individuals with EU citizenship
- b. all individuals in the EU
- c. only to EU companies

7. When the European Court of Human Rights rules that a State has failed to protect a right of an individual (2 pts):

- a. The Court's ruling replaces the domestic rule that is incompatible with the European Convention of Human Rights
- b. It is up to the State to remove the violation of the European Convention
- c. The individual can sue the State in the European Court of Human Rights

8. The European Data Protection Supervisor is (1 pt)

- a. a national authority supervising on data protection
- b. a supranational authority supervising on the activity of national supervisory authorities
- c. a supranational supervisor on any processing of personal data Member States citizens
- d. an independent body at the European level supervising on processing carried out by EU Institutions