

Training of Trainers

Legal Status of Data

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Framework of Use depending on Legal Status

- **Data constitutes Intellectual Property**

- It is protected by IP law
- It is treated as 'property'
- It can be transferred or licensed

- **Personal Data**

- It is protected by Data Protection/ Privacy legislation
- Does not constitute property. Legal framework is based on the right to privacy.
- Cannot be licensed/ sold. There are grounds for and rules on handling personal data

- **Non-personal Data**

- Usually not subject to specific protection
- Can be subject to incentives or even obligations (especially when linked to public funding) to share (open data, data governance etc.)

Intellectual Property Framework

- **Copyright**
 - Copyright protection is automatic, as long as we have (i) an original 'work' in (ii) objective form
- **Related rights (EU)**
 - Databases can be subject to both copyright and a sui generis database right
- **Patents**
 - Patentable invention
 - Publicity can impede registration. Caution needed when handling data that is relevant to an invention
- **Trade secrets**
 - Not IPR *stricto sensu*, but can be subject to specific regulations
 - Non-Disclosure Agreements (NDAs)



Copyright and related rights

- **Nature of copyright protection**

- Arises automatically
- Has a (long) term
- Rightsholder has a (limited) monopoly on the use of the ‘work’

- **Licensing**

- Contacts (individual contracts, collective management etc.)
 - Standard agreements (EULAs, T&Cs, standard public licenses: software licenses, Creative Commons etc.)
 - Open Licenses
- **Licenses are a tool of the author/ rightsholder !**



Attribution

Признание



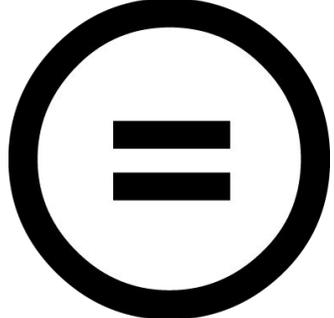
Noncommercial

Некомерсиално



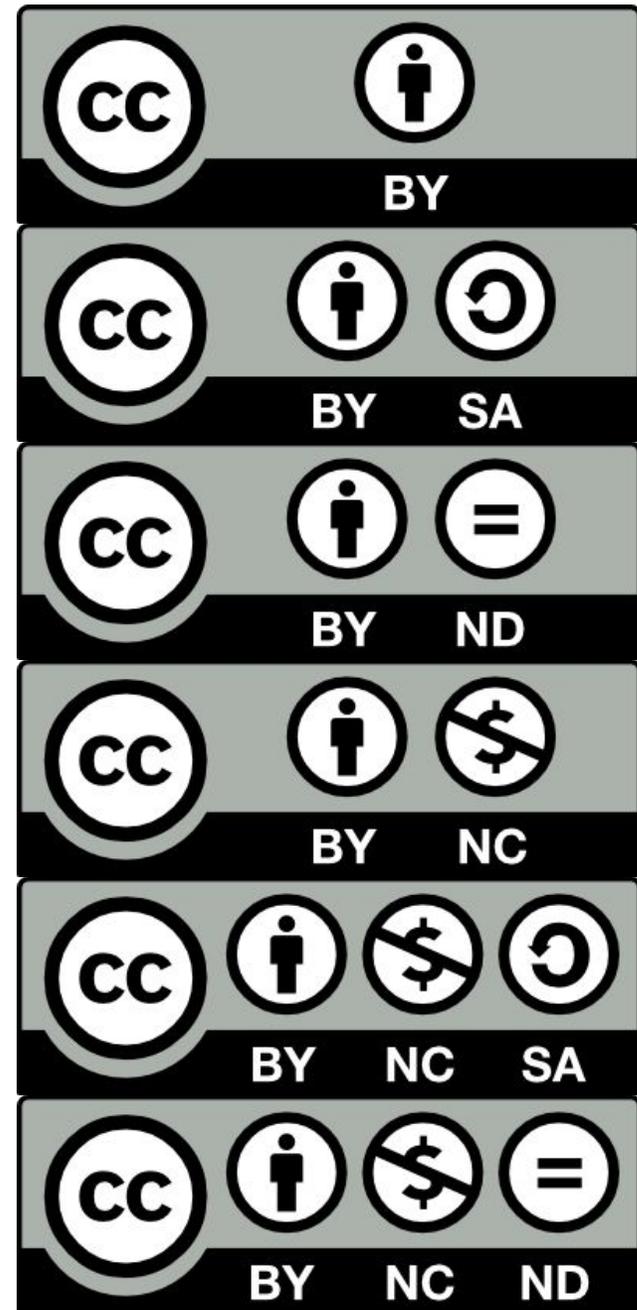
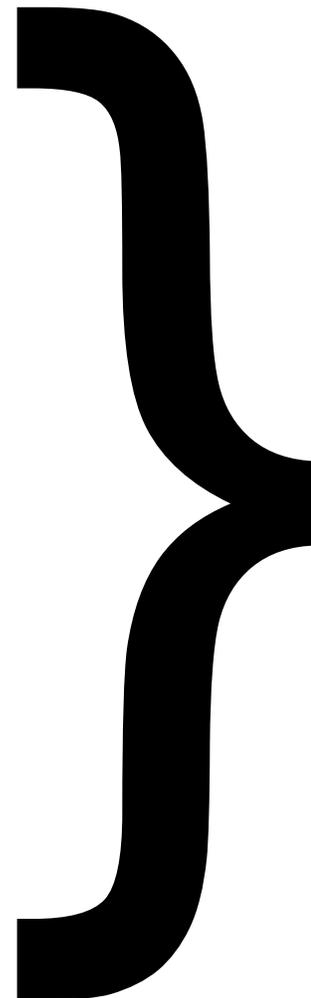
ShareAlike

Споделяне на споделеното



NoDerivs

Без производни версии



Privacy Framework

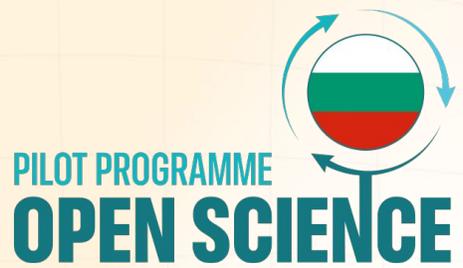
- **Data processing**
 - Handling data in any way, not only public communication!
- **Grounds for lawful data processing**
 - Consent (must be explicit and informed)
 - Contractual or legal obligations, public interest
 - Legitimate interest
- **Rights of data subjects**
 - Transparency, information, access, right to be forgotten etc.
- **Safeguards**
 - Data protection by design and by default, impact assessments, liability, DPOs, special categories of data etc.

Open Data

- **Obligations for certain entities to make data reusable**
 - Public funding
- **Legally open**
 - Open licensing
- **Technically open**
 - FAIR (findable, accessible, interoperable, reusable)

Legal Status of Data

- **Intellectual Property Law**
 - data can be subject to **copyright** law protection – as individual objects or as a database
 - data in the EU can be protected by a **(sui generis) neighbouring right** – as database
- **Personal Data Protection**
 - data is protected by default – cannot be sold/licensed, certain rules have to be observed when processing personal data, depending on the type of data, the type of processing and the grounds for processing
- **Open Data**
 - linked to public funding
 - limited application regarding research data



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