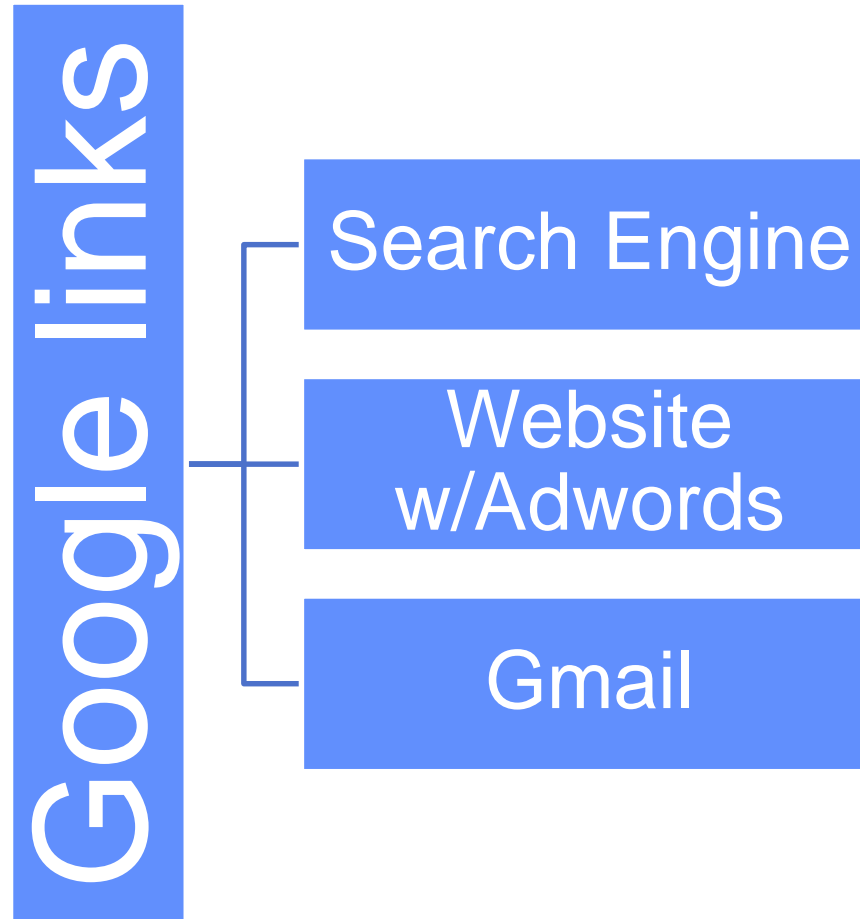


Data Protection in Telecoms

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Linking of Data Sources



Where is the Problem?

1. Data protection is fundamental in a liberal society.
2. Data protection means the protection of citizen's sovereignty towards the state.
3. History shows: Power is likely to go evil.

Introduction

Art. 13 Abs. 2 Federal Constitution (Bundesverfassung)

²Every person has the right to privacy in their private and family life and in their home, and in relation to their mail and telecommunications.

Introduction

Art. 1 Federal Act on Data Protection (DSG)

This Act aims to protect the privacy and the fundamental rights of persons when their data is processed.

Laws on Data Protection in Telecoms

- Art. 13 Constitution
- Federal Act on Data Protection (DSG)
- Art. 43 Telecommunications Act
- Art. 321^{ter} Criminal Code (StGB)

The Federal Act on Data Protection (FADP)

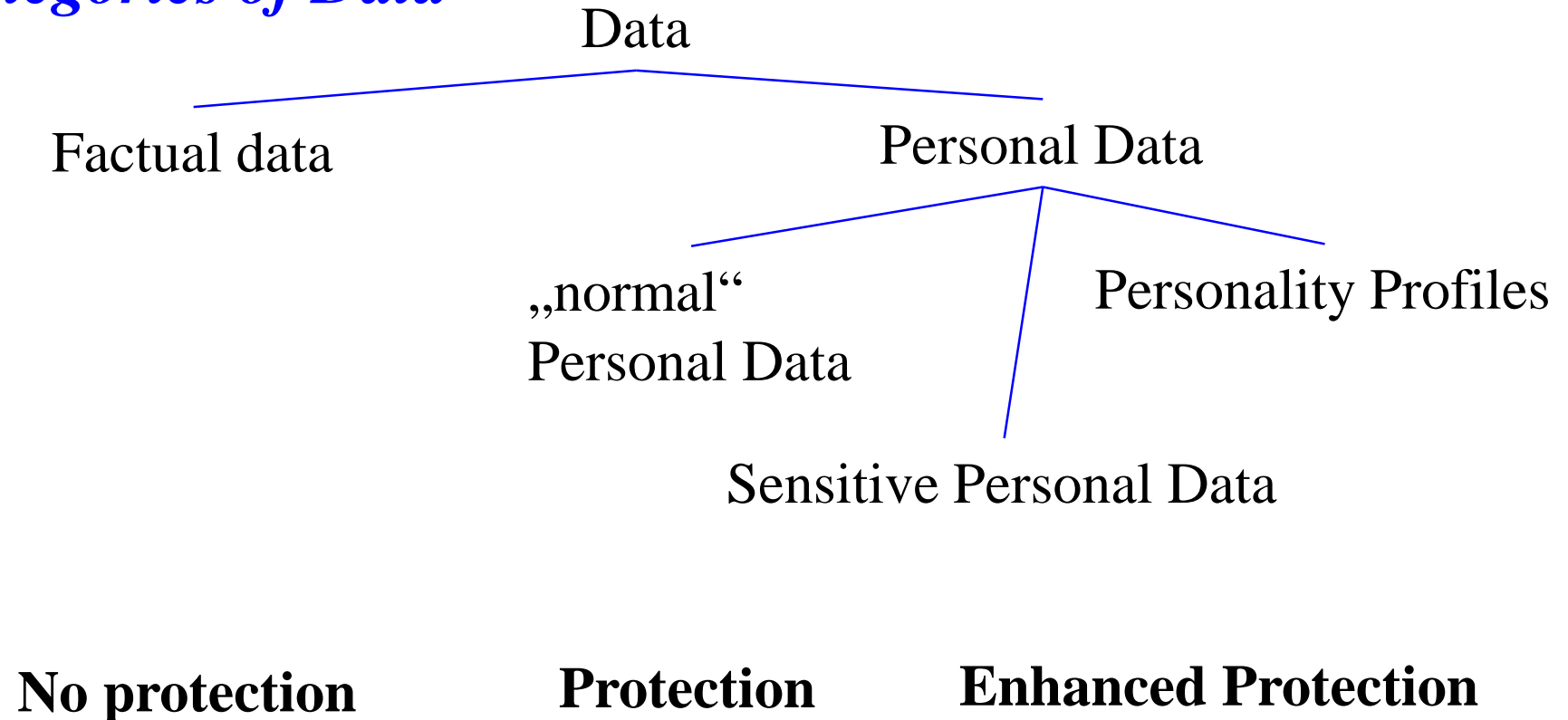
Art. 2 Para. 1 FADP

¹This Act applies to the processing of data pertaining to natural persons and legal persons by:

- a. private persons;
- b. Federal bodies.

Definitions according to Art. 3 FADP

Categories of Data



Definitions according to Art. 3 FADP

Processing (Art. 3 Let. e FADP)

Any operation with personal data, irrespective of the means applied and the procedure, and in particular the collection, storage, use, revision, disclosure, archiving or destruction of data.

Principles of Data Protection

Art. 4 FADP: Core Principles

- Lawfulness
- Good Faith
- Proportionality; data minimization
- Purpose

Art. 5 FADP

- Correctness of Data

Art. 4 Para. 4, 8 und 11a FADP

- Transparency

Art. 7 FADP

- Information Security

Principles of Data Protection

Art. 4 DSGVO

¹Personal data may only be processed lawfully.

²Its processing must be carried out in good faith and must be proportionate.

³Personal data may only be processed for the purpose indicated at the time of collection, that is evident from the circumstances, or that is provided for by law.

Principles of Data Protection

Art. 5 DSGVO: Correctness

¹Anyone who processes personal data must make certain that it is correct. (...)

²Any data subject may request that incorrect data be corrected.

Grundsätze des Datenschutzes

Art. 8 FADP: Right to Information

¹Any person may request information from the controller of a data file as to whether data concerning them is being processed.

²The controller of a data file must notify the data subject:

- a. of all available data concerning the subject(...)
- b. of the purpose fo and the legal basis for the processing (...)

Principles of Data Protection

Art. 7 Para. 1 DSGVO: Data Security

¹Personal data must be protected against unauthorised processing through adequate technical and organisational measures.

Justification of Data Processing

Art. 13 Para. 1 DSGVO

¹A breach of privacy is unlawful unless it is justified by the consent of the injured party, by an overriding private or public interest or by law.

Justification of Data Processing

An overriding interest of the person processing the data shall in particular be considered, if data is processed...

- In connection with conclusion or performance of a contract;
- In commercial competition with the data subject;
- For a publication in periodically published media;
- For purposes not relating to a specific person, e.g. research or statistics, if publication does not identify the data subject;
- (...)
(Art. 13 Para. 2 FADP)

Confidentiality of Telecommunications

Art. 43 Telecommunications Act

No person who is or has been responsible for providing a telecommunications service may disclose to a third party information relating to subscribers' communications or give anyone else an opportunity to do so.

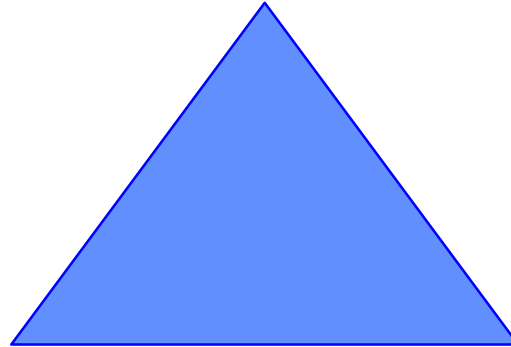
Confidentiality of Telecommunications

Art. 321^{ter} Criminal Code

Any person who in his capacity as a public official, employee or auxiliary of an organisation providing postal or telecommunications services reveals to a third party details of customers' post, payments or telecommunications, opens sealed mail or tries to find out its content, or allows a third party the opportunity to carry out such an act is liable to a custodial sentence not exceeding three years or to a monetary penalty.

Big Data

*Processing of
huge amounts
of data*



*Real time
access*

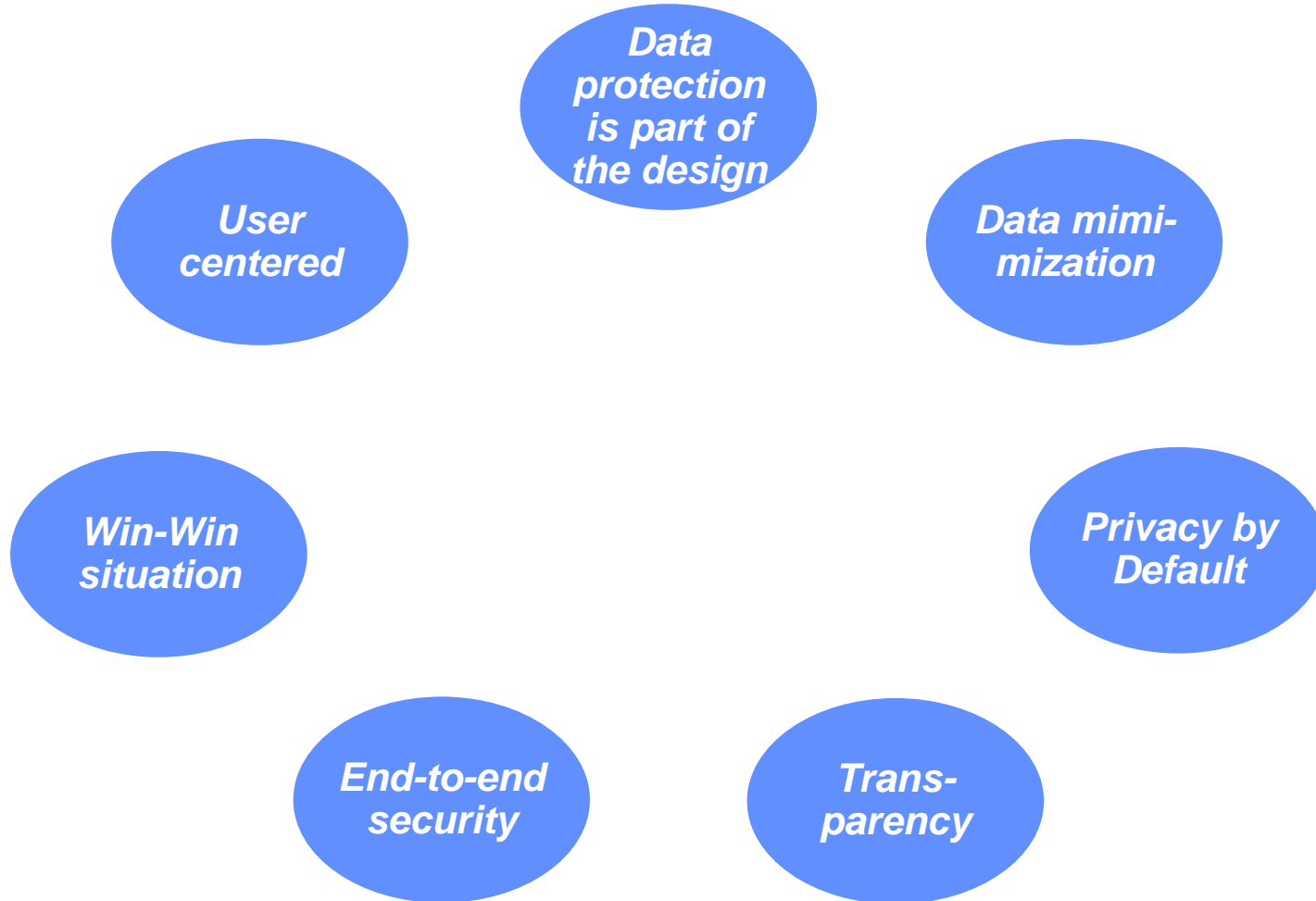
*Diverse data
sources*

Big Data

Big Data processing often violates data protection, because...

- Big Data analysis often results in personality profiles, so the procession would require explicit consent;
- Principles of transparency and purpose are violated if databases are combined which were originally intended for different purposes;
- Deanonimization of former anonymous data is possible;
- Principle of data minimization violated if data is collected ahead;
- International access from non-secure countries.

Privacy By Design



Any Questions?

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