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Maximilian von Grafenstein

The Principle of Purpose Limitation in Data Protection Laws

The Risk-based Approach, Principles, and Private Standards as Elements for Regulating Innovation

Nomos

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To my father

The principle of purpose limitation in data protection law is usually considered as a barrier to data-driven innovation. According to this principle, data controllers must specify the purpose of the collection at the latest when collecting personal data and must not process the data in any way that does not comply with the original purpose. Whether the principle of purpose limitation conflicts with data-driven innovation, however, depends on two sub-questions: On the one hand, one has to know how precisely a data controller must specify the purpose and under which conditions the subsequent processing is fully compatible or incompatible with that purpose. On the other hand, one has to understand the effects of a legal principle such as the principle of purpose limitation on innovation processes. Surprisingly, despite the long-standing and ongoing debate, there is little research that thoroughly examines the regulatory concept of the principle of purpose limitation, and even less its actual impact on innovation. To close this gap, was the aim of this dissertation, which reflects the debate until January 2017.

This dissertation evolved in the context of the interdisciplinary research project "*Innovation and Entrepreneurship*" at the Alexander von Humboldt Institute for Internet and Society. The main research question of this thesis was the result of hands-on observations in our Startup Clinics that we created and carried out for more than four years in order to empirically research the disabling and facilitating factors of internet-enabled innovation. In the Startup *Law* Clinic, where I helped more than 100 startups to cope with the legal challenges they faced during their innovation processes, I realised quite early that most of the startup founders were able to do a great variety of things in a very efficient and creative way, except one: Reliably expect what will happen next month, next week, or even the next day. Under these circumstances of knowledge uncertainty, I wondered how these founders should be able to reliably assess what their future data processing purposes would look like. This hands-on observation served as an inspiring research question and pushed me throughout the four years of its production. The result of this research process was in some way even puzzling to me: As a legal principle, the principle of purpose limitation is not only a highly efficient instrument to protect individuals against the

risks caused by data-driven innovation but it can even enhance innovation processes of data controllers, when combined with co-regulation instruments.

For the inspiring *tour de force* of these four years, I would like to thank, first and foremost, Prof. Dr. Wolfgang Schulz who not only aroused my interest in regulation as a research discipline but also always immediately and constructively helped me with his oversight, precision in the details and humour. I would also like to especially thank Prof. Dr. Dr. Thomas Schildhauer who has given me the economic perspective on innovation and who in turn has always been pro-actively open to my regulatory viewpoints and ideas. Furthermore, I would like to thank Prof. Dr. Marion Albers, without whose contributions to informational self-determination and data protection my own work would not have been possible, and who compiled the second vote very quickly. Furthermore, I am very thankful and honoured to be included in Prof. Dr. Wolfgang Hoffmann-Riem's, Prof. Dr. Dr. h.c. Karl-Heinz Ladeur's and Prof. Dr. Hans-Heinrich Trute's publication series Legal Research on Innovation ("Rechtswissenschaftliche Innovationsforschung") on that my dissertation is based on. I would also like to thank the German Ministry of the Interior for the financial support of the publication of my thesis.

Finally, I want to thank my colleagues: Elissa Jelowicki, who helped me to revise my thesis throughout the creation process, Jörg Pohle, the "walking library" (I think I do not have to explain that) and all my other colleagues for the endless and inspiring discussions.

Last but not least, I am grateful to my wonderful fiancée Eva Schneider, who in countless evenings of discussions helped me to structure my ideas, and above all motivated me to keep on going.

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