

DATA PROTECTION AND ETHICS ASSESSMENT & DATA ACCESS PERMISSIONS

The ACCEPTABILITY project (funded by the Norwegian Research Council, Grant no. 262773) and DISCRETION project (funded by the European Research Council, Grant no. 724460) are situated in Norway, at the Centre for Research on Discretion and Paternalism, University of Bergen.

Processing of personal data in relation to the projects is in accordance with the Norwegian Personal Data Act [2000, 2018] and Regulation (EU) 2016/679 (General Data Protection Regulation). Information is handled as confidential material in accordance with regulations set by the Norwegian Authorities, and with the obligations set by the Norwegian and European Research Councils. All procedures for storage, anonymization, and deletion of data follow national and EU regulations, and all data handling use SAFE storage systems, which is the University of Bergen's data solution for secure storage of sensitive data material.

All actions in relation to these projects are carried out in compliance with ethical principles (including the highest standards of research integrity) and applicable international, EU and national law (cf. Council Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1995] OJ L 281/31). More information about the European Code of Conduct for Research Integrity is available here: http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020-ethics_code-of-conduct_en.pdf.

Overall Data Protection and Ethics Assessment

As the University of Bergen, Norway, is the host institution for both projects, the projects have been reported to the Data Protection Official for Research at the NSD – Norwegian Centre for Research Data. NSD is the National competency center for data protection in research in Norway, and was the Data Protection Official for Research for all Norwegian universities until 2018. NSD assessed the appropriateness and legality of collecting and handling personal data in the projects, and an affirmation that the projects' processing of personal data is in accordance with the Norwegian Personal Data Act was received in relation to both projects on 01.09.2017 (ACCEPTABILITY: Ref. 54904/3/BGH, DISCRETION: Ref. 54362/3/AMS). After the implementation of the new Norwegian Personal Data Act and the EU General Data Protection Regulation, the projects has been assessed by the Data Protection Officer at the University of Bergen, re-affirming that the projects' processing of personal data is in accordance with current regulations.

Data access permissions from each country

When requesting permission to access documentation from countries included in the project, all relevant authorities received the following documentation: a) a copy of the project description, b) the approval letters from the Norwegian Data Protection official, and c) a specification of the requested material. Approval documentation for access to data has been received from all research countries. Please see the description for each country for further specification.

Austria

The Ministry of Justice provided access permission to non-published judgments on care orders and adoptions from care for the whole of Austria for the year 2016 on 07.12.2017. Extension of access to cases from 2017 was granted by the Ministry on 13.08.2018, due to a small number of cases each year. The Ministry provided a list of the relevant case material for the newborn removal judgements. For adoptions from care judgements, the regional child protection offices were contacted to identify the relevant case material. The de-identified judgements were provided by the district courts directly.

England

For England, we have access to judgments from the publicly available database BAILII, as well as non-public cases collected directly from the courts of two large court districts. Access to publicly available judgments is not restricted. Permission to access non-published judgements has been received from the President of the Family Division of the High Court of Justice, the presiding judge of each court studied, and from the Children and Family Court Advisory and Support Service (Cafcass) Research Governance Committee.

Overall access permission to non-published judgments was first received from President of the Family Division of the High Court of Justice, and reaffirmed by the most recent President of the Family Division on 12.11.2018. Permission to access cases from the presiding judge of the relevant courts was received in August 2018. Approval from the Children and Family Court Advisory and Support Service (Cafcass) Research Governance Committee, who assisted us in identifying the relevant cases, was received on 24.10.2018. Case material was collected directly from each court, and de-identified by the researcher before removing the material from the court premises.

Estonia

For Estonia, we have access to non-published judgments from the district court on care order removals and adoptions from care. The Ministry of Justice of Estonia provided lists of cases. Access to the cases was provided by the courts concerned. Each court provided approval to access specified cases from their court. Permission to access care order removal cases of newborns was sought first, and permission to access adoption cases were sought at a later stage. The four relevant courts handling care order cases gave their permission to access cases in April 2018. Access to adoption cases was granted by one court only on 19.12.2018 and 24.06.2019 (updated permission).

Finland

For Finland, we have access non-published judgments from the administrative courts on care orders and from the district courts on adoption. Care order cases are decided by the Administrative Courts of Finland, and permission to access care order removal cases concerning newborns was provided by all six administrative courts in Finland, during the period of February - June 2018. Adoption cases in Finland are heard by the District Courts, and permission to access adoption cases from the District Courts were granted by each court respectively between September 2018 and January 2019. The material was de-identified by the courts before it was provided to the research team. The Legal Register of Finland provided advice on the access permission process.

Germany

For Germany, we have access to non-published judgments on care orders and adoptions from care from one large federal state. Access permission was granted by the Ministry of Justice of this state on 04.07.2018. The family court of one large city was then contacted to request the case files. A researcher travelled to the court and signed a non-disclosure agreement prior to obtaining access to the court files. In line with this agreement, the researcher ensured that only de-identified information was shared with other members of the project team. Since it was not possible to identify adoptions from care in the court's database, so only newborn removal cases were obtained from the family court. For adoptions from care, the state's County Association and the Association of Cities and Towns, who oversee the youth welfare offices provided official support for the research project. Approval was received on 16.01.2019. De-identified adoption from care decisions were provided by the youth welfare offices in the federal state.

Ireland

For Ireland, the projects only use publicly available judgments accessed via a public database (www.courts.ie). Access to non-published judgments is generally not allowed by the Courts Service. Our application was denied 20.12.2017.

The application process for access to adoption judgments is currently ongoing.

Norway

Permission to process the personal data in the Norwegian cases was given by The Norwegian Data Protection Authority. The project is also reported to NSD – Norwegian Centre for Research Data, and the University of Bergen's Data Protection Officer.

Permission to access confidential material was provided for selected, named staff by The Norwegian Directorate for Children, Youth and Family Affairs, after assessment by the Council for confidentiality and research. The permission was given separately for the adoption cases and the newborn cases. The initial permission was given to the PI in conjunction with other projects, and extended to include the Discretion and Acceptability projects on 20.02.2018 (adoption) and 08.05.2018 (newborn), with later updates.

Decisions on care order removals and adoptions from care are decided by the Norwegian County Social Welfare Boards. The county board provided a list of relevant cases, and the case material was collected from the county boards directly.

Spain

For Spain, we have access to non-published decisions concerning care order removals and adoptions from care in one of the country's regions. Access permission is provided the head of the Child Protection Area and member of the Child Custody Commission of the relevant region. The Child Custody Commission is the body in charge of deciding on the removal of parental rights and tutelage of minors. Permission was granted December 2017, and with formal letter of 25.11.19.