



## **The Interaction Between the GDPR Research Exemption and the Development of AI Products and Services**

Meszaros, Janos; Corrales Compagnucci, Marcelo

*Publication date:*  
2019

*Citation for published version (APA):*  
Meszaros, J., & Corrales Compagnucci, M. (2019). *The Interaction Between the GDPR Research Exemption and the Development of AI Products and Services*. Abstract from Multidisciplinary Perspectives on Algorithms , Fukuoka, Japan.

# The GDPR research exemption and the development of AI products and services



Janos Meszaros

Marcelo Corrales

# The Issue

1. A company can use your **data without consent for scientific research** (for public interest).
2. The company uses AI to process the data under the cover of **black box**.
3. Data and results are used for new purposes (**without public interest**).



1. Google gets your **health data from the government** to research and develop a medical software\application.  
(UK, Italy)

2. Google delivers the app. 😊

But, later.....



1. **Google can use the results (IP and pseudonymized data) to research and develop a smart watch.**
2. Google already has data about you.
3. You are easily **identified and targeted with new Google services.**

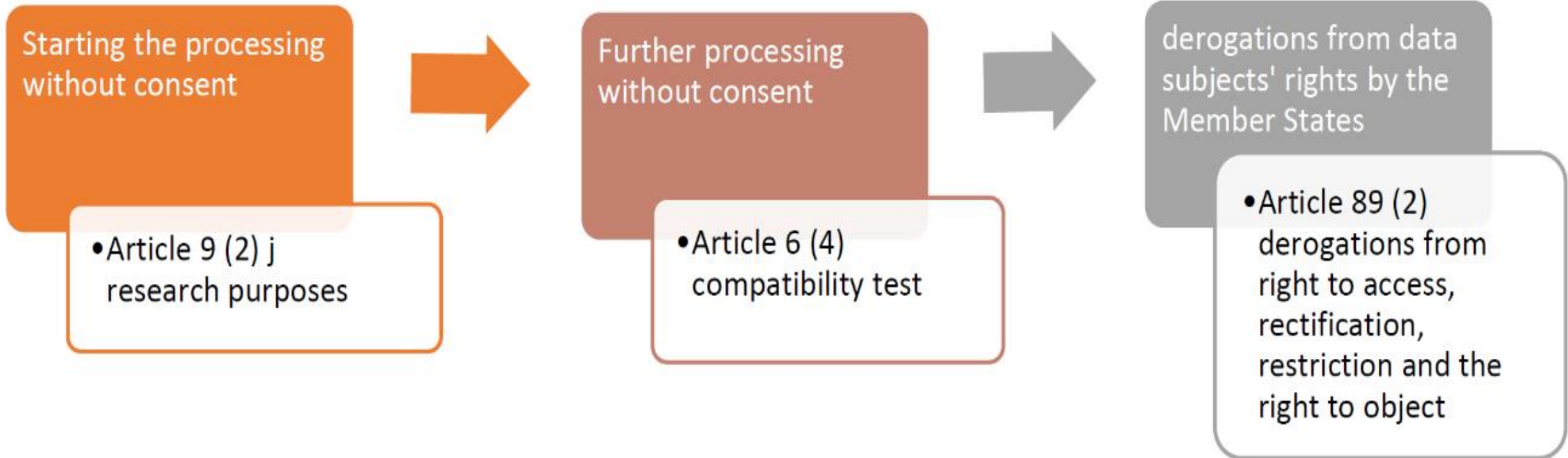
😊 Or 😞 ?

# Exceptions and special rules for scientific research in the GDPR



- Broad definition of research
- Further processing
- Processing sensitive data **without consent**
- Exemptions from the new rights (e.g. right to be forgotten)

# Processing personal data for research purposes without consent in the GDPR

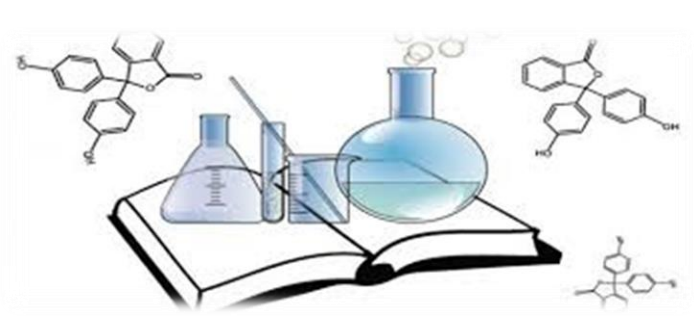


# Definition of scientific research in the GDPR

interpreted in a **broad** manner

Both **basic and applied** research  
including **privately funded** research

**(Recital 159)** – legally not binding





# The problem

There is **no EU law** defining scientific research.

**We contacted all the data protection authorities** in the EU:  
*How do they interpret this exemption?*

**None of them** had a clear interpretation of this rule.

**FORUM SHOPPING?**

# Is AI research scientific research?

**basic research** in computer science

e.g. quantum computation and quantum information theory

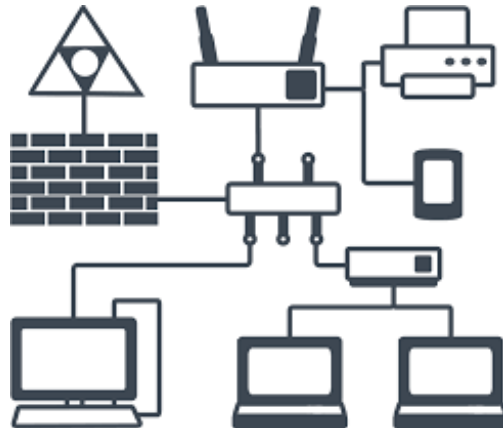
**applied research**

developing a new operating system or programming language

# Is AI research scientific research?

**Yes**, AI research is part of computer science

It can be both **basic** and **applied** research.



# Limits?

Since the Regulation provides this **broad exemption**,

it would be crucial to clarify the **limits and requirements of scientific research and public interest.**

The **line between scientific research and commercial activity is not sharp.**



# An example

**Your car (Tesla) collects information about your driving skills (e.g., speed, reaction times) to improve the system.**

The information and improvement will also be **integrated into new cars.**

**LET`S THINK TOGETHER**

# Is this data processing

**1.**

**Scientific  
research**

**OR**

**2.**

**Commercial activity**



What if....

**Later, Tesla offers you to buy  
a safety package?**

(driving assistance, self  
parking)

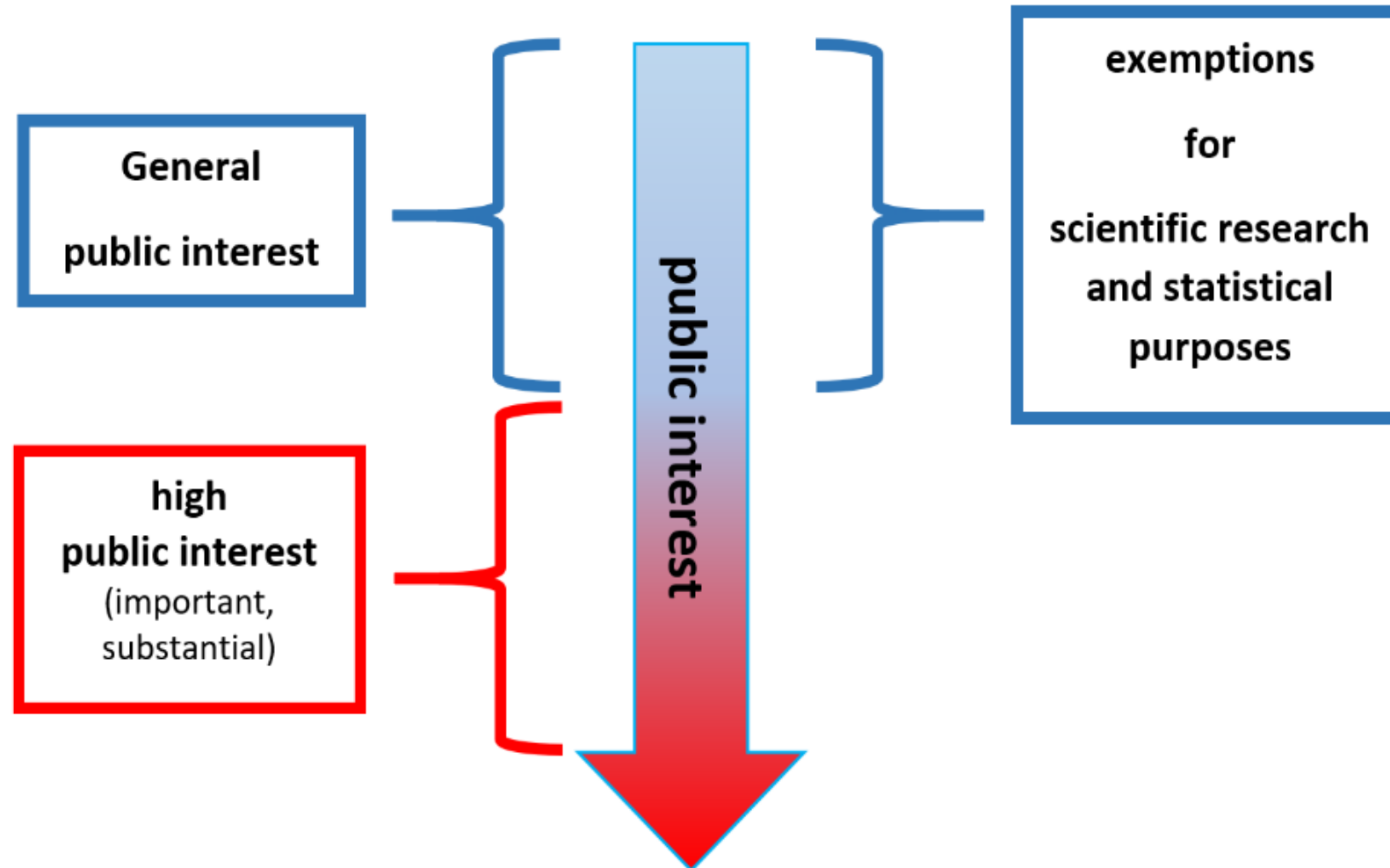


# Issues with AI research

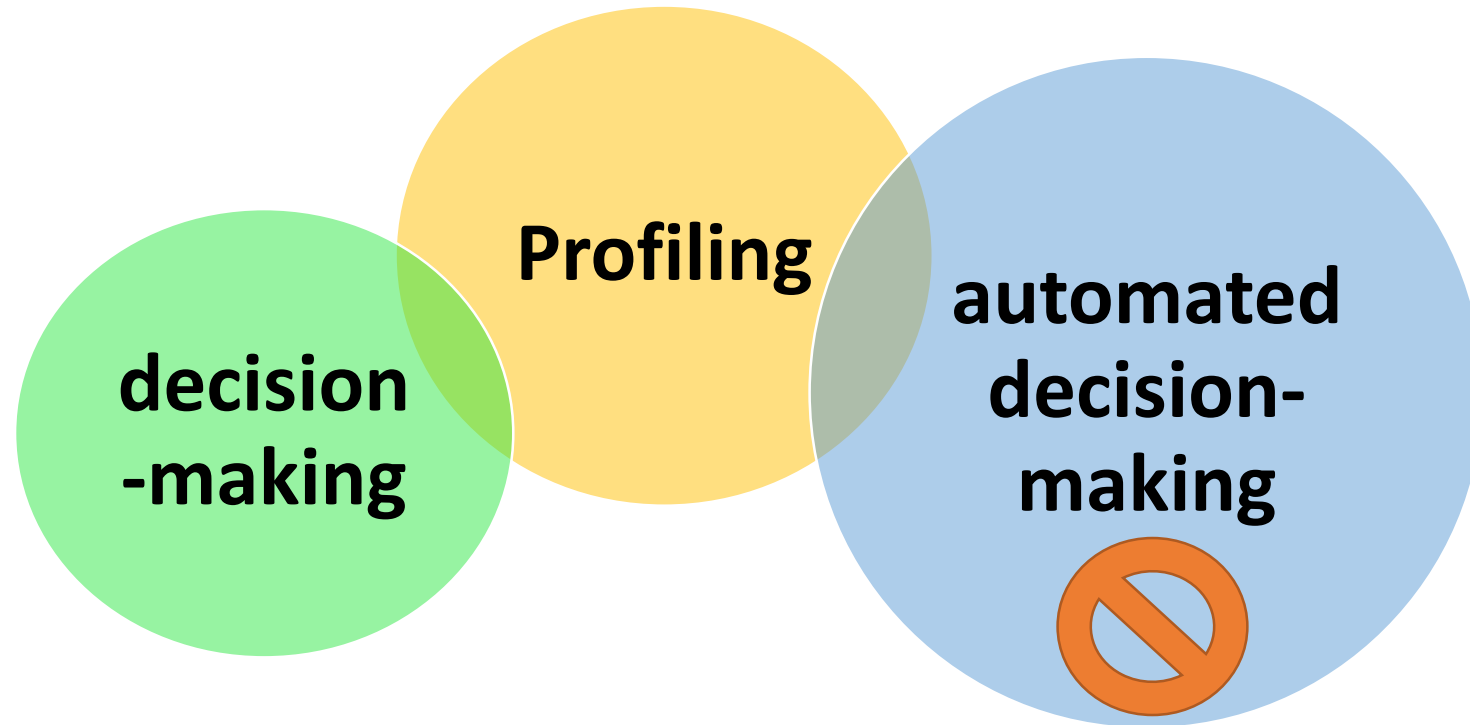


- **'black box'** - right to explanation
- In many cases, the reason for **funding and permitting research activities is public interest**, which will be hard to demonstrate in a black box situation.
- **regulation, safety, funding, and patentability...**

# The connection between public interest and the scientific research exemption in the GDPR



# Barriers for AI in the GDPR?



# The impact of AI Research on the individual and society

Phase 1.	Phase 2.	Phase 3.
AI Research I. AI Research II. AI Research III.	commercial product <b>black box</b>	Automated-decision
		Decision (Not fully automated)
		No decision, but significantly impacts the people's life (e.g. traffic, safety)
Exemptions for scientific research in the GDPR	E.g., autonomous car software, disease diagnostic tool	

# Conclusion, suggestions

1. Define `scientific research` on EU level.
2. Processing personal data for **public interest** cannot result in a product which negatively affects the data subjects' rights.

# Conclusion, suggestions

1. **the prohibition on automated decision-making does not pose a significant hurdle for AI research, just on the application AI products and services.**
2. **Similar to medical research, stricter regulation and oversight would be necessary.**

# Thank you for your attention!

