

Open Science, Licensing and Data Protection

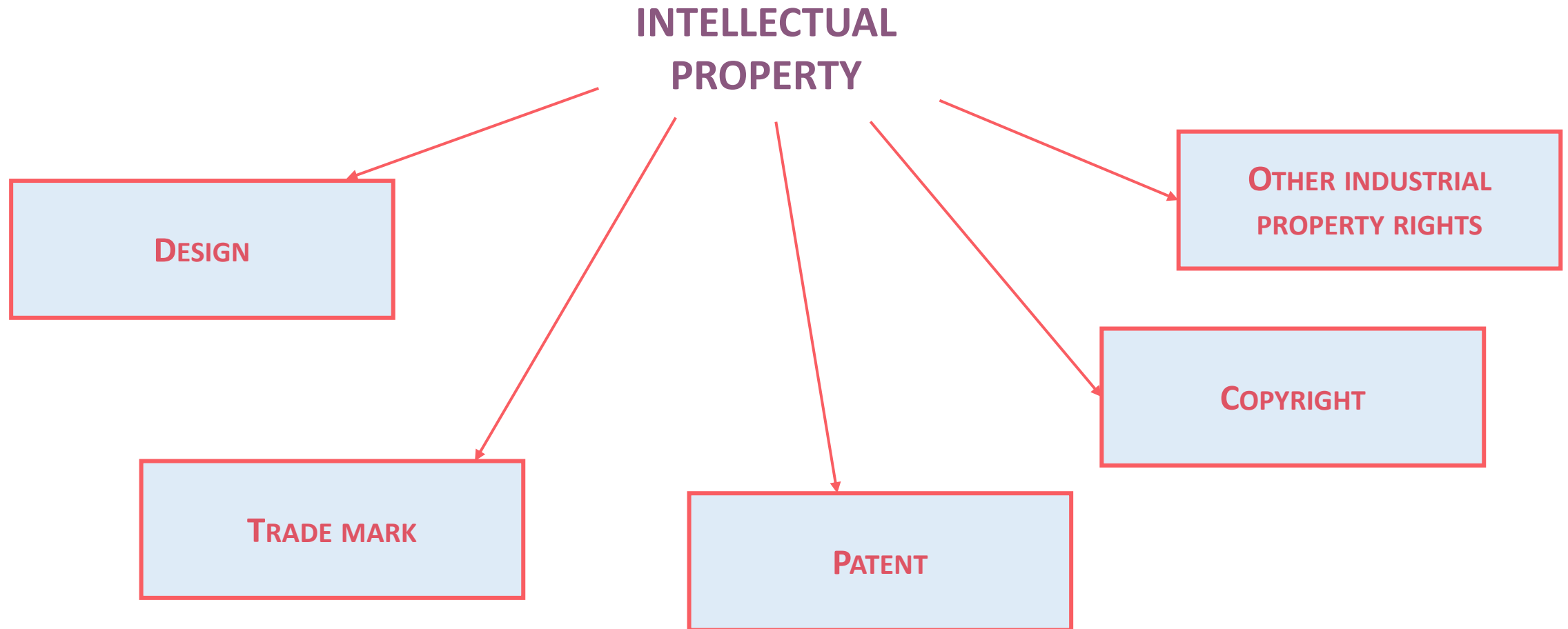
Bern, 17 November 2023

Suzanna Marazza
CCdigitalLaw c/o Università della Svizzera italiana

Program

- ☐ Intellectual property rights
- ☐ **What** is protected by copyright?
- ☐ **How** can I use copyrighted material?
- ☐ **Licenses** and **Agreements**
- ☐ What does “**open**” mean?
- ☐ What are **Creative Commons Licenses**?
- ☐ What are **Free and Open Source Software Licenses**?
- ☐ Data protection
- ☐ What are **personal data**?
- ☐ How do I **lawfully process** personal data?
- ☐ What is an **informed consent**?
- ☐ When do I need to consider **Data protection laws**?

Intellectual property rights



Intellectual property rights of a smartwatch

Technical invention:
PATENTS RIGHTS
KNOW-HOW, TRADE SECRETS

Design of the watch
DESIGNS RIGHTS

Website
COPYRIGHT



AI models and codes
COPYRIGHT
EU: DATABASE directive

Logo
TRADE MARKS RIGHTS

Author of smartwatch image: Nikin

Source: Pixabay, <https://pixabay.com/de/illustrations/smartwatch-apfeluhr-apfel-2845072>

What is protected by copyright?

WHAT IS PROTECTED BY COPYRIGHT?

It is intellectual property, therefore protected by copyright, what fulfill the three characteristic listed.

- 1. Intellectual creation
- 2. Individual character
- 3. Form of expression



Arch. Mario Botta



«Bob Marley»
© Max Messerli



Video surveillance is not intellectual property because it is not intellectual creation and it doesn't have individual character.

NOTE: from the law the idea is not protected, the writing about it is. For example if we'd use the relativity, the explanation and paper is protected but the idea, the theory itself is not, referencing the ideator is more about ethical fairness.

All	Author in Portugali	Author an	Books ga	Books an	Year	Edition	Location an	Language	Language in Pa	Description in E	Description in P	Country
1	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
2	Isidro Riu	Shas Mohar Singh Raggi	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
3	Isidro Riu	Shas Mohar Singh Raggi	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
4	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
5	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
6	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
7	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
8	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
9	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
10	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
11	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
12	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India
13	Isidro Riu	Kurtar Singh	gionel Riu	Gutman Kien	1949	1	Arche	Portugali	Portugali	Portugali	Portugali	India



Gratenfeuer.ch

Computer-generated works



James Allen, Midjourney

Generative AI are not copyright protected as they do not fulfill the three characteristic listed above.

Even though the author here gave >600 prompts the generative AI gives suggestions, therefore it isn't an original creation by the person but you choose among AI suggestions from several possible interpretation of the prompt. The prompt is the idea, and the idea itself is not protected, it is the work that is protected.

In the image on the right the author adjusted the picture with tools i.e. Photoshop. The additional element and work are licensable, therefore protected by copyright.

Computer-assisted works



James Allen, Théâtre d'Opéra Spatial

2. Individual character

Exception:

Photographs without individual character

→ **Are also protected!**

Since 2020 in Switzerland also pictures without originality are protected by copyright.



Bundesarchiv, Bild 183-14059-0005 / CC-BY-SA 3.0



Keystone

Derivative works

- ✓ Intellectual creations **with individual character**
 - ✓ **based upon pre-existing works**
 - ✓ the individual character of the pre-existing work remains identifiable.
- Translations
 - Adaptations
 - Modifications
 - ...



<https://pixabay.com/de/photos/salvador-dali-gegeben-uhr-zeit-2615717/>

Collected works

✓ individual character in selection and arrangement

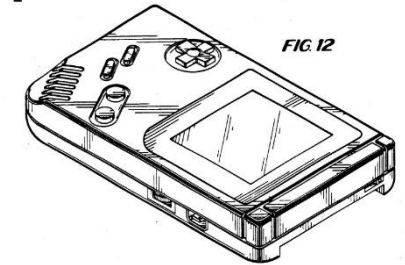
- Newspaper
- Dataset
- CD
- ...



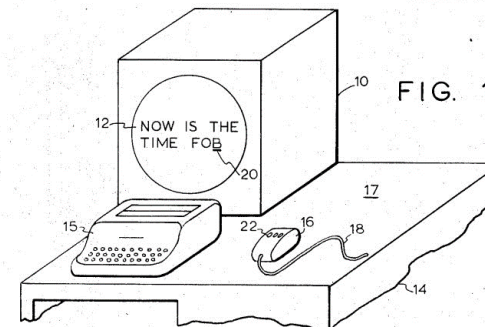
All	Author in Purgat	Author en	Books ja	Books en	Year	Edition	Location en	Language	Language in Pa	Description in E	Description in Pa	Country
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2	Author in Purgat	Author en	Books ja	Books en	Year	Edition	Location en	Language	Language in Pa	Description in E	Description in Pa	Country
3	Author in Purgat	Author en	Books ja	Books en	Year	Edition	Location en	Language	Language in Pa	Description in E	Description in Pa	Country
4	Author in Purgat	Author en	Books ja	Books en	Year	Edition	Location en	Language	Language in Pa	Description in E	Description in Pa	Country
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WHAT IS **NOT** PROTECTED BY COPYRIGHT?

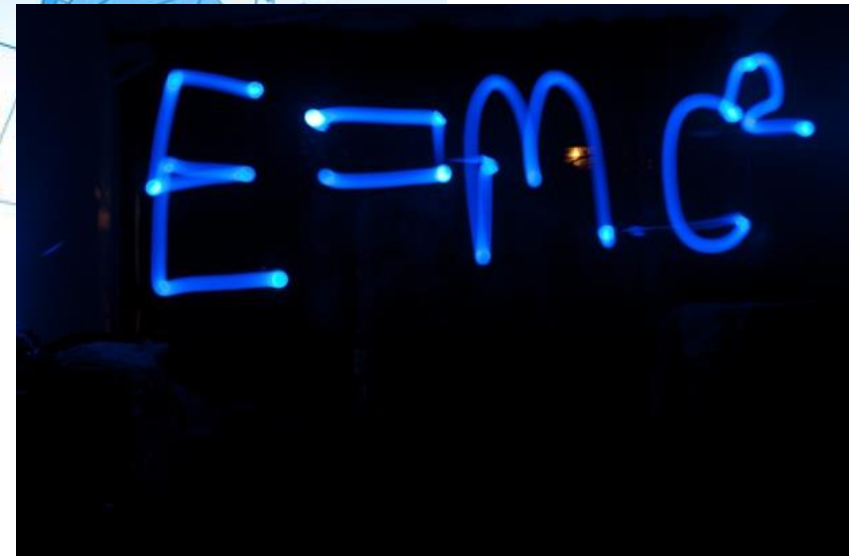
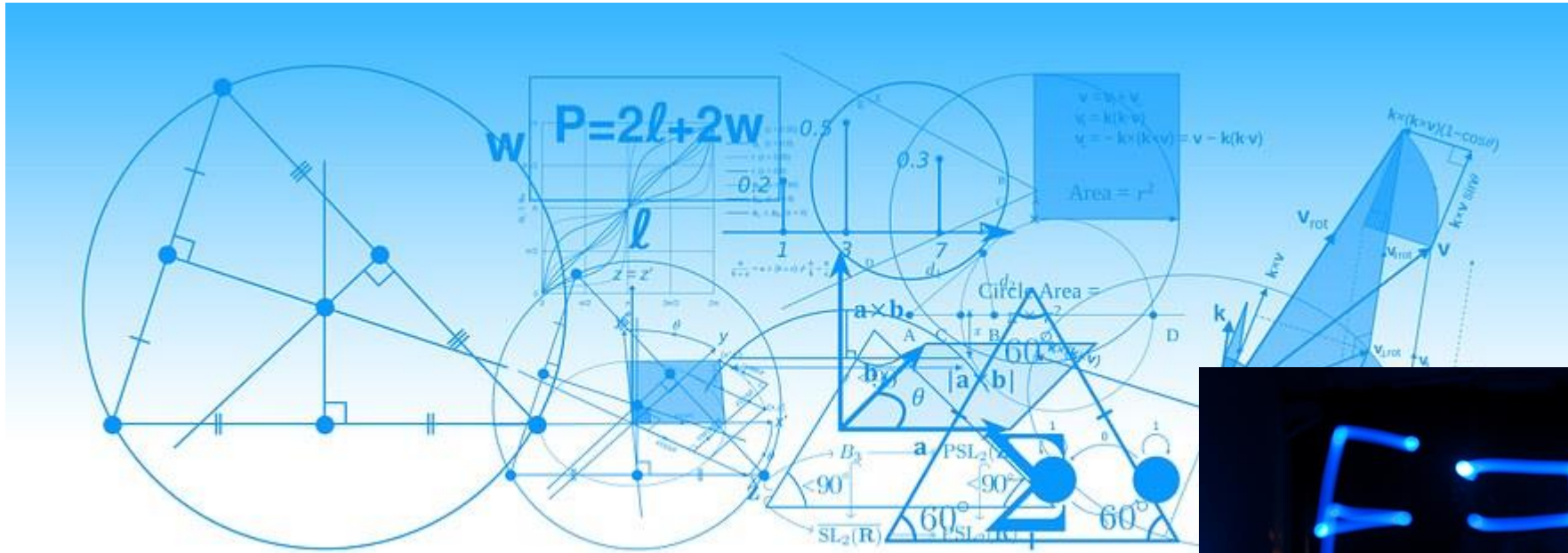
- Purely technical inventions → Patent law
 - Patent specifications and published patent applications
 - Laws, ordinances & other official decrees
 - Banknotes and coins
 - Court judgements, minutes & reports from authorities and public administrations
-
- Mere information, facts, data
 - Ideas



Nov. 17, 1970 D. C. ENGELBART 3,541,541
X-Y POSITION INDICATOR FOR A DISPLAY SYSTEM
Filed June 21, 1967 3 Sheets-Sheet 1



Bundesgesetz über das Urheberrecht und verwandte Schutzrechte (Urheberrechtsgesetz, URG)	231.1
vom 9. Oktober 1992 (Stand am 1. Januar 2017)	
<i>Die Bundesversammlung der Schweizerischen Eidgenossenschaft, gestützt auf die Artikel 95 und 122 der Bundesverfassung¹, nach Einsicht in die Botschaft des Bundesrates vom 19. Juni 1989², beschliesst:</i>	
1. Titel: Gegenstand	
Art. 1	
¹ Dieses Gesetz regelt:	
a. den Schutz der Urheber und Urheberinnen von Werken der Literatur und Kunst;	
b. den Schutz der ausübenden Künstler und Künstlerinnen, der Hersteller und Herstellerinnen von Ton- und Tonbildträgern sowie der Sendunternehmen;	
c. die Bundesaufsicht über die Verwertungsgesellschaften.	
² Völkerrechtliche Verträge bleiben vorbehalten.	

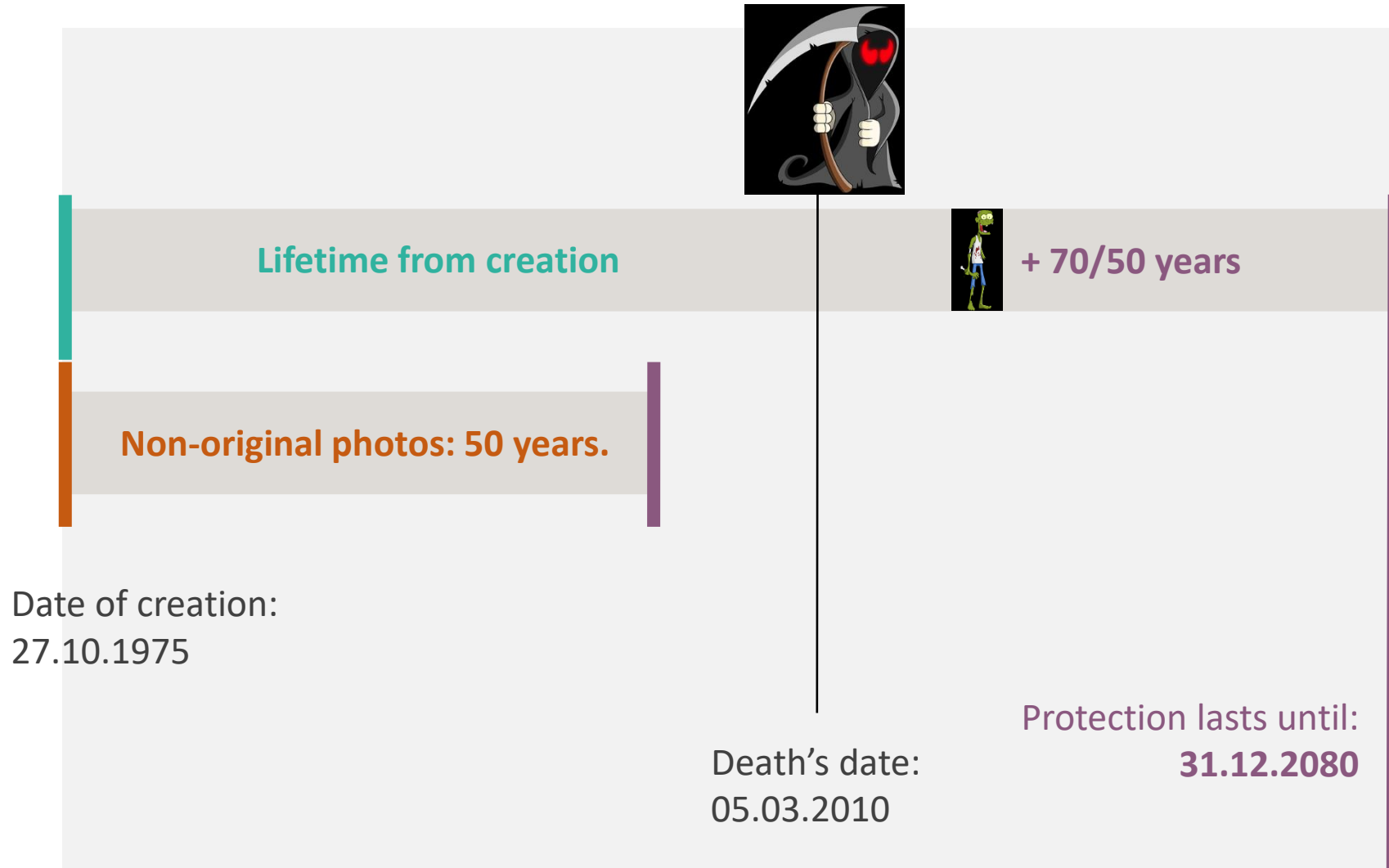


- Patent law protects technical inventions and their application



- Patent law protects technical inventions and their application (content of an idea)
- Copyright protects the form of ideas (e.g. the image of the formula $E = mc^2$)

HOW LONG IS A WORK PROTECTED FOR?



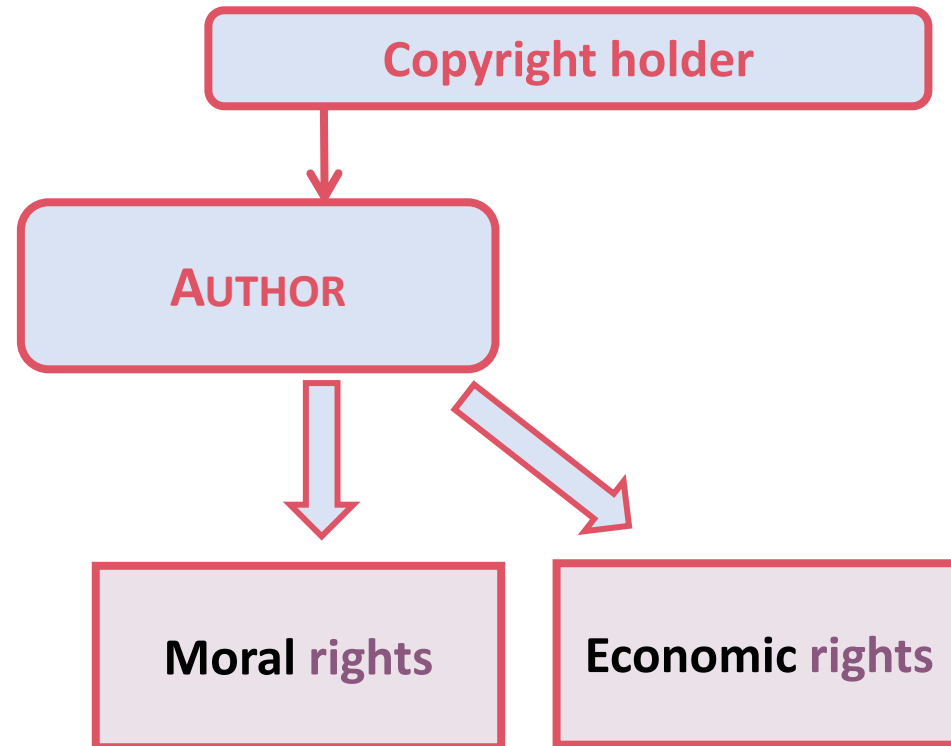
→ **Public Domain Day**

01.01.2081

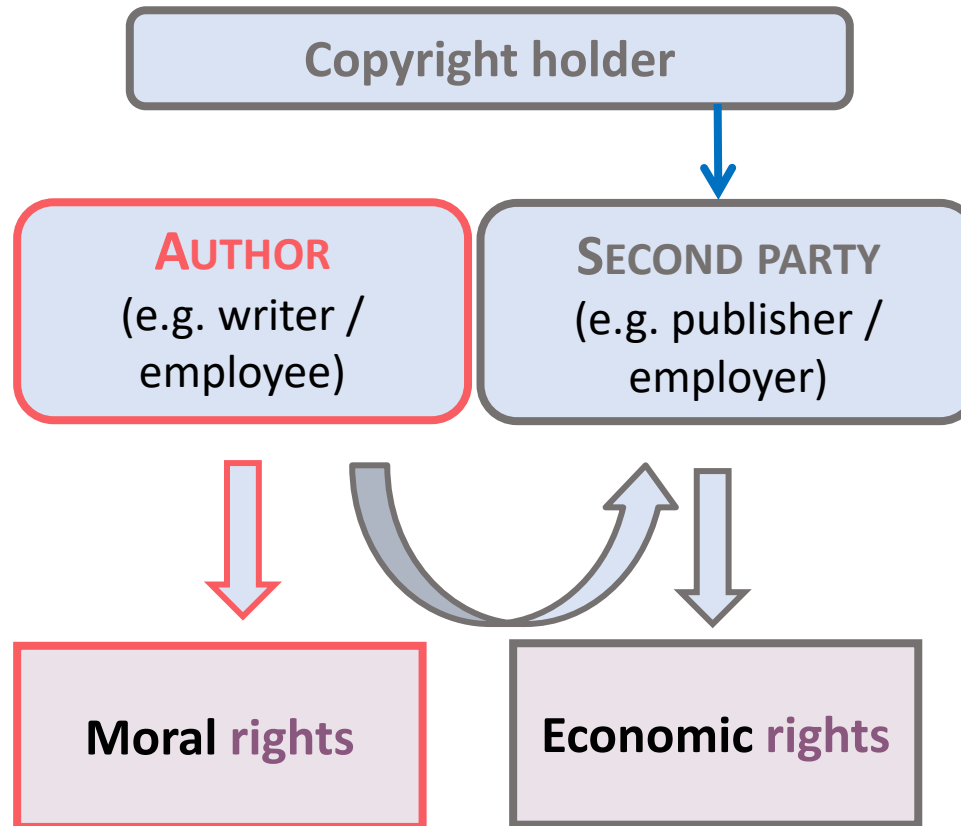
01.01.2025

Who are the **Author** and the **Right holder**?

THE AUTHOR



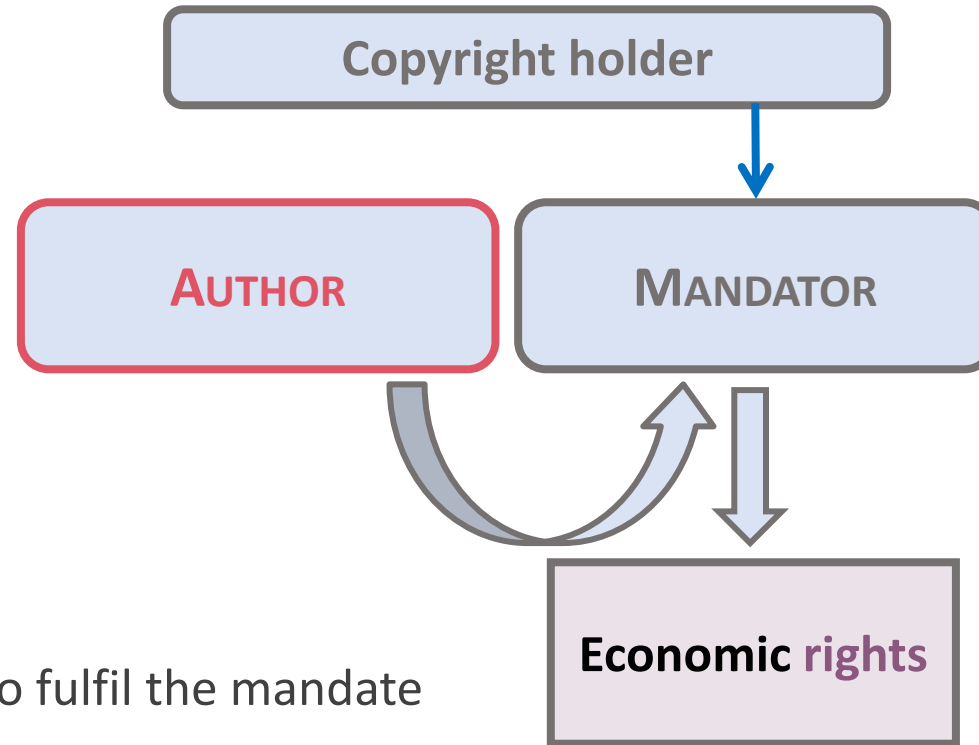
THE RIGHT HOLDER



Through:

- Contract
- Law
- Internal regulation

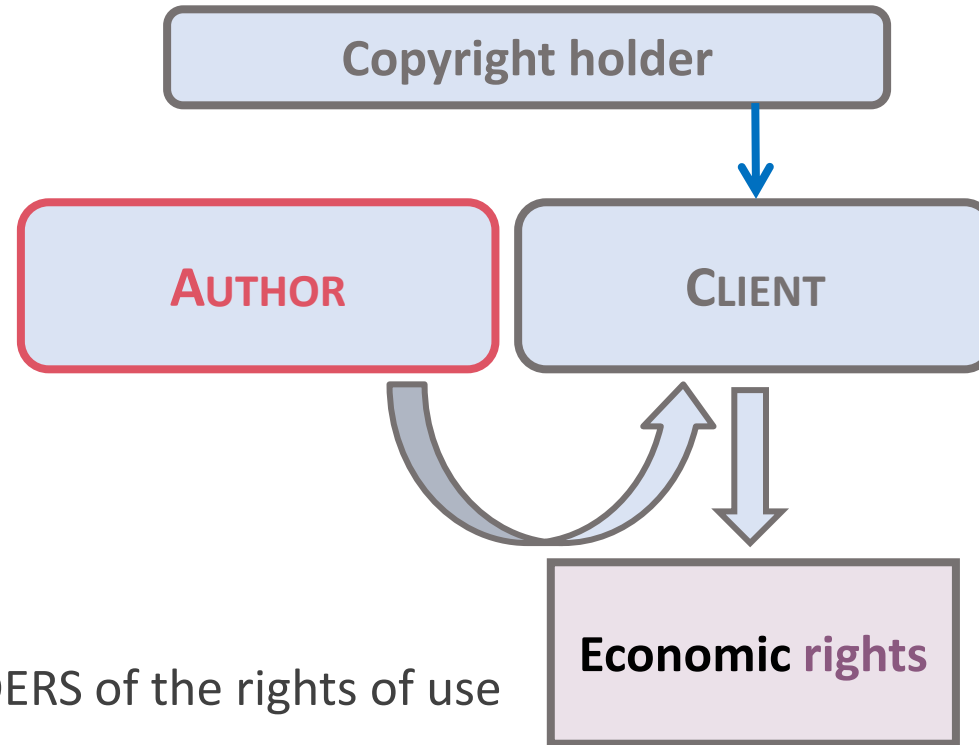
THE RIGHT HOLDER



Contract of mandate:

→ Receives all rights required to fulfil the mandate

THE RIGHT HOLDER

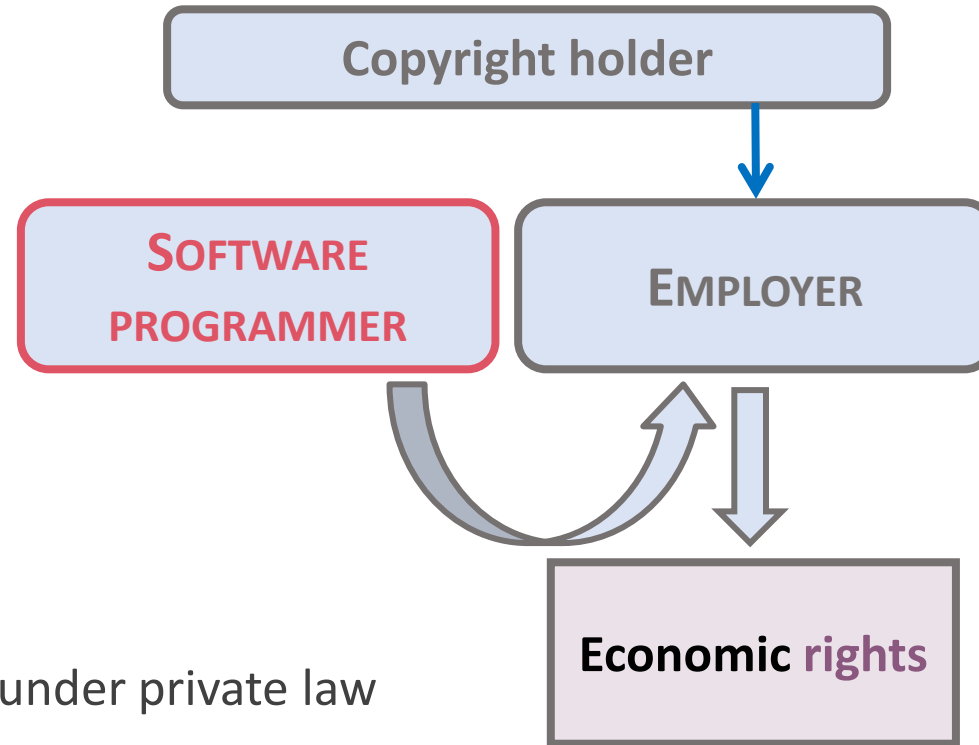


Sale agreement:

- Buyers become RIGHT HOLDERS of the rights of use
- The author no longer has any rights of use!
- Buyers can resell or relicense.

- Which rights of use (all /individual?)
- Duration?
- Which countries?

THE RIGHT HOLDER



Art. 17 Swiss Copyright Act:

- Only employment contracts under private law
- NOT employment relationships under public law
(such as employment contract with university)
- Transfer may be set in internal regulation

How can I use a copyrighted work?

The rule is:

Always ask the rights holder for **permission** to use a protected work (= **license to use**)

There are **exceptions (legal licenses)**:

- Private use
- Educational purposes
- Professional purposes
- Right of quotation
- Text & data mining for research purposes

HOW CAN I USE A COPYRIGHTED WORK?

1.



Legal license

2.



Image by vectorjuice on Freepik

Bilateral license

3.



Vectorial.com

Predefined license

Private use

- **Anything** to use alone (read, watch, view, see, copy, modify, ect.)
- When **sharing**: only with very small circle of persons



Use for professional purposes

- ✓ Only between **colleagues of same company**
- ✓ For **information and/or documentation** purposes
- ✓ Only **distribution** of **excerpt** (no modifications allowed)



(Prolitteris Joint Tariff 8, 9)

Right of quotation

Published works may be quoted if the quotation serves as:

- ✓ **explanation**,
- ✓ **reference** or
- ✓ **illustration**,
- ✓ and the **extent** of the quotation is **justified for such purpose**.



Caution with images and photos!

Use of orphan works

- ✓ Right holder unknown or cannot be found
- ✓ Appropriate research effort
- ✓ Contained in collections held by public or publicly accessible libraries, educational institutions, museums, collections and archives in Switzerland

→ Collecting society (= Prolitteris)

Text and Data Mining



- ✓ the work used must be **lawfully accessible**,
- ✓ its reproduction and copy is due to the use of a **technical process** and **necessary** for the research activity,
- ✓ the copy must not be done so to avoid supplement costs of the purchase of works,
- ✓ the source must be mentioned.

HOW CAN I USE A COPYRIGHTED WORK?

1.



Exceptions permitted
by law

2.



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Bilateral license

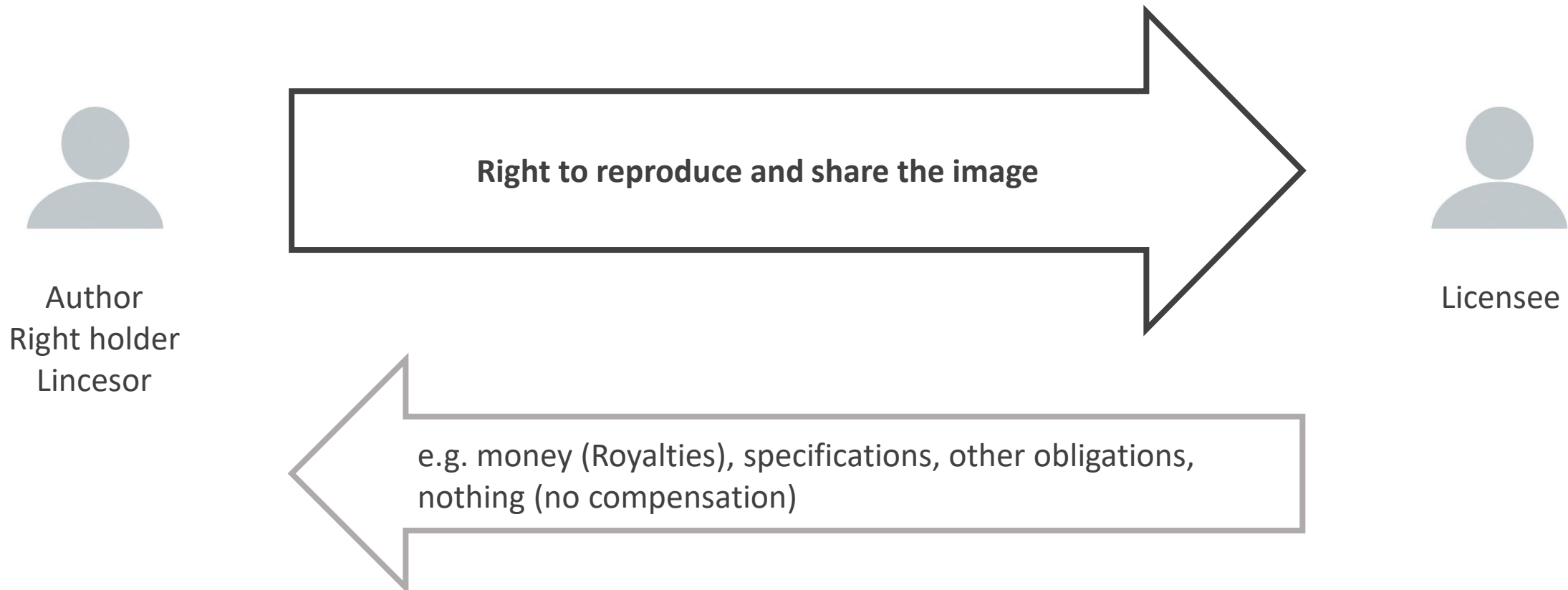
3.



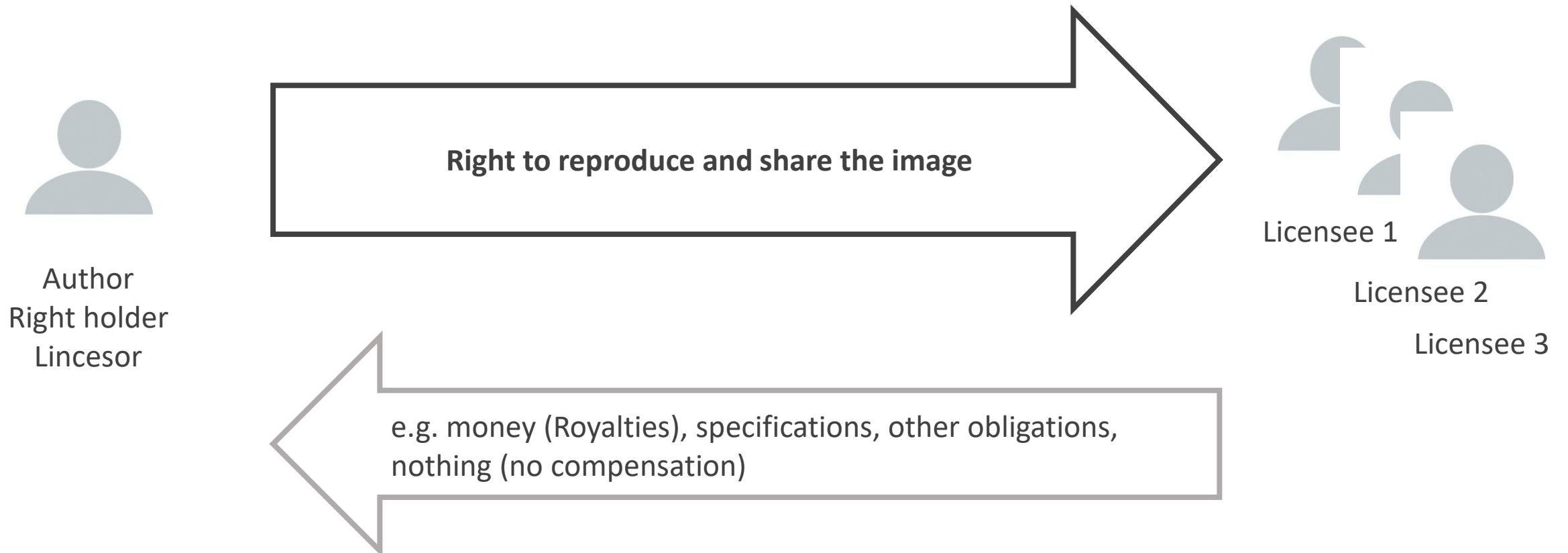
Vectorial.com

Predefined license

Licensing – Exclusive License



Licensing – Simple License



HOW CAN I USE A COPYRIGHTED WORK?

1.



Exceptions permitted
by law

2.



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Bilateral license

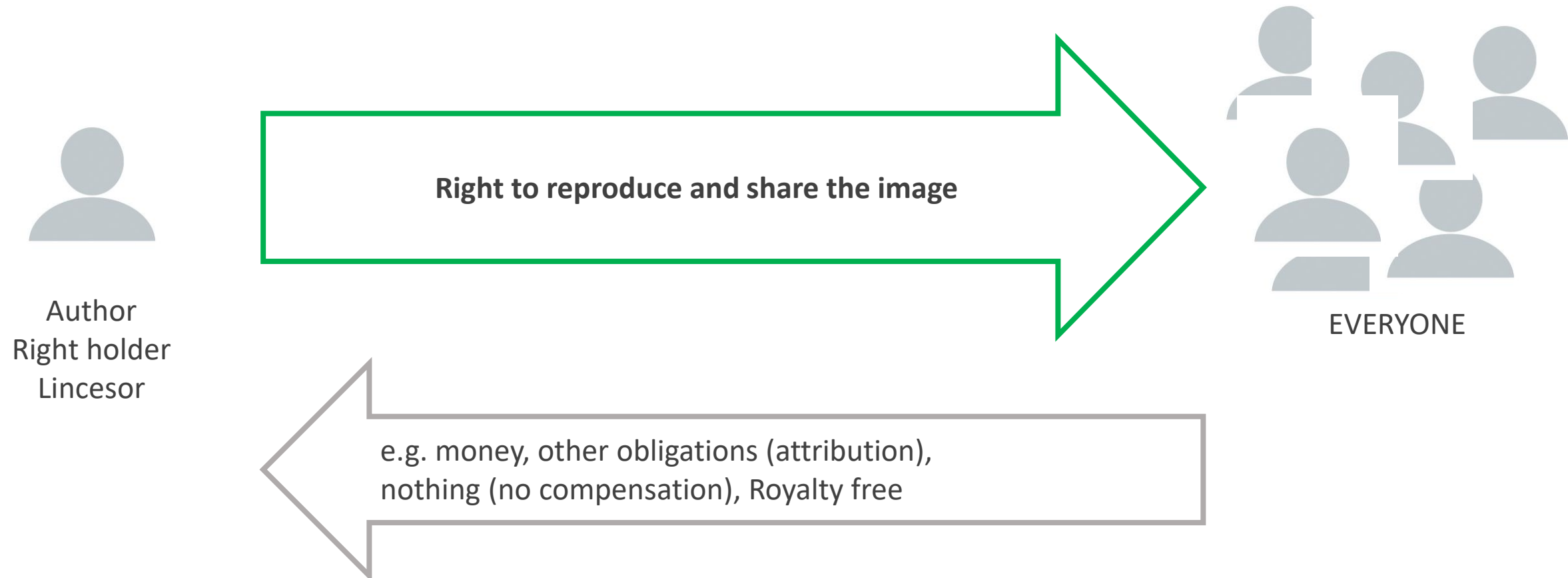
3.



Vectorial.com

Predefined license

Licensing – Open License



WHAT IS PROTECTED BY COPYRIGHT?



Joan Miró



Salvador Dalí

(Other) Licenses and Agreements

How to protect company information?

- General company information
- Personal data (information about employees, customers, partners persons)
- Know-how
 - Information held in documents;
 - Information engendered in people in the form of skills;
 - Materials.

How to protect company information?

- ❑ Intangible right absolutely protected by law
 - IP laws

- ❑ Intangible good relatively protected by law
 - E.g. business data and know-how
 - Criminal law and Unfair competition law
 - Agreements (e.g. non-disclosure agreement, know-how contract)

How to protect company information?

- Intellectual property laws
- Management of sensitive information / documents
 - Contracts (e.g. employment contract, non-disclosure agreement)
 - Restricted access
 - Awareness : “confidential; not to be copied”

Coffee break



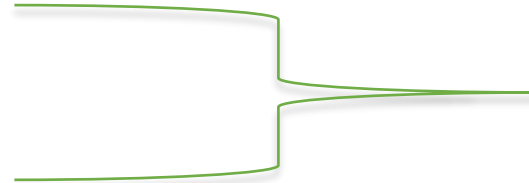
Open Science

Open Access

The Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities of 22 October 2003

All users should have a **free, irrevocable, worldwide** right of access and a license to:

- ☐ **copy, use, distribute,...**
- ☐ **make and distribute derivative works**



- in any digital medium
- for any responsible purpose,
- attribution of authorship

- ☐ **make small numbers of printed copies for their personal use.**
- ☐ A complete version of the work is published in at least one online repository

Open Access

Everybody has to be **allowed** to **use, re-distribute, modify, separate** and **compile** an existing resource with other resources **for any purpose**.

Creative Commons

Everybody is **allowed** to **reproduce, share** in whole or part and **modify** (except: ND licenses, for **any purpose** (except: NC licenses)).

Copyright law

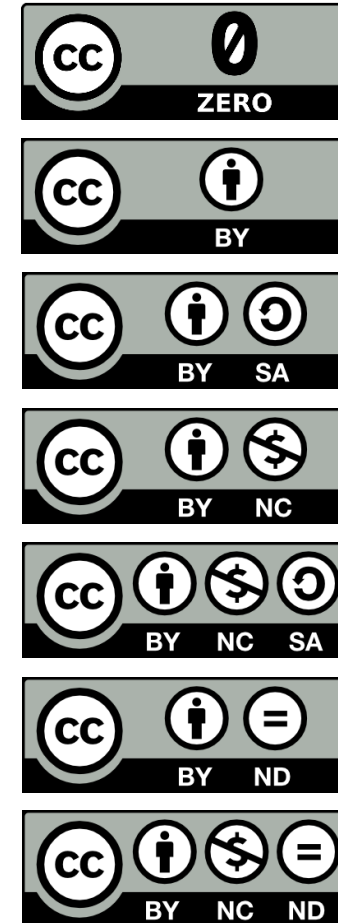
Nobody except owner of the Copyrights is **allowed** to **copy, re-distribute** or **modify** for **any purposes** (apart for exceptions).



https://www.youtube.com/watch?list=PL76RNKr3LU8A_YbvY8BtZMqiiQj-zd411&v=P1j0OA9N4hs

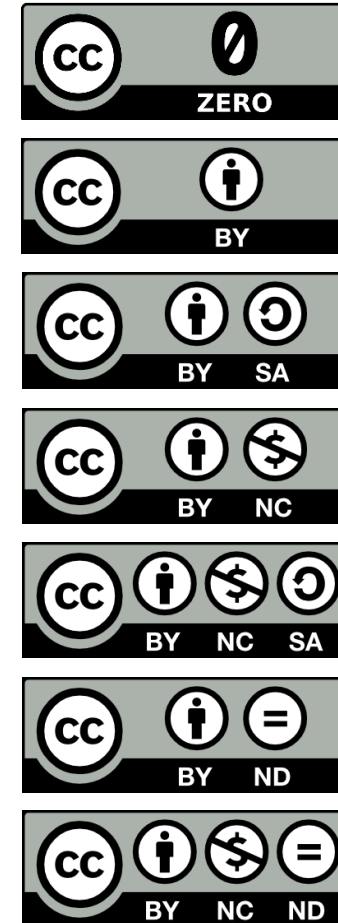


- 7 Pre-formulated licenses
- For copyright protected material
- Often used for research data and open educational resources
- Valid world wide

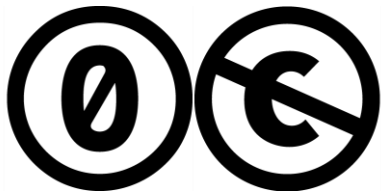


All Creative Commons Licenses:

- Grant permission to
 - **Copy**
 - **Modify** (apart from ND)
 - **Share**
- **all** interested persons
- Some have conditions (BY & SA)
- Some limit the purpose (NC)



License elements



CC0

Zero / public domain

No conditions

→ everything allowed
(apart from respect
personality author)



BY

Attribution

Condition

→ Where can the
original be found and
the author
→ Several attribution
obligations



SA

Share alike

Condition

→ Preservation of
openness

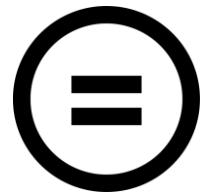


NC

Non-commercial

Limit

Not for
commercial
purposes



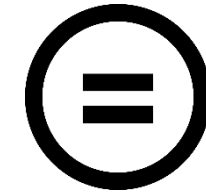
ND

No-derivatives

Limit

No modifications

Use Case	Permitted under ND?
Mashup video	No
Image or text in newspaper or journal	Yes
Music remix	No
Sampling	No
Image or text on website, blog or social media posting	Yes
Translation	No
Music synching	No
Screen adaptation (e.g. of a novel, music)	No
Images in catalogue	Yes
Article in text collection	Yes
Image Collage	Depends (generally No) ⁹²
Parody	Depends on the jurisdiction ⁹³
“Kitchen-Video” with background music	No
Documentary film integrating sound footage	No



ND

Non-derivatives

KREUTZER, Till, 2014. *Open Content: a practical guide to using Creative Commons*, p. 51, published under a CC-BY license
https://upload.wikimedia.org/wikipedia/commons/0/07/Open_Content_-_A_Practical_Guide_to_Using_Creative_Commons_Licences.pdf

ABBREVIATIONS:
 Yes = Use of NC content is permitted
 No = Use of NC content is not permitted
 n.a. = Not applicable, i.e. such constellation is inconceivable in the logic of the chart as explained above

CHART 1: WHO CAN USE NC CONTENT IN WHAT USE CASE?

User type	Company	Public institution	Non-profit NGO	Free-lancer	Private person
Sell hardcopies	No	No	No	No	No
Licence content against payment	No	No	No	No	No
Use for advertising	No	No	No	No	No
Use to make money	No	No	No	No	No
Use for the job	n.a.	n.a.	n.a.	No	n.a.
Use on a website that displays ads to recover hosting costs	No	Yes	Yes	No	Yes
Use on a platform, where the platform provider (not the content provider) displays ads	No	Yes	Yes	No	Yes
Use for inhouse education and information	No	Yes	Yes	No	n.a.
Use for private entertainment and to entertain friends/family of the user	n.a.	n.a.	n.a.	n.a.	Yes
Use to inform/entertain customers/clients/audience	No	Yes	Yes	No	Yes
Use in tuition-free courses for educational purposes	No	Yes	Yes	No	Yes
Use in tuition-based courses for educational purposes	No	No	No	No	No
Use for corporate-funded research	No	No	No	No	n.a.
Use for tax-funded research	No	Yes	Yes	No	n.a.
Use for inhouse corporate research	No	n.a.	n.a.	No	n.a.



NC

Non-commercial

KREUTZER, Till, 2014. *Open Content: a practical guide to using Creative Commons*, p. 46, published under a CC-BY license
https://upload.wikimedia.org/wikipedia/commons/0/07/Open_Content_-_A_Practical_Guide_to_Using_Creative_Commons_Licences.pdf

CC zero/cc0



CC-0 License:

- All people of the world
- **Copy**
- **Modify**
- **Share**
- **For any purpose**
- No requirements of attribution
- No requirements to write the source
- No requirements to provide its license
- No requirements to release the modified version under a license

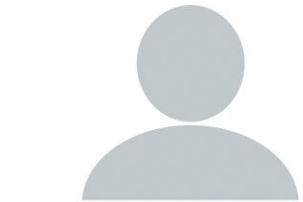
CC-BY-SA license



- All people of the world
- Copy
- Modify
- Share
- For any purpose
- Requirement of attribution!!! (Element BY)
- Requirement for the modified version (Element SA)
 - ❓ Share Alike, “Copyleft”



Creative Commons Share Alike license



Owner of copyrights



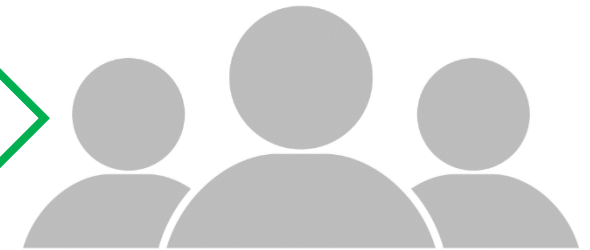
Right to copy



Right to modify



Right to distribute copy and modifications



Everyone

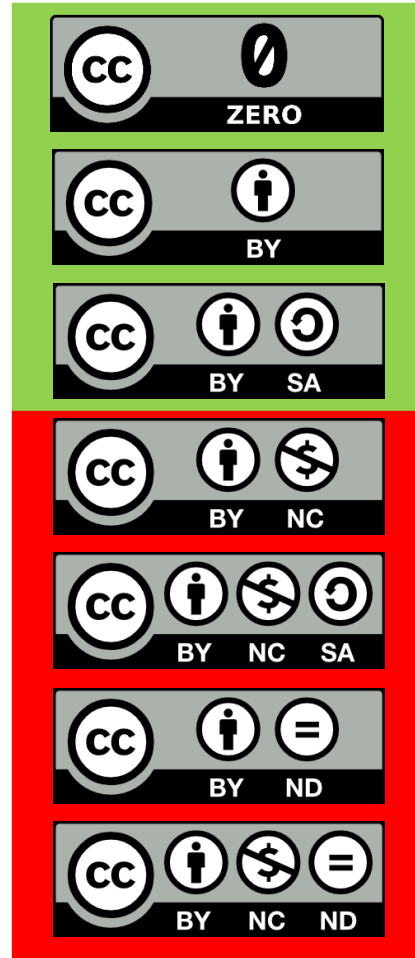


Attribution (name the author) when re-sharing



Attach the same license when re-sharing

All Creative Commons Licenses

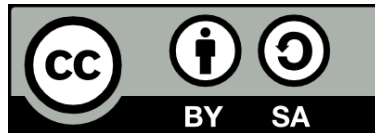


OER definition from
opendefinition.org
(also Berlin Declaration of Open
Access).

NOT «open» in the sense of
opendefinition.org

License name: CC-BY-SA

License symbol:



„Commons Deed“: <https://creativecommons.org/licenses/by-sa/4.0/deed.en>

License text (legal full text):

<https://creativecommons.org/licenses/by-sa/4.0/legalcode>

→ **It must be read before use!**

Attach the license symbol or the license name to the work

→ Reference to license text

→ Similar to: «Our general conditions and terms apply»

Where should I attach it?

→ Where best visible

→ CC license chooser: <https://creativecommons.org/choose/>

WHAT LICENSE TO CHOOSE?

1 Do you have the **right to license** the work?

No

You must
not
license

Yes

2 Do you want to publish it according to opendefinition.org?

No

Choose any
license

Yes

CC0; CC-BY; CC-BY-SA

3 Do you or your organization want to be **named**?

No

CC0

You can also use CC-BY
and CC-BY-SA and
waive to be named

Yes

CC-BY; CC-BY-SA

4 Do you want it to be **kept open**?

I don't care

CC0; CC-BY

CC-BY-SA

Free and Open Source Software Licenses

Copyright and Software

- **Works:**
 - «literary and artistic intellectual creations»
 - with an «individual character»
 - for example a computer program (Source Code and Object Code)
- Bundle of exclusive rights to use
 - Right to **copy** the work
 - Right to **distribute** work
 - Right to **modify** the work
 - (Moral rights)
- **Owner** of the copyrights: Creator or Employer of the Creator



Source Code

- Understandable for humans
- Modifiable
- Not understandable for computers
- Can be trade secret/know-how
(you do not need it to run a computer program)

[illegible]

CC0 image, retrieved from: <https://www.pexels.com/photo/close-up-code-coding-computer-239898/>

Object Code

- Translated from Source Code
- Zeros and Ones
- Other terms: *machine code* or *binary*
- Executable or understandable for computers
- Not understandable for humans therefore not modifiable
- Reverse engineering very difficult if not impossible



Google Play



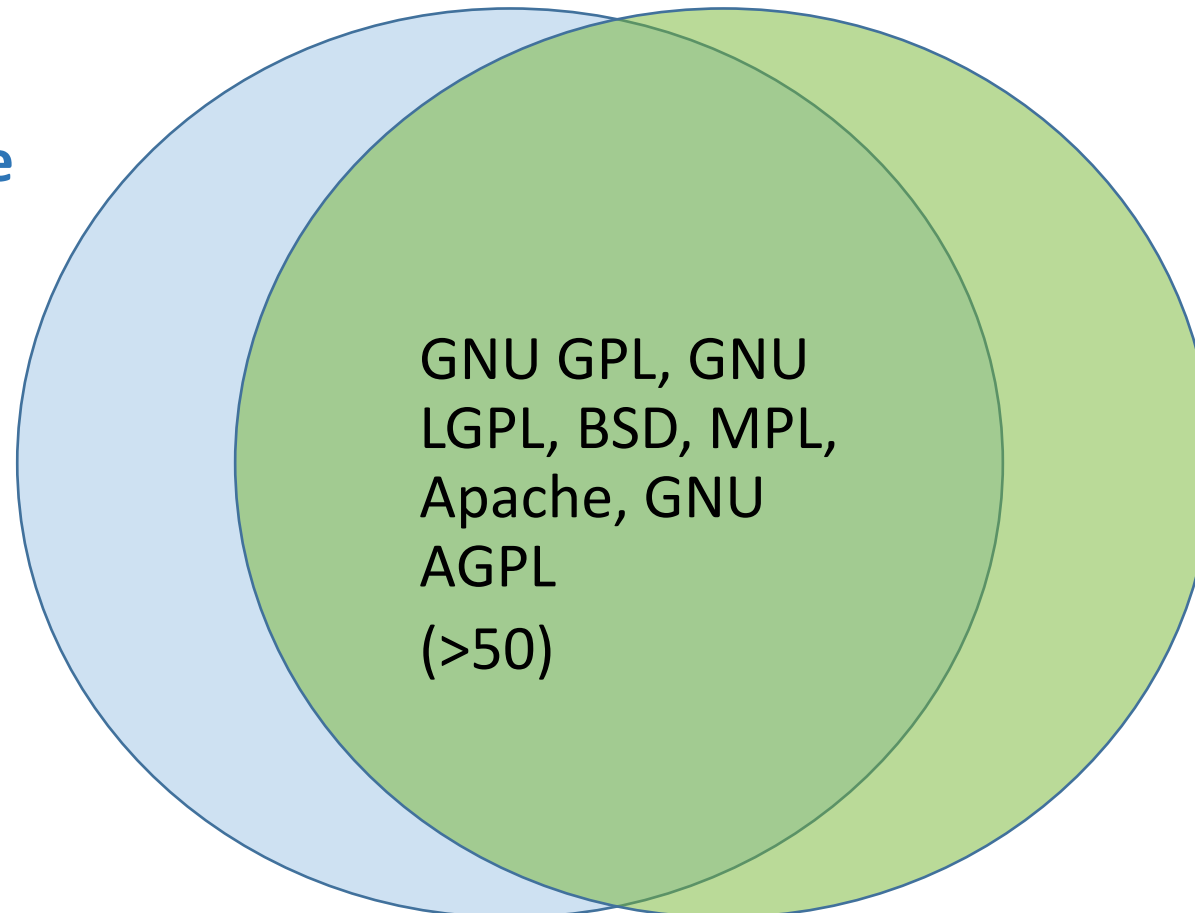
Free and Open Source Software Licenses

- **Free Software** (Licenses):
 - Freedom 0 – the freedom to use the work,
 - Freedom 1 – the freedom to study the work,
 - Freedom 2 – the freedom to copy and share the work with others,
 - Freedom 3 – the freedom to modify the work, and the freedom to distribute modified and therefore derivative works.
- **Open Source Software** (Licenses):
 - 10 criteria, including the right of distribution, the right of creating derivatives, etc.

Free and Open Source Software Licenses

Free Software Licenses

List of approved licenses:
<https://www.gnu.org/licenses/license-list.html>



Open Source Software Licenses

List of approved licenses:
<https://opensource.org/licenses/alphabetical>

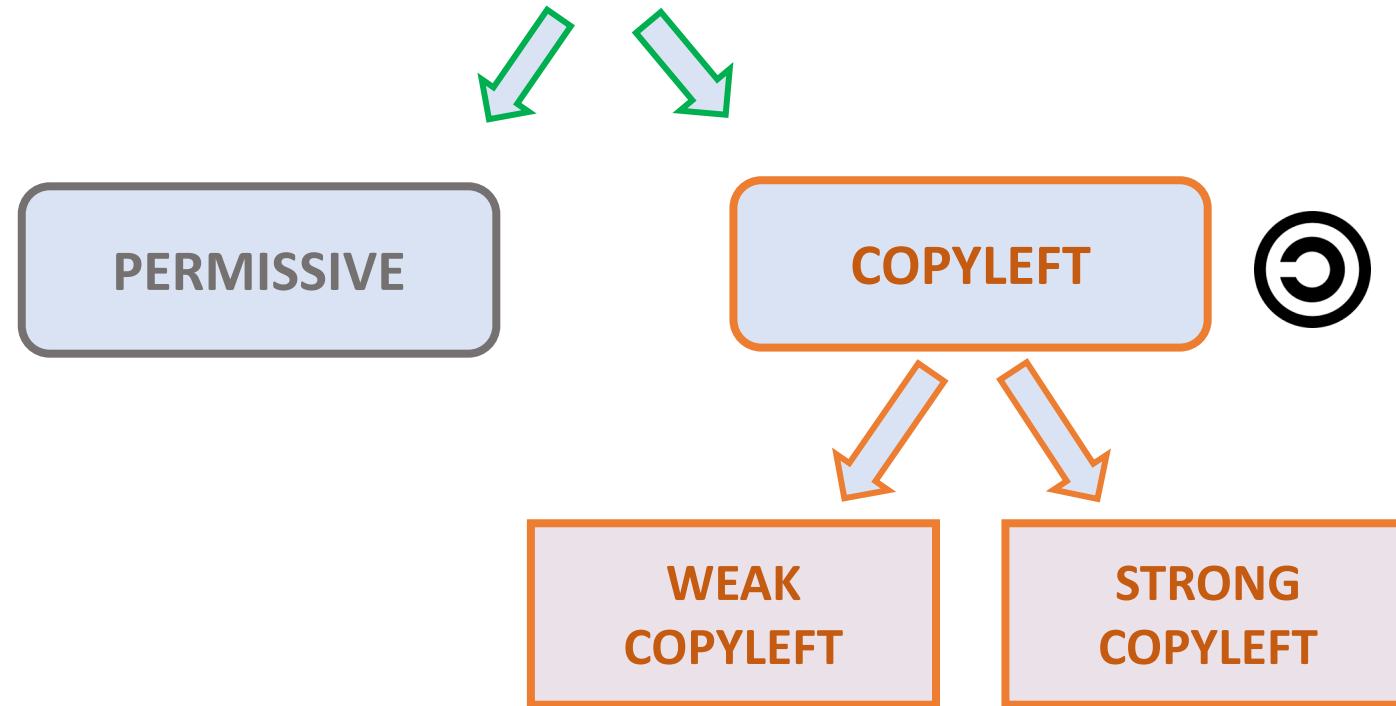
Free and Open Source Software Licenses

- Content of FOSS Licenses:



- The **Licensor** grants
 - Access to the Source Code of the Program
 - The Right to **run** the Code
 - The Right to **modify** the Code
 - The Right to **distribute** the verbatim and **changed** Copies of the Code
- Without claiming license fees for the granted rights (= royalties free)

Free and Open Source Software Licenses



Permissive vs. Copyleft Licenses

Obligations to license **modified** FOSS-Code when distributing the modified Code:

- NONE (**permissive** FOSS Licenses)

→ **free** in your choice on how to license

- SOME (**copyleft** FOSS Licenses)

→ Distribution of modified FOSS-Code only under the **same** or a **compatible** license



Weak vs. Strong Copyleft Licenses



Weak copyleft

- copyleft **only** on the original work, the **core code**
- extensions or composed works can also be proprietary

Strong copyleft

- copyleft on **whole redistributed work**, including derivative and composed works incorporating the work

Permissive vs. Copyleft Licenses

Type	Characteristic	Licenses	Examples
Permissive	No restrictions on reuse / redistribution Derivatives / Compilations may be closed	BSD, MIT, Apache 2	Android, Apache webserver, Open Stack, PHP, Ruby
Weak copyleft	Only copyleft on the original core code, not on extensions or composed works using the code	LGPL, MPL, CPL	JBoss, Mozilla, LibreOffice, Joomla
Strong copyleft	Copyleft on all the redistributed work, including derivatives and composed works	GPL2, GPL3, EUPL	Linux, Asterisk, the GIMP, MySQL, Drupal, MediaWiki

World Intellectual Property Organization (WIPO)

WHAT FOSS LICENSE TO CHOOSE?

1 Do you have the **right to license** the software?

No

You must
not
license

Yes

2 Do you want to publish it according to **FOSS**?

No

Choose any
proprietary license

Yes

Choose between any FOSS license

3 Do you want it to be kept **open**?

I don't care

Any permissive
license

Yes

Copyleft

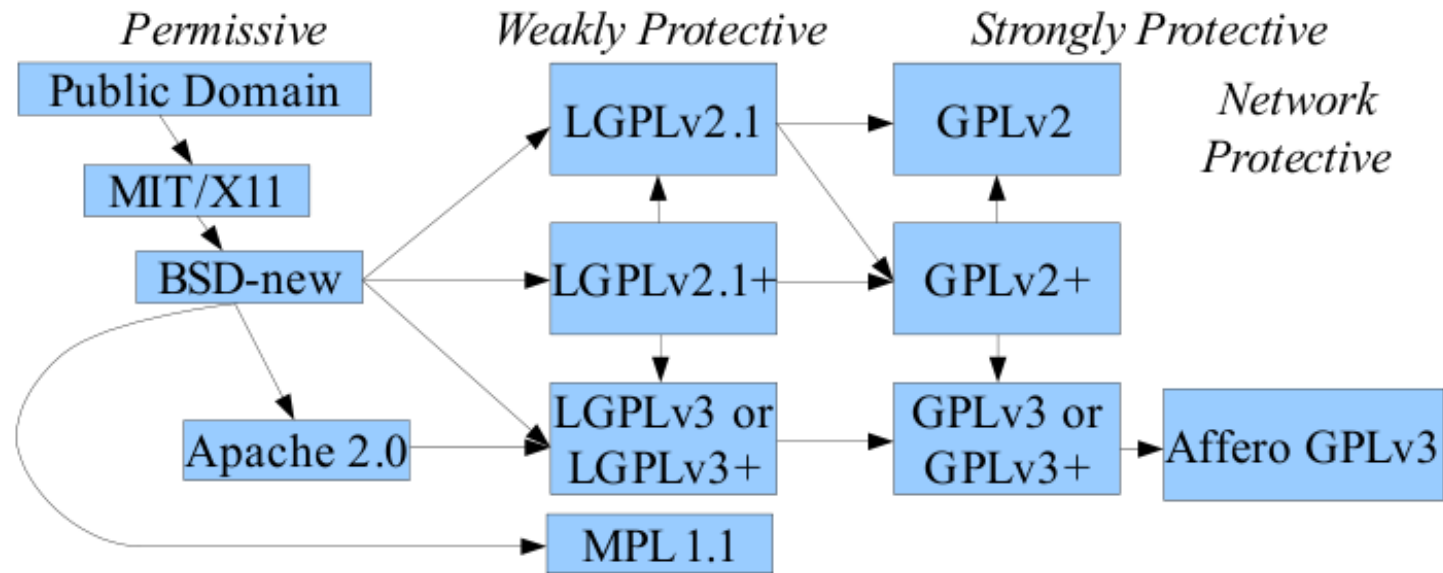
4 Do you want that also extensions or
composed works are **kept open**?

Yes

Any strong
copyleft license

No

Any weak
copyleft license



Source: <https://www.dwheeler.com/essays/floss-license-slide.html>

Author: David A. Wheeler,

Date: 27 September 2007

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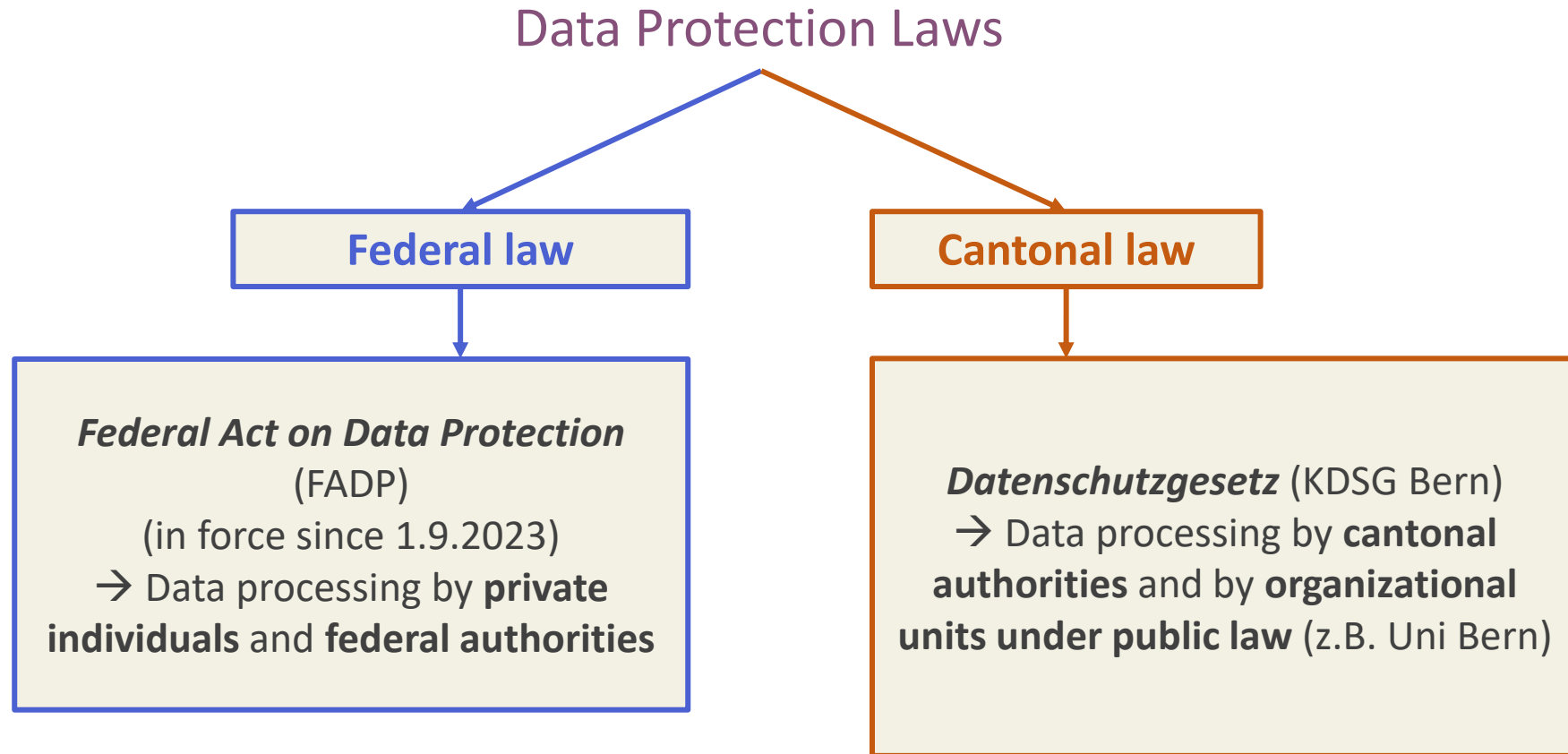
Privacy and Personal data

EU legal acts

→ ***European General Data Protection Regulation*** (GDPR) In force since 28.5.2018

- Has a direct impact on the member states
- Sometimes applies also in Switzerland (extraterritoriality principle)

Swiss legal acts



Swiss legal acts

Specific data protection articles
(Special laws)

Federal laws

E.g. *Federal Act on Research involving
Human Beings HRA,
Federal Act on Health Insurance*

Cantonal laws

E.g. (Cantonal) *Police Act*

Personal data

Swiss legal acts



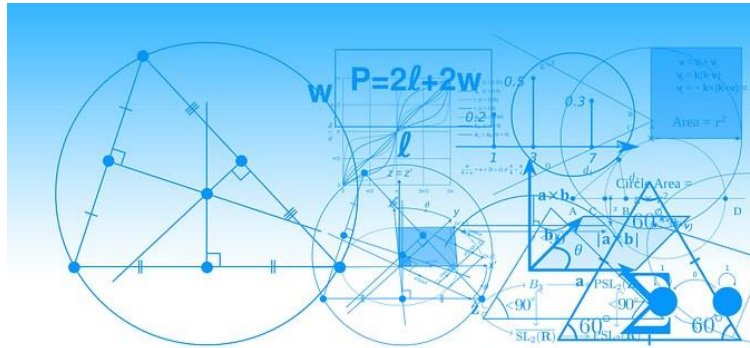
Bildquelle: <https://thispersondoesnotexist.com/>

- Name
- Address
- Place of residence
- Age
- Interesses
- Religion
- Sexuality
- Gender
- Appearance: height, skin colour, ect.
- AVS-Number
- ...

Personal Data

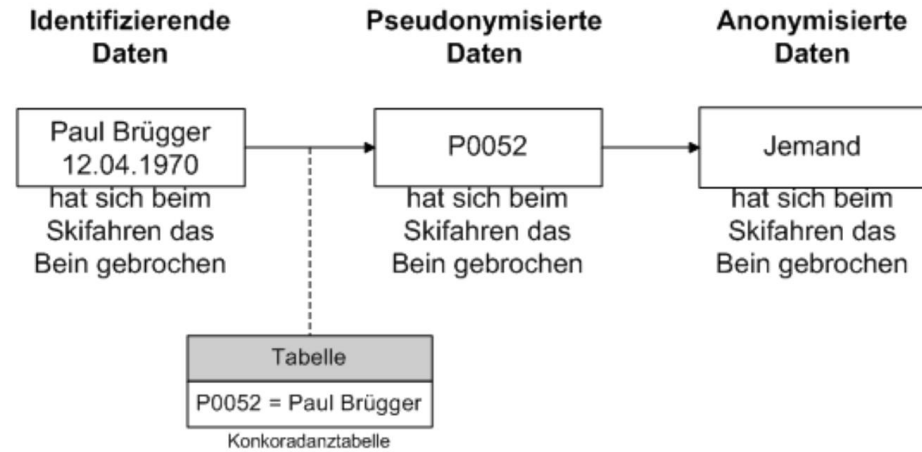
- Common name (e.g. Robert)
- Special name (e.g. X Æ A-XII)
- A pink car
- Article with political opinion
- Photo on the phone
- Contact list on the phone
- Flat advert

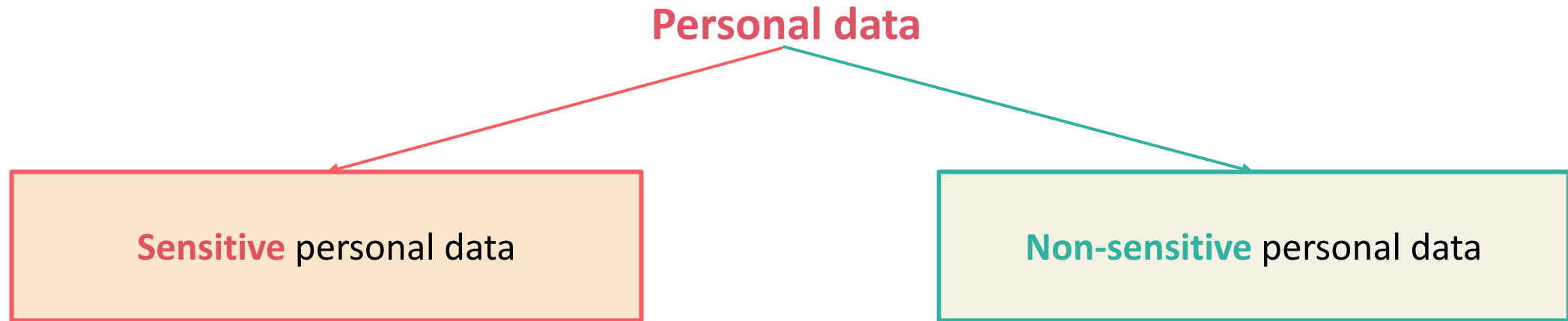
Non-personal data



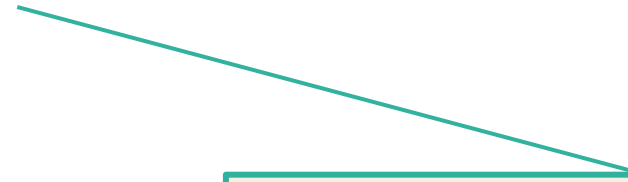
- Facts of nature
- Calculations
- Anonymised data (cf. pseudonymised data!)

→ Data protection laws do NOT apply!





Personal data



Non-sensitive personal data

Personal data: **any** information relating to an **identified** or **identifiable** natural **person**

Personal data



Sensitive personal data

Information about:

- Religious, philosophical, political or trade union-related views or activities;
- Health, the private sphere or affiliation to a race or ethnicity;
- Administrative and criminal proceedings or sanctions;
- Social assistance measures;
- Genetic data;
- Biometric data that uniquely identifies a natural person.

Processing personal data

Processing personal Data

any handling of personal data, irrespective of the means and procedures used, in particular the **collection, storage**, keeping, **use, modification, disclosure**, archiving, deletion or destruction of data;

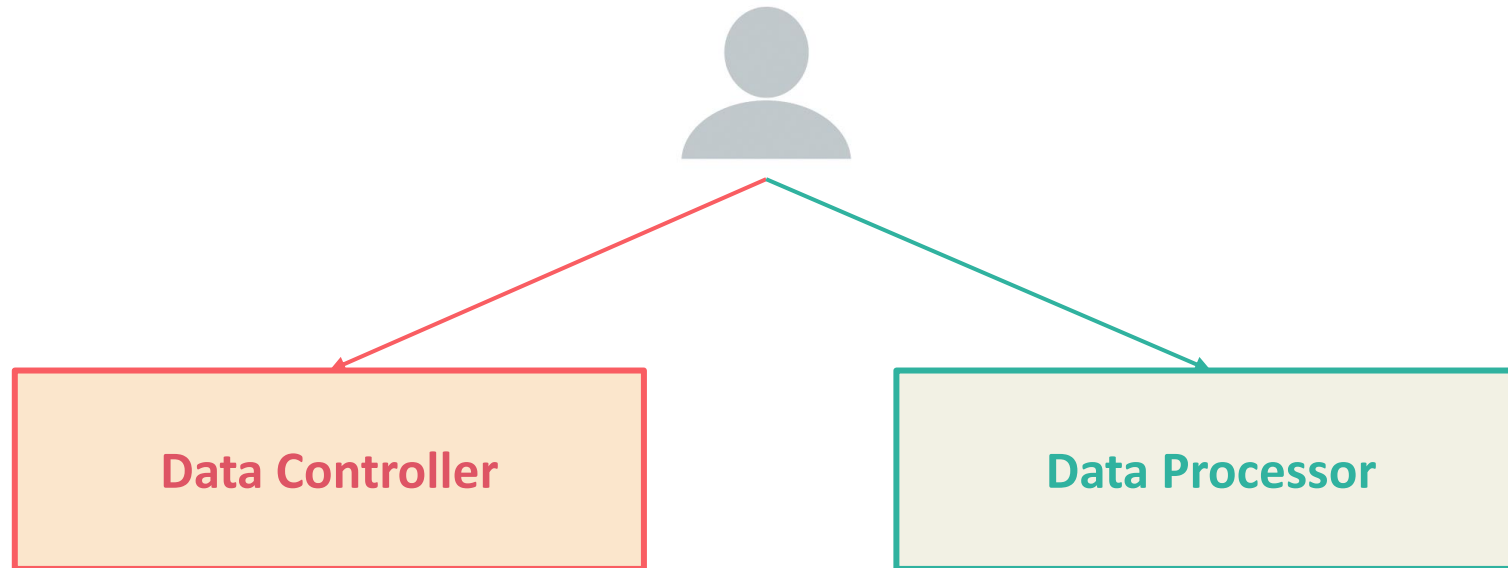
Data protection legislation

- Protects the privacy of individuals by protecting their data;
- Protects the data of all living individuals regardless of their relationship to the data processor → e.g. employee, student, website visitor, supplier, job applicant;
- Provides for obligations to be imposed on all data processors

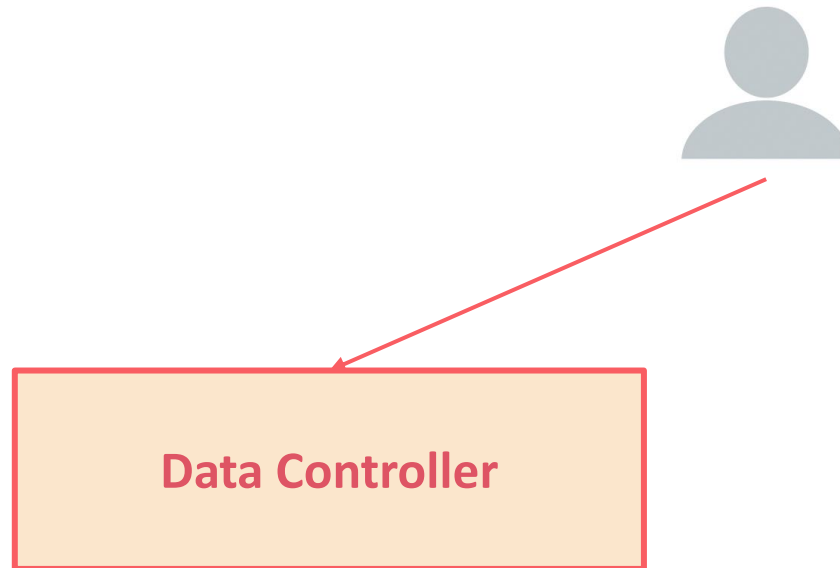
Data protection legislation

- The data must be protected by **organizational** and **security measures** that are appropriate to the risk
- Protection goes beyond maintaining confidentiality

Roles

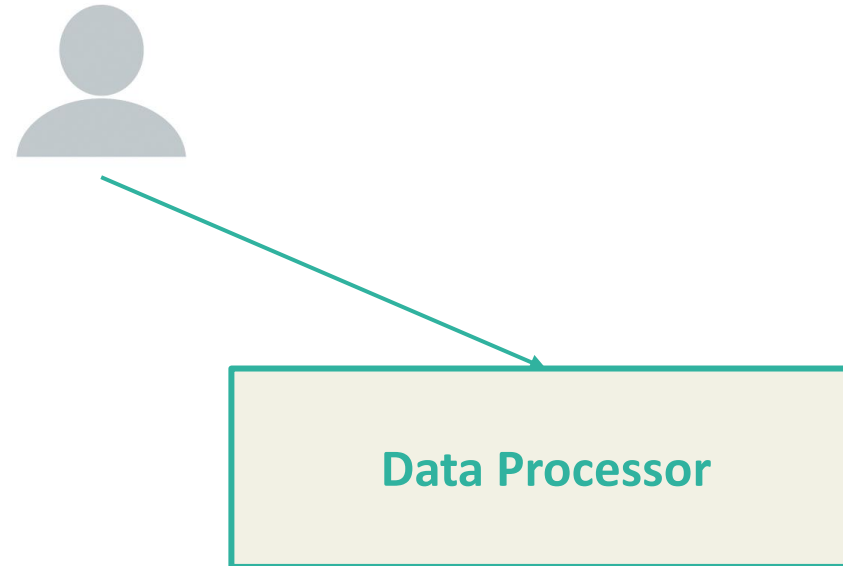


Roles



a private person who or federal body which, alone or jointly with others,
determines the purpose and the means of processing personal data

Roles



a private person or federal body that **processes** personal data **on behalf of the controller**

Principles

- Personal data must be processed **lawfully**.
→ There is either a law or consent.
- Processing must be carried out in **good faith**.
→ If I provide information about the way in which I intend to use data, I must tell the truth.
- The processing must be **proportionate**.
→ I only collect the data that I need for the respective purpose.

Principles

- Personal data may only be processed for a **specific purpose**.
→ I can only use the data for the purpose for which I collected it.
- The data processor must be **transparent**.
→ Information obligation = privacy policy
- If the data processor processes data, they must take all necessary **security measures**...
→ ...to prevent data from being lost or someone breaking into the system and stealing it.

Principles

Personal data must be processed lawfully.

= Legitimate ground:

→ **Legal basis (law)**

→ **Consent**

→ **Overriding public or private interest**

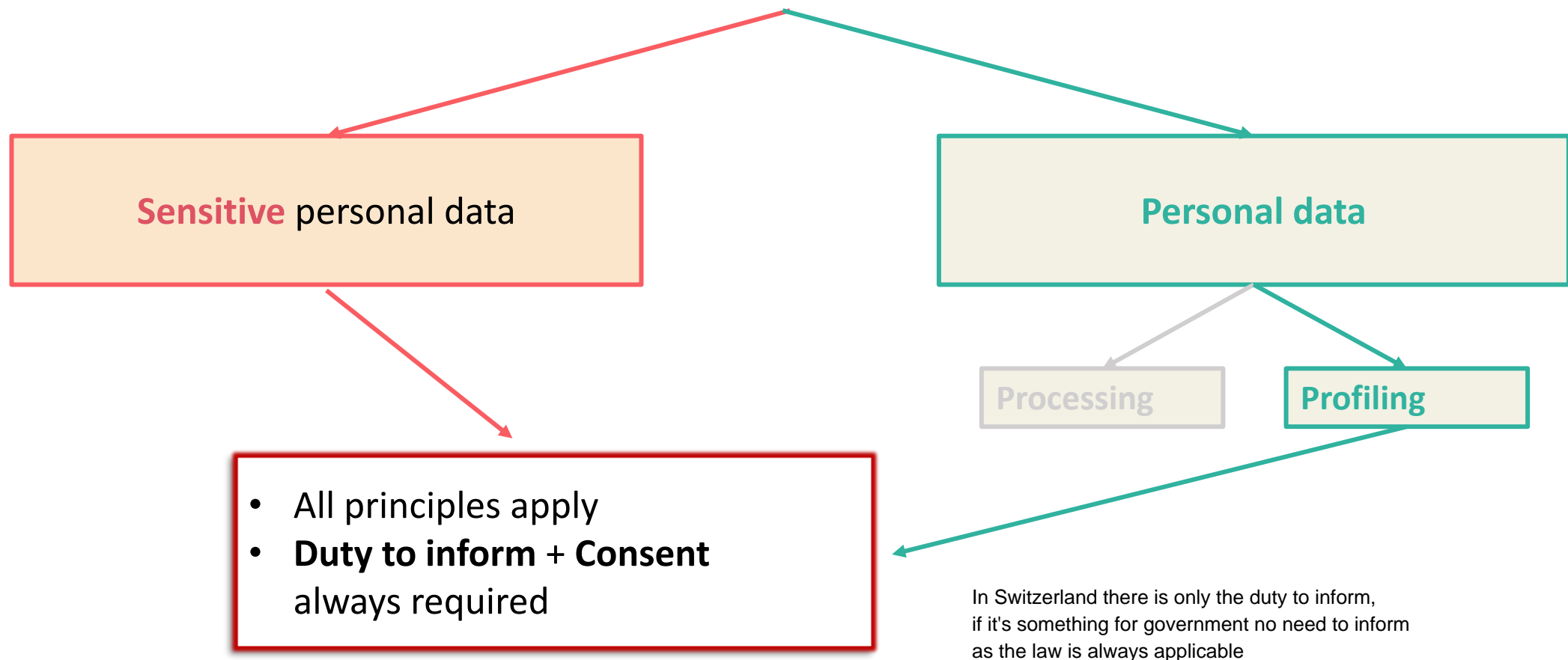
→ **The person has published their personal data themselves and does not object to its use.**

We need a legitimate ground to use personal data: we need a law (rare for small projects) or a policy.

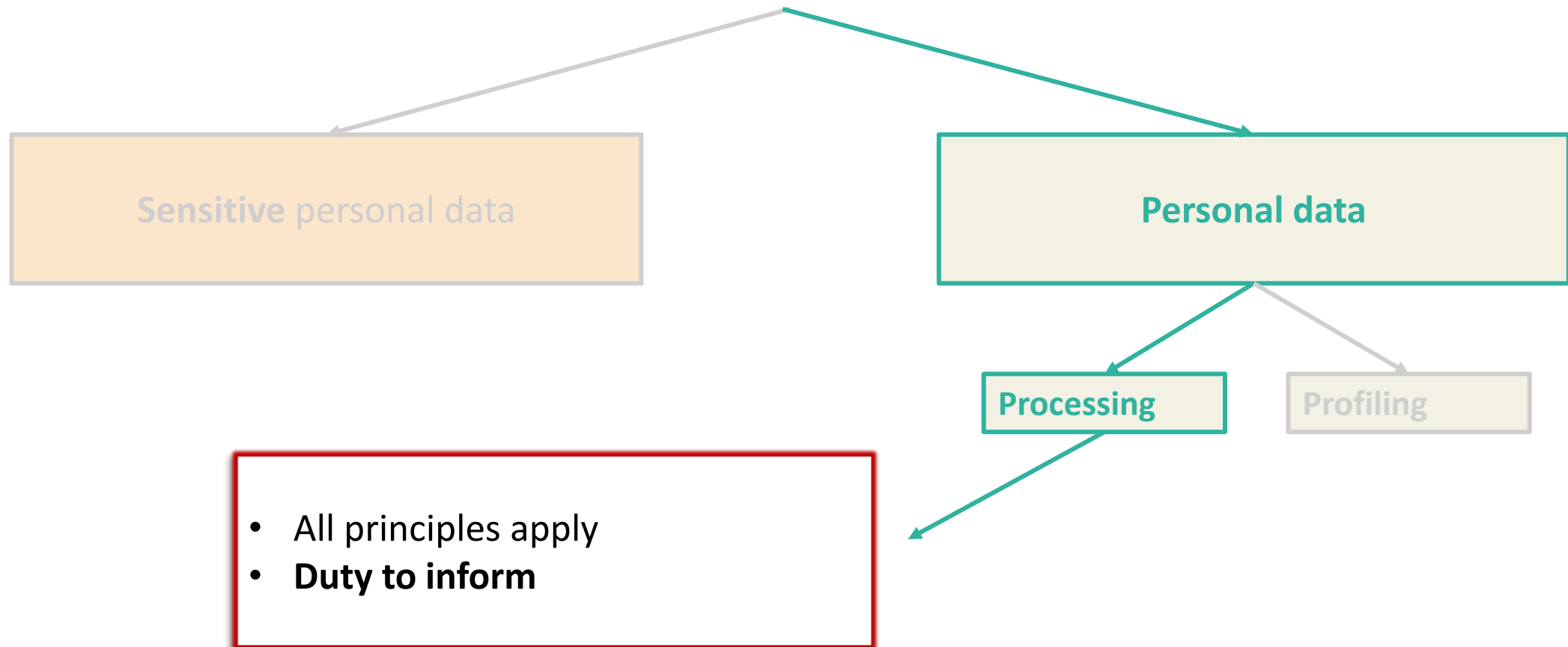
Example: if I write an opinion on politics in twitter I know that it will be public.

If someone would do a research i.e. on how people write on social media, they could do it as it's public, to use my opinion for something else they'd need to ask

Processing by private persons



Processing by private persons



Processing by public authority

Sensitive personal data

Personal data



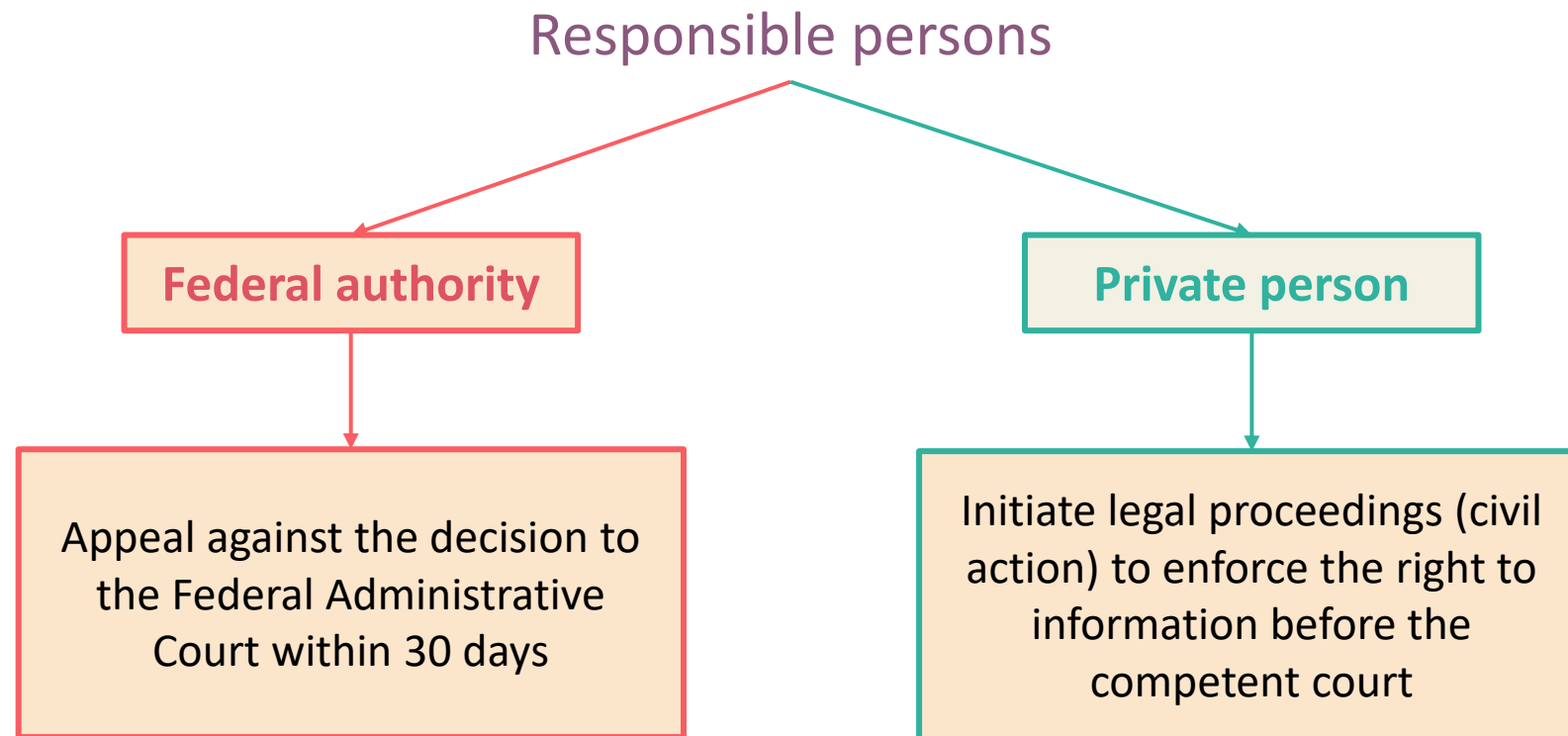
- All principles apply
- **Law or consent**

Duty to inform

- No formal requirement, but "in an appropriate manner" (on a website? correspondence?) and you must be able to provide proof!
- At least the following information:
 - the identity of the data controller;
 - the purpose of the data processing;
 - the categories of data recipients (Art. 9 FDPA, e.g. cloud), if data transfer is planned;
 - in the case of transfer abroad: the recipient country.



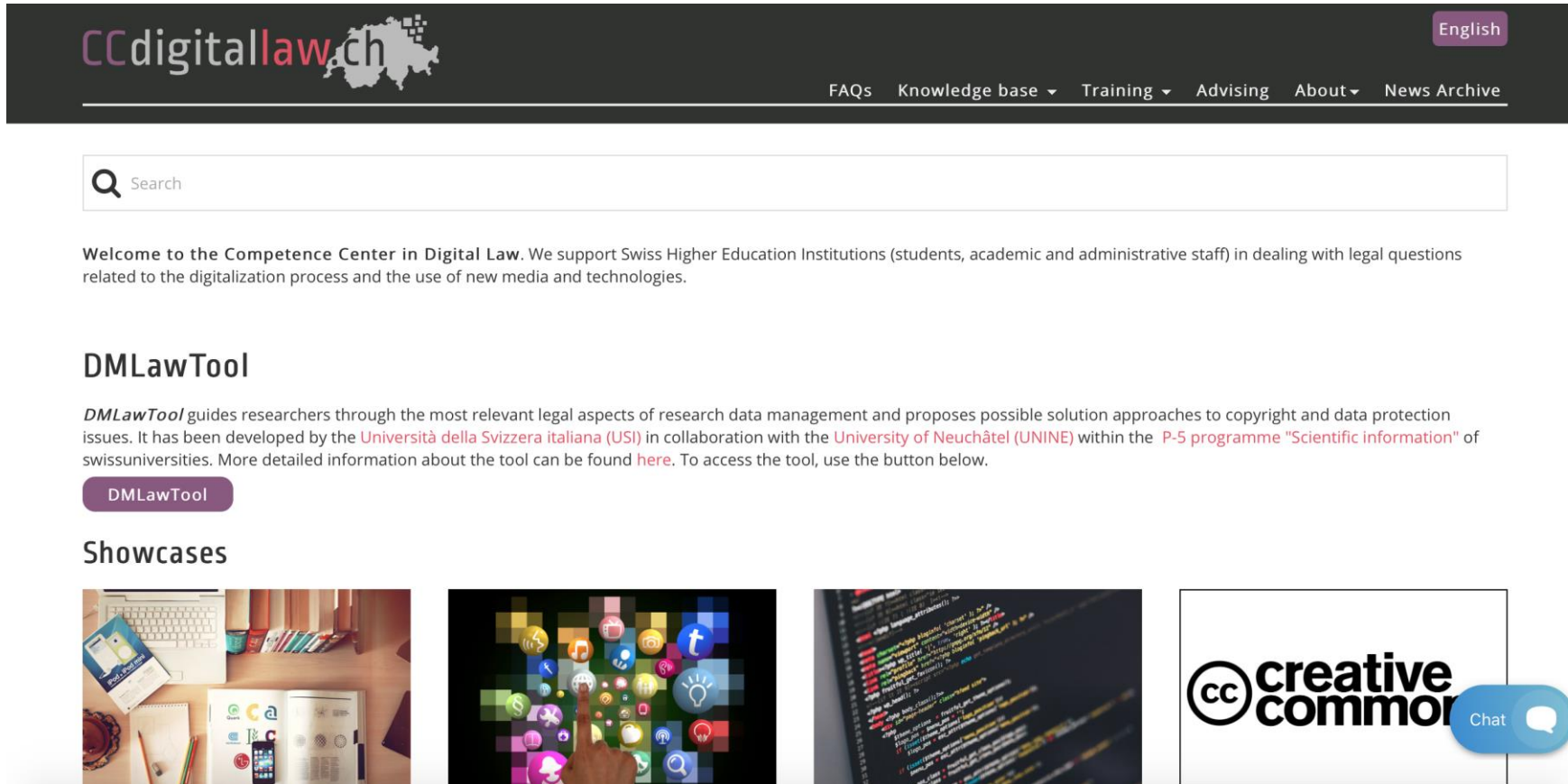
Breach of duty to inform



Thank you for your attention!

E-mail for question: suzanna.marazza@usi.ch

More information @ www.ccdigitallaw.ch



The screenshot shows the homepage of the CCdigitallaw.ch website. At the top, there is a dark navigation bar with the logo on the left, a language selector set to 'English' on the right, and a menu with links: 'FAQs', 'Knowledge base', 'Training', 'Advising', 'About', and 'News Archive'. Below the navigation bar is a search bar with a magnifying glass icon and the text 'Search'. The main content area has a welcome message: 'Welcome to the Competence Center in Digital Law. We support Swiss Higher Education Institutions (students, academic and administrative staff) in dealing with legal questions related to the digitalization process and the use of new media and technologies.' This is followed by a section titled 'DMLawTool' with a description of the tool and a button labeled 'DMLawTool'. Below this is a 'Showcases' section featuring four images: a desk with legal books and a smartphone, a hand interacting with a grid of colorful icons, a close-up of computer code on a screen, and the Creative Commons logo with a 'Chat' button.

CCdigitallaw.ch English

FAQs Knowledge base Training Advising About News Archive

Search

Welcome to the Competence Center in Digital Law. We support Swiss Higher Education Institutions (students, academic and administrative staff) in dealing with legal questions related to the digitalization process and the use of new media and technologies.

DMLawTool

DMLawTool guides researchers through the most relevant legal aspects of research data management and proposes possible solution approaches to copyright and data protection issues. It has been developed by the [Università della Svizzera italiana \(USI\)](#) in collaboration with the [University of Neuchâtel \(UNINE\)](#) within the P-5 programme "Scientific information" of swissuniversities. More detailed information about the tool can be found [here](#). To access the tool, use the button below.

DMLawTool

Showcases

