

Data Protection Law – Group E

Please write your last name, first name, matriculation number, degree program and group (“Group E”) in each document you upload to the ISIS-course at the end of the exam.

Information on the processing of personal data:

Based on § 6 BerlHG (and Art. 6 GDPR) your grade and the points achieved by you in this exam combined with your matriculation number and the initial letter of your surname will be uploaded and published in the ISIS course "Data Protection Law" of this semester and published in the glass box opposite to room H-5112. The publication starts shortly after the corrections and will last about one month. During this time your personal data can also be viewed (and being downloaded) by others.

You have a right to object. To exercise your right to object, please send an e-mail to katrin.jux@tu-berlin.de and m.haase@tu-berlin.de. In any case, you can receive information about your grade and the points you have achieved personally at the examination inspection or through Qispos.

Important information: You can prepare your text both handwritten and electronically. The document must be uploaded completely as a file in the ISIS course by the end of the exam. Please include your last name, first name, matriculation number and degree program at the beginning of each document.

If you wish, you can additionally send your document to the following e-mail (abschlussarbeit@wir.tu-berlin.de). Please label the file(s) (and e-mail) with a text as follows: DPL_15032021_[last name]_[matriculation number]_page [x] - [y] (example: DPL_15032021_Miller_123456789_page 1-4).

Pay attention to **legible writing** and **formulate whole sentences** (!). All tasks and questions are to be processed and answered. Please refer to the respective point specifications for the weighting. The exam takes **90 minutes** to complete. A total of **30 points** can be scored. The task sheet consists of three pages (two tasks).

Task 1 - legal assessment of a case: *For the following facts, please prepare a written, legal opinion in the style of an expert opinion. Concentrate on answering the questions. Within the framework of your expert opinion, all legal questions which are important for the decision taken must be dealt with in detail. I must be held that the facts described in the „facts of the case“ are common ground between the parties. Please deal only with provisions of the General Data Protection Regulation (GDPR) and the Charter of Fundamental Rights of the European Union (The Charter).*

Facts of the case:

Despite medical advances, there were numerous pandemics around the world in the 20th and 21st century. Since 2020, the Corona pandemic has threatened human health, lives and freedom worldwide. On 30 January 2020, the World Health Organisation (WHO) declared a Public Health Emergency of International Concerns due to the spread of the so-called Corona virus (Sars-Cov-2). On 11 March 2020 the World Health Organisation (WHO) declared the Corona virus outbreak a pandemic. By that date, more than 100,000 confirmed infections had already been counted in over 100 countries and almost 5,000 people had died from Covid-19.

The pandemic lasted for several months. In 2020, more than two million deaths worldwide were associated with Corona virus. According to experts, the lives and health of people around the world continued to be severely at risk from the Corona virus.

It is suspected that the Corona virus is primarily transmitted via droplet infection, in which the viruses are released into the air by infected people via droplets and subsequently inhaled. In special situations, transmission via aerosols or via contact or smear infections also seemed possible.

On 3 February 2021 the Executive Board of the Technical University in Berlin (TUB) passed a decision to not permit any written examinations with more than 50 candidates to take place face-to-face until 10 April 2021. It was decided that smaller written examinations may only take place face-to-face provided that no more than 20 candidates are present in a room.

The examinations in the module Data Protection Law were scheduled for 15 March 2021 and 09 April 2021. Only one room was planned for the examinations. For this reason, it was decided in consultation with the students to conduct the exam in Data Protection Law as an online exam (open book).

Paul is a computer scientist. He has been working at the Technical University of Berlin (TUB) for years. As part of his job, he is involved in setting up and conducting various online exams in the 2020/2021 winter semester. This also includes the exam in the module on Data Protection Law.

With the help of other people, Paul observes the online exam in the module Data Protection Law on 15 March 2021 very closely. Paul has the impression that all students behave very fairly.

After the exam, Paul receives a suggestion from Joey to carry out further technical monitoring measures in the next exam on 09 April 2021. Joey make several suggestions.

Cameras are to take a photo of each student every two minutes. Every camera must be oriented so that the students' upper body (including face) can be seen. The photographs are stored for seven days and checked by employees of the Technical University Berlin (TUB).

Furthermore, each student should download software onto his or her own computer, with which the student's screen is permanently recorded during the exam. This recording should be checked afterwards and stored for one year on a server of the Technical University of Berlin (TUB).

Joey suggest getting consent from each student for taking photos with the camera. Students who do not consent can write the exam in a room (face-to-face) at the Technical University Berlin as soon as this is allowed again.

Paul doubts that these measures are legally permissible.

Questions: Create, formulate and write down a legal opinion to the questions:

- a) Does the processing related to the recording of the screen falls into the material scope of the GDPR? **(6 points)**
- b) Is the processing related to the recording of the screen in conformity with the principle of lawfulness? **(9 points)** (Assume that the scope of the GDPR is given.)
- c) Is the processing related to the photographs in conformity with the principle of lawfulness? **(9 points)** (Assume that the scope of the GDPR is given.)

Task 2 (6 points):

With respect to the following facts, please discuss whether and to what extent the territorial scope of the GDPR is opened. Please refer to the relevant regulations.

A company based in the United States of America operates a search engine. The personal data processing activities of the company are exclusively carried out in San Francisco (United States of America). The company has established a European office in Berlin (Germany) in order to lead and implement marketing campaigns towards EU markets and to sell advertisings.