

Guidance Navigator AI & Data Protection (ONKIDA)

Overview of ten central requirements of data protection law in supervisory guidance on "Artificial Intelligence".

As of July 2024. [Intro video \(PeerTube\)](#)

	A. EDPS Guidelines on generative AI and the EUDPR (2024, PDF) [↗] <i>Data processing by EU institutions</i>	B. Report of the EDPB Taskforce ChatGPT (2024, PDF) [↗]	C. DSK: Guidance on AI and Data Protection (2024, PDF) [↗]	D. LfDI BW: Legal bases for the use of AI (2023)	E. BayLDA: Checklist for Data Protection-Compliant AI (2024, PDF) [↗]	F. Hamburger BfDI: Checklist for the use of LLM-based chatbots (2023, PDF) [↗]	G. CNIL: Recommendations on the development of AI systems ("How-to sheets") (2024) [↗]	H. DSB Austria: FAQ AI and Data Protection (2024) [↗]	I. DSK: Position paper on TOM in the development and operation of AI systems (2019, PDF) [↗]	J. DSK: Hambach Declaration on AI (2019, PDF) [↗]
1. Principle of data accuracy Art. 5 [↗] I lit. d) GDPR	(+) p. 15 et seq. (Art. 4 I lit. d) Reg. 2018/1725)	(+) para. 29 et seq. and in the questionnaire in the Annex, p. 11	(+/-) Right to rectification para. 27, verification of the correctness of the results para. 64 et seq.	(-)	(+/-) Right to rectification, pp. 6, 10	(+/-) Verification of the correctness of the result p. 4	(+/-) "data cleaning", "monitoring and updating" Sheet 7	(+)	(-)	(-)
2. Principle of data minimization Art. 5 [↗] I lit. c) GDPR Principle of purpose limitation Art. 5 [↗] I lit. b) GDPR	(+) Data minimization: p. 14 (Art. 4 I lit. c) Reg. 2018/1725) (+/-) Purpose limitation: only very indirectly ("consistent with original purpose"), p. 12	(+/-) only in the context of the questionnaire in the Annex, p. 10	(+) Earmarking para. 1 et seq.	(+/-) Consideration of data minimisation in Art. 6 I lit. f GDPR (p. 17) and § 13 LDSG BW (P. 25) (+) Change of purpose p. 15	(+/-) Earmarking only rather indirectly pp. 6, 8, 11 (checklist)	(-)	(+) Sheet 2, data minimization also Sheet 6, purpose compatibility also Sheet 4 (2/2)	(+)	(+) Data minimization p. 9, 14, 17 (+) Purpose limitation p. 6 f., 7 (questionnaire), 8, 9, 14, 17	(+) Data minimization, p. 4 (+) Purpose limitation p. 3;
3. Personal reference Art. 4 [↗] No. 1 GDPR	(+) p. 7 (Art. 3 No. 1 Reg. 2018/1725)	(-)	(+) paras. 4 et seq., 7 et seq., 48 et seq.	(+) esp. p. 6	(+) pp. 4, 5, 9, 10, 11 (checklists)	(+) p. 2 f.cf. also Hamburg Theses on Personal Reference in Large Language Models [↗] of 15.7.2024	(+) Introduction	(-)	(+) p. 15 short sentence related to confidentiality during training	(-)
4. Legal basis for data processing Art. 6 [↗] I & 9 [↗] II GDPR	(+) p. 11 et seq. (Art. 5 and 10 II Reg. 2018/1725)	(+) para. 13 et seq., also in the questionnaire p. 12 et seq.	(+) para. 9 et seq. (also reference to position paper LfDI BW), para. 62 (in connection with sensitive data)	(+) esp. p. 11 ff.	(+) Pages 4 and 9 (Checklists)	(+) p. 2 (indirectly in connection with personal reference) and p. 4 (in connection with discrimination)	(+) Sheet 4 (1/2 and 2/2), Sheet 8 (in consultation)	(+/-) general reference only	(+/-) isolated short references to the need for a legal basis	(-)
5. (Wed-) Accountability Art. 26 [↗] (and 28 [↗]) GDPR	(+) p. 6	(+/-) para. 23 et seq. in connection with the principle of fairness, "shifting" of responsibility to data subjects; in the context of the questionnaire p. 14	(+) para. 32 et seq.	(+) p. 9 ff.	(+) p. 9	(-)	(+) Sheet 3	(-)	(+/-) indirect: Clarification of the access options of cloud providers p. 16; "Role and Authorization Concept" pp. 15,18,19	(+/-) p. 4 (only brief reference to determination of responsibility)
6. Transparency requirement and information obligations Art. 5 [↗] I lit. a and 12 et seq. GDPR	(+) p. 17 (Art. 14 Reg. 2018/1725)	(+) para. 27 et seq., also in the questionnaire p. 13	(+) para. 21 et seq.	(+) p. 12 (in the context of informed consent)	(+) Transparency p. 7 (as part of the "data protection risk model") (+) Information obligations p. 5 (checklist)	(-)	(+) Sheet 2, documentation in Sheet 7	(+)	(+) pp. 5, 11 ff., 16 f.	(+) p. 3
7. Right to information Art. 15 [↗] GDPR Right to erasure Art. 17 [↗] GDPR	(+/-) general rights of data subjects p. 22	(+) general rights of data subjects, para. 32 et seq.	(+) only right to erasure paras. 26, 28 et seq.; "further rights of data subjects" para. 30	(+) only right to erasure p. 12	(+) Right to information p. 5, 10 (checklist), right to erasure p. 6, 10 (checklist)	(-)	(-)	(+/-) only general reference to the rights of data subjects	(+) Right to information, p. 7; Rights of data subjects in general p. 18 (in one sentence)	(-)
8. Automated decision-making and profiling Art. 22 [↗] GDPR	(+) p. 18 (Art. 24 Reg. 2018/1725)	(-)	(+) para. 12 et seq.	(-)	(-)	(+) p. 22	(-)	(+)	(+) p. 5 (more or less), p. 14 (reference in one sentence, indirect), p. 18	(+) p. 3
9. Data protection through technology design and privacy-friendly default settings Art. 25 [↗] GDPR	(+) p. 9 (Art. 27 Reg. 2018/1725)	(+) para. 7 concise reference; para. 35 in connection with the rights of data subjects	(+) para. 43	(+/-) p. 7 (evaluation of personal reference), p. 18 footnote 57 (consideration for Art. 6 I lit. f GDPR)	(+), p. 7 (just a short sentence)	(-)	(+) Sheet 6 (regulation is not mentioned directly, but concept DPbD is described), Sheet 7	(-)	(+) p. 7 (analogous?)	(+) pp. 2, 4
10. Data Protection Impact Assessment Art. 35 [↗] GDPR	(+) p. 9 et seq. (Art. 39 and 89 Reg. 2018/1725)	(+/-) only in the context of the questionnaire in the Annex, p. 11	(+) para. 38 et seq.	(-)	(+) pp. 4, 6, 9, 11 (checklists), p. 7	(+) p. 2	(+) Sheet 5	(-)	(+) p. 5	(+) p. 4

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