



European Holocaust Research Infrastructure
Theme [INFRA-2010-1.1.4]
GA no. 261873

Deliverable
D.3.2

Digital Handbook on Privacy and Access

Dirk Luyten/Hans Boers
CEGESOMA

Start: November 2010
Due: November 2012
Actual: May 2013

Note: The official starting date of EHRI is 1 October 2010. The Grant Agreement was signed on 17 March 2011. This means a delay of 6 months which will be reflected in the submission dates of the deliverables.



Document Information

Project URL	www.ehri-project.eu
Document URL	
Deliverable	D. 3.2 Digital handbook on Privacy and Access
Work Package	3
Lead Beneficiary	2 CEGES-SOMA
Relevant Milestones	MS 3
Nature	R
Type of Activity	COORD
Dissemination level	PU
Contact Person	Dirk Luyten, dirk.luyten@cegesoma.be , 0032 (0) 2 556 92 21
Abstract (for dissemination)	The digital handbook on privacy and access, which will be published on the EHRI website (and later on the EHRI portal), will present a policy for the access to the collection and/or document descriptions made accessible on or through the EHRI portal, taking into account national and European law and good practices at national and international levels.
Management Summary (required if the deliverable exceeds more than 25 pages)	In this document is explained the way EHRI studied the issue of privacy which is the main problem for the access policy. The result of this research is that an open research portal with data from different collection holding institutions is compatible with the European privacy legislation, taking into account the European directive 95/46/EC and the different privacy laws at one hand and the practice in dealing with privacy in the different collection holding institutions on the other hand. However a policy is elaborated to limit access to certain personal data for scientific purposes only, since this could be necessary in some cases mainly following conflicting national legislations. The authorisation is to be given by the NIOD, acting as the controller for EHRI. Specific forms are produced which take into account the NIOD-procedures and EHRI's specific needs. The result is an open research portal where collections descriptions can be searched by the researchers and the general public. This policy of open access answers EHRI's main objective to facilitate and encourage cooperation among researchers and transnational access to collections and collection descriptions.

Table of Content

Privacy and Access Policy for EHRI's Research Portal

1. Introduction	4
2. EHRI: aims and content	4
3. The legal framework	5
4. EHRI's approach of the privacy problem	6
5. What is the privacy issue for EHRI	7
6. The legislation pertaining to privacy	8
7. Implications for EHRI	9
8. Conflicting legislations	10
9. An open or a closed portal?	12
10. The virtual research environment (VRE)	27
11. Personal data of registred users	28

Annex 1: Synoptic table on the differences in the privacy legislations in some EU member states

Annex 2: Procedure to have access to protected personal data

Annex 3: Form to be filled out to have access to protected data

Privacy and Access Policy for EHRI's Research Portal

1. Introduction

This document presents the access policy for the research portal developed by the EHRI project. The aim of EHRI is to encourage and facilitate transnational access to Holocaust related sources in Europe, sources of which the collection descriptions are integrated in EHRI's research portal, a part of EHRI's website. The starting point for the access policy of EHRI is to be as open as possible. Facilitating research on the Holocaust implies that in principle there are no restrictions to access to the collection descriptions. There is one exception however: the protection of privacy. Privacy protection is regulated in the European Union by a directive of 1995 which is transposed into national laws in the different member states. Because privacy is central for any access policy, privacy has been the prior concern for WP3 since the start of the project. The result of this work is laid down in a privacy policy which regulates access to the research portal. The present document describes and explains this privacy policy, taking into account the objectives of EHRI and the European privacy regulations. The policy is to give access to the research portal without or with a minimum of restrictions, but without violating the privacy legislation.

This document answers three questions:

1. What are the fundamental options regarding privacy?
2. What are the reasons to take these options?
3. What are the arguments to choose for these solutions, from the perspective of the application of the privacy legislation?

First the aims and content of EHRI will be presented. The second part of the document deals with the legal framework. In the final part the privacy policy is analyzed in detail.

2. EHRI: aims and content

European Holocaust Research Infrastructure (EHRI) is a research project financed by the 7th Framework Programme of the European Commission. The aim is to connect information about Holocaust sources, mainly (archival) collections kept by institutions based in Europe and Israel. The sources are described at the level of the collection. From the research of WP15 it appears that the way institutions describe the collections and organize online access can differ. As a consequence, in some institutions the archival descriptions are at the file or document level.

The aim of EHRI is to bring together archival collections on the Holocaust by providing a user-friendly and transnational access to these collections in order to facilitate research and to encourage cooperation between Holocaust researchers working in different countries. Therefore, collections are also made accessible through a thesaurus (developed by WP18).

The collection descriptions and the other information on the (archival) sources are published on the research portal.

Descriptions of archival collections located in the following countries are considered¹:

Albania, Algeria, Austria, Belgium, Bulgaria, former Czechoslovakia (Czech Republic, Slovak Republic), Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Israel, Italy, Latvia, Libya, Lithuania, Luxemburg, Monaco, Morocco, the Netherlands, Norway, Poland, Romania, former Russia (Belarus, Moldavia, Ukraine), San Marino, Tunisia, former Yugoslavia (Serbia, Croatia, Bosnia-Herzegovina, Slovenia, Montenegro, Macedonia, Kosovo) and some British isles.

This initial list has been supplemented with other countries: Argentina, Australia, Canada, Japan, Kyrgyzstan, Liechtenstein, Spain, Sweden, Switzerland, Taiwan, United States, Uzbekistan, Vatican City.

Collection descriptions are integrated into the database of the research portal by one of the following procedures:

- a. Harvesting by EHRI
- b. Export by the collection-holding institutions
- c. Manually entering by EHRI-collaborators / subcontractors
- d. Manually entering by users under the control of EHRI

To make the research infrastructure reliable and effective, collection descriptions must be updated on a regular basis.

EHRI is a project in which twenty partners participate. These partners are collection-holding institutions and/or research centres, located in Europe and Israel, with an expertise in the field of Holocaust studies or digital humanities. The coordinator of the project is the NIOD Institute for War, Holocaust and Genocide Studies in Amsterdam. The NIOD as an institute is part of the Royal Netherlands Academy of Arts and Sciences (KNAW). EHRI officially started in October 2010 and runs until the end of September 2014. EHRI is a research consortium of which the rights and obligations are defined in a grant agreement². EHRI has no legal personality. NIOD-KNAW is a legal person according to the Dutch law.

3. The legal framework

From the start of the project, the assumption was that EHRI would process personal data. Personal data can be found in the research portal (descriptions of sources, thesaurus) and in the data of researchers using the research portal or collaborating in the construction of the infrastructure or using some of its functionalities (such as discussion groups). Since one of the aims of EHRI is to stimulate cooperation between Holocaust researchers, personal data of those researchers will be exchanged and processed.

¹ Situation in May 2013.

² GA n° 261873

This implies that EHRI has to comply with Directive 95/46/EC of the European Parliament and Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data³. This Directive has been transposed in the national legislations of the EU-member states.

The controller of the personal data as defined in Directive 95/46/EC is NIOD. NIOD is located in the Netherlands and as a consequence, the Dutch law transposing the Directive 95/46/EC into the national law applies, in this case the *Wet bescherming persoonsgegevens* (WBP) or Dutch Data Protection Act⁴.

Directive 95/46/EC is currently under revision. A proposal was published in January 2012⁵. The idea is to replace the Directive by a regulation. At some points relevant for EHRI, the rules concerning privacy protection are under revision. The policy of EHRI is based on the current Directive.

4. EHRI's approach of the privacy problem

Since it was clear that privacy was a core problem for access, WP3 started researching the privacy issue from the start of the project. At that early stage, the privacy issue could only be identified in a general way and could not be defined precisely, since it was not yet clear to what extent personal data would be integrated in the research portal via the collection descriptions, finding aids to give access to the collections and thesauri.

The identification of the sources and collections eligible for integration is the task of WP15, which also started its work in the first month of the project. The first results of the research on the identification of the collections and the way collections are described could only reasonably be expected after some months. The same goes for the ICT work packages, in which decisions had to be taken on the procedure and the software to integrate data of the collection-holding institutions into the research portal.

The legal problems EHRI might be confronted with, could only be defined from a theoretical and legal perspective and not in a detailed and practical way from the start of the project.

Basically, two approaches are possible to address the privacy problem. A practical one, starting from the concrete questions to be answered, based on the collections integrated and then identifying the judicial problems to be solved. The second, theoretical approach starts with the study of the legal norms to be respected and applies them later to the infrastructure while it is built and collection descriptions are integrated.

³ Official Journal L 281 of 23.11.1995. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:EN:NOT>

⁴ 'Wet van 6 juli 2000, houdende regels inzake de bescherming van persoonsgegevens', *Staatsblad van het Koninkrijk der Nederlanden*, 2000, nr. 302.

⁵ European Commission. Proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation). 25.01.2012. [http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/com/2012/0011/COM_COM\(2012\)0011_EN.pdf](http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/com/2012/0011/COM_COM(2012)0011_EN.pdf)

EHRI opted for the second solution since the details of the content of the collection descriptions was not clear from the start of the project. Identifying the collections and the collection descriptions is the core of the research project. A detailed knowledge of the judicial framework at an early stage of the project was useful, on the one hand to be able to answer quickly to judicial questions, to anticipate judicial problems which resulted from the construction of the research portal and the integration of collection descriptions, and on the other hand to give a specific orientation to the activities of WP3. This is the reason why there has been a close cooperation between WP15 and WP3.

WP3 first made an inventory of the legislation(s) EHRI has to comply with and organized a workshop in May 2011 in Prague to map the problem of privacy from a judicial point of view. The two central questions of this workshop were:

- What are the different rules and regulations EHRI has to take into account?
- How are these rules applied in the practice of historical research?

Both approaches are relevant. The first has a mere judicial angle and wants to make an inventory of all the relevant legislations. This inventory makes it possible to identify the challenges in the field of privacy protection which are linked with the building of the research infrastructure.

The collection-holding institutions amongst the partners of EHRI have already been confronted with problems comparable with the challenges that EHRI faces, albeit on a national scale, and had to comply with the national privacy legislation. Besides learning from their experiences, it was relevant to know if the collection-holding institutions were inclined to interpret the legislation restrictively or in a way that would give maximum access to the collections.

5. What is the privacy issue for EHRI?

To have a precise idea of the privacy problem for EHRI and to know the fundamental principles of the European privacy policy, WP3 studied the European Directive. The European research project RESPECT proved to be particularly relevant⁶. This project analyzed the basic principles of the European privacy policy in detail as well as their application to research in the social sciences.

WP3's research made apparent that the European Directive has a general reach and is not tailored for historical research. Since the judicial instrument to protect privacy is a directive, its concrete implementation falls within the authority of the member states, which implies that there can be differences in the legislations between them. This lack of uniformity can have consequences for the construction of the research infrastructure, especially as far as the integration of collection descriptions is concerned.

To get, in an early stage of the project, a clear overview of the content of the national privacy laws and to find out if there are other legislations with privacy implications that have to be taken into account, a (written) survey was sent out to the Data Protection Authorities (DPAs)

⁶ www.respectproject.org

of the countries of which collections were planned to be integrated in EHRI. The survey was consisted of open questions.

Next to knowing which legislations EHRI has to comply with, the questions focused on the specificity of archives relating to the Holocaust; not only archival sources pertaining to victims, but also perpetrators and bystanders. A special point of attention was the relationship between the national law and the Dutch law.

The survey was distributed to the DPAs concerned in January and February 2011. According to the European Directive, DPAs have to be established in each member state of the European Union. The DPAs are responsible for the protection of personal data in their state and controlling the observance of the legislations to protect privacy. The DPAs are specialized institutions and therefore in a good position to provide specific and up-to-date information on the state of the privacy legislation(s) in their country. The answers to the survey were analyzed and processed by WP3 and discussed with all the EHRI-partners during a workshop in Prague in May 2011.

The aim of the survey with the DPAs was to have a clear overview of the legal framework: the questioning was judicial and theoretical. To know how the privacy legislation was applied by the collection-holding institutions, a second survey was organized with the collection-holding institutions amongst the partners in the EHRI-project.

6. The legislation pertaining to privacy

The survey with the DPAs showed that the privacy legislations in the different countries are, concerning the problems with which EHRI is confronted, only to a limited extent uniform. In the different national privacy laws transposing the European Directive, there proved to be significant differences as far as concepts, procedures, rules and formalities for privacy protection and the role of the DPAs are concerned.

The national legislation on privacy protection, transposing the European Directive into national law, sets out general rules and has a general scope. In a number of member states, access to archives is governed by a specific archival legislation. These laws apply the national privacy law to the access to archival sources.

It appears that other legislations besides the privacy law can limit or even deny access to certain personal data. An example is personal data from judicial, especially penal files. Several states have a specific legislation regulating access to these judicial files. The personal data in these files are protected by specific rules, which are sometimes dependent on the phase of the judicial procedure to which the documents relate.

In some states in Eastern Europe, the access to archives from what is labelled as the totalitarian period in the national history, is governed by a specific legislation with restrictions and special procedures to have access to those files. The totalitarian period is defined as the period of Communist rule and Nazi rule or Nazi occupation, thus including the Holocaust period.

The survey with the DPAs led to four basic conclusions:

1. Applied to the access to archives, the national legislations lack uniformity, as can be observed in the synoptic table (Annex 1). This implies that the legislation can be more restrictive in one or another member state of the European Union.
2. Even if the Dutch legislation offers a sufficient level of protection for the national DPAs, it is possible that this law is less restrictive than the regulations in other member states. In that case, export of personal data can be a problem or can require specific measures for protection or access.
3. At least part of the data that will be processed by EHRI are so-called sensitive data⁷, since they refer to race or religion. These data fall under a special protection regime and can only be accessed or processed for specific purposes.
4. Scientific research is one of the purposes for which (sensitive) personal data can be processed.

As far as the collection-holding institutions are concerned, the results of the survey showed that their policy is to be as open as possible within the limits of the (national) laws.

7. Implications for EHRI

The aim of EHRI is to facilitate research on the Holocaust by offering user-friendly transnational access to a maximum of collections relevant for Holocaust research, collections which are kept in archives and documentation centres throughout Europe and Israel.

Parallel with WP3's research on the judicial aspects of privacy protection for EHRI, WP15 started identifying the relevant collections. A methodology was elaborated in collaboration with WP19 and 20 to integrate the collection descriptions into the research portal. This integration can be realized by harvesting, data entry (using archival description software) or export of datasets by the collection-holding institutions.

The results of this work show that most of the data to be integrated are collection descriptions, which have no implications for privacy protection. Depending on the size of the collections and the methodology to disclose archives, some collections contain (in certain cases large) sets of personal data. Examples are the Terezín Archive Collection from the Jewish Museum in Prague (described by WP2) or those of the Kazerne Dossin. Memorial Museum and Documentation Centre on Holocaust and Human Rights (Mechelen, Belgium).

These types of collections make the privacy problem for EHRI more concrete.

- Some datasets contain (sensitive) personal data of which some are, according to the Dutch law, subject to a specific protection regime. This means that these datasets can be made accessible only for research purposes.
- Not all the data in a dataset from one collection-holding institution are data that need protection. This is for instance the case for data of a public person or personal data

⁷ Article 8 ('special categories of data') Directive 95/46/EC

made public by the data subject. A selection between the two categories is to be made and only the sensitive data should be restricted for research purposes only.

- The differences in the privacy legislations in the different states add a dimension to this problem. It cannot be excluded that, in constructing the research infrastructure, personal data are exported from a country with more restrictive rules for privacy protection to the Netherlands, or that personal data are exported from a country with a more liberal privacy protection regime than the Netherlands. In the first hypothesis, the national legislation pertaining to privacy protection is put into question while in the second case, personal data that are accessible without restrictions in a collection-holding institution in one member state can through the EHRI-portal only be accessed under certain conditions.

8. Conflicting legislations

The question of conflicting legislation appears to be a key issue for the privacy protection of EHRI and for the limitation of access to the descriptions of certain collections.

The legal answer to this problem is that these datasets cannot be made accessible for the general public, but only for certain users or for specific purposes. The conditions are laid down in the *Wet bescherming persoonsgegevens*. There is a legal-procedural and a technical (ICT) aspect:

1. The legal-procedural aspect

A procedure is to be elaborated to give access to the protected personal datasets. This implies the definition of criteria as to which categories of users can access these data and the elaboration of a procedure to be followed to obtain access to these data.

2. The ICT aspect

The personal datasets that need protection can only be accessed for certain purposes and by certain categories of users. As far as EHRI is concerned, the legal ground is scientific research: the data can only be accessed and processed for scientific research purposes. The data that need protection have to be identified, selected, isolated and masked. To access these data, a system of identification and authentication should guarantee that only persons who are entitled to see and process the data have access.

The legal-procedural aspect

The procedure to authorize access to personal data that need protection must comply with the Dutch law. The controller is responsible for the protection of personal data and is entitled to give or deny access. The controller needs to have legal personality since he is accountable and can be brought before court in case of a dispute.

As already explained, NIOD is the controller for EHRI. NIOD holds itself important (Holocaust-related) archival collections and has a procedure to give access to certain (sensitive) personal data mostly via the reading room. This procedure is in accordance with

the Dutch law. The authorization is given by the Director of NIOD on the basis of a special form that has to be filled in. Basically, the same procedure can be used for collections in the EHRI research portal.

However, to solve the problems that spring from the combination of different (conflicting) legislations, it can be necessary to take special provisions to limit access to data for which, in the state of origin, the data protection rules are more restrictive than in the Netherlands. For that purpose, access to those types of data can be subject to more restrictions, which are laid down in the national legislation of the country where the collection-holding institution is based.

The procedure has been elaborated by EHRI's Privacy Committee in close cooperation with the management of NIOD, since it is the Director of NIOD who will decide on access to the personal datasets. This procedure is laid down in a set of documents which are annexed to this deliverable.

The approach in this procedure was to anticipate the cases that could be theoretically expected. A person who wants to have access to the data that need protection, has to apply for access using the special form. The criterion to grant access is scientific research and the authorization is given on a personal and not an institutional basis.

The ICT aspect

The personal data in need of protection can only be used by a person who has access rights. The technical implementation of this is a system of access control with a user name and password. Only users who meet the criteria laid down in the access policy will be given access to the protected sets of personal data. The system used is based on OpenID authentication⁸. The authorization is given to one person in particular and not to an organization or a group of persons (e.g. all the members of a research group).

As the EHRI project progressed, there was a clearer view on the type of data which would be integrated in the research infrastructure, and therefore the issue of privacy could be defined more precisely. Privacy problems could rise when the archives were described on a deeper level with more detail than the collection description (e.g. file or document level). This implied that in order to know for which datasets the procedure described sub 1 would be applied, all personal datasets would have to be checked to know whether or not they needed protection. This work cannot be automated and needs a considerable investment in human resources. This operation, which would be '100% privacy-proof', is practically impossible to realize or would at least demand a 'disproportionate effort'⁹. Two other options are left: a completely open portal or a completely closed research portal.

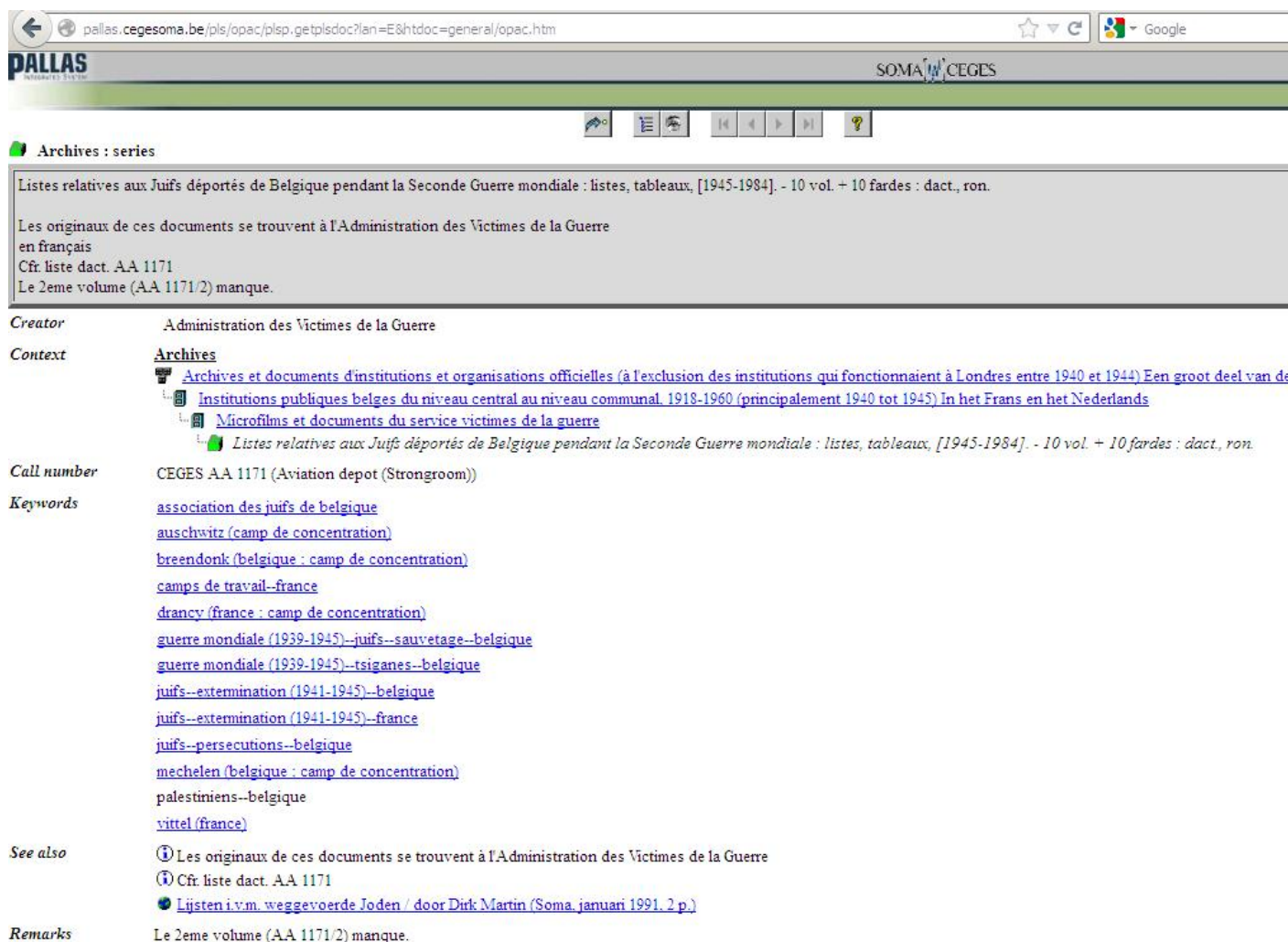
⁸ Kepa J. Rodriguez, *Authentication and Authorization (Internal document)*. 24.04.2012.

⁹ The concept of 'disproportionate effort' is used in the Directive 95/46/EC in the context of article 11 on the information where the data have not been obtained from the data subject. When those data are disclosed to a third party, the controller has the obligation to inform the data subject. This obligation is not to be applied in case of processing for statistical, scientific and historical research when the provision of information is impossible or would imply a 'disproportionate effort'. Directive 95/46/EC article 11.

9. An open or a closed portal?

The decision to take one of the two options is dependent on a risk assessment, taking into account the aims and the philosophy of the EHRI project. EHRI wants to offer user-friendly transnational access to sources to facilitate Holocaust research. This can conflict with the necessity to protect (sensitive) personal data. The question is to what extent the EHRI portal increases the risk of violating the protection of personal data.

The overall approach of EHRI already entails a form of risk limitation, to the extent that most of the data on sources will be collection descriptions, which as a general rule do not include personal data needing protection. This can be illustrated by the following example of the collection of EHRI-partner CEGES-SOMA, the Centre for Historical Research and Documentation on War and Contemporary Society in Brussels. It is a screenshot taken from the online public catalogue 'Pallas' which gives access to the catalogue of the library, archival and photo collection of the institution. The screenshot is taken from the archival collection and concerns a description eligible for integration in EHRI¹⁰.



The screenshot shows a web browser window with the URL pallas.cegesoma.be/pls/opac/plsp.getplsdoc?lan=E&htdoc=general/opac.htm. The page title is 'Archives : series'. The main content area displays the following information:

Listes relatives aux Juifs déportés de Belgique pendant la Seconde Guerre mondiale : listes, tableaux, [1945-1984]. - 10 vol. + 10 fardes : dact., ron.

Les originaux de ces documents se trouvent à l'Administration des Victimes de la Guerre en français
Cfr liste dact. AA 1171
Le 2eme volume (AA 1171/2) manque.

Creator Administration des Victimes de la Guerre

Context [Archives](#)
[Archives et documents d'institutions et organisations officielles \(à l'exclusion des institutions qui fonctionnaient à Londres entre 1940 et 1944\) Een groot deel van de](#)
[Institutions publiques belges du niveau central au niveau communal. 1918-1960 \(principalement 1940 tot 1945\) In het Frans en het Nederlands](#)
[Microfilms et documents du service victimes de la guerre](#)
 Listes relatives aux Juifs déportés de Belgique pendant la Seconde Guerre mondiale : listes, tableaux, [1945-1984]. - 10 vol. + 10 fardes : dact., ron.

Call number CEGES AA 1171 (Aviation depot (Strongroom))

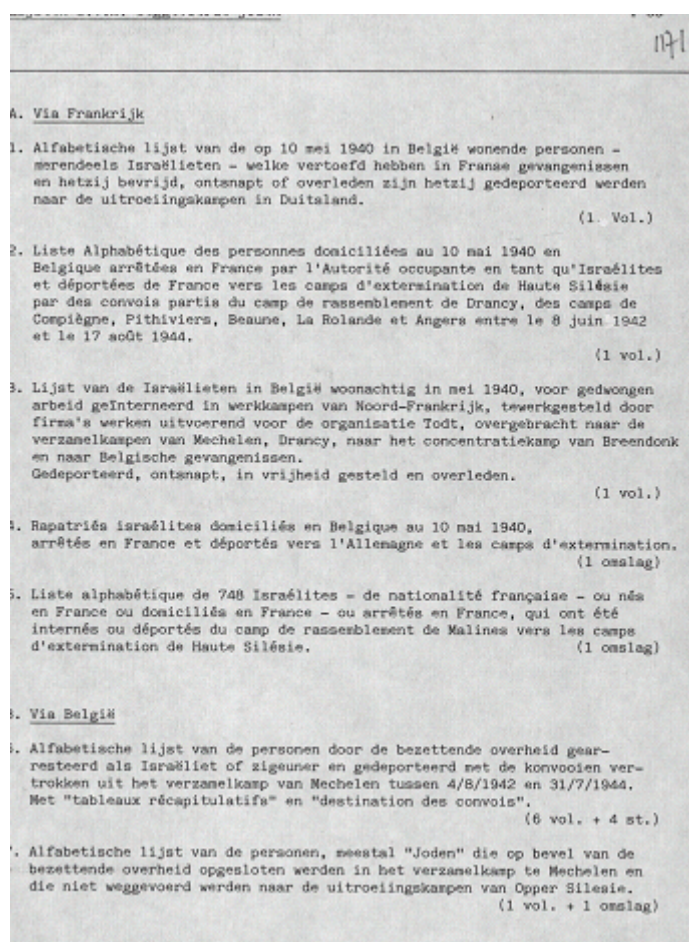
Keywords [association des juifs de belgique](#)
[auschwitz \(camp de concentration\)](#)
[breendonk \(belgique : camp de concentration\)](#)
[camps de travail--france](#)
[drancy \(france : camp de concentration\)](#)
[guerre mondiale \(1939-1945\)--juifs--sauvetage--belgique](#)
[guerre mondiale \(1939-1945\)--tsiganes--belgique](#)
[juifs--extermination \(1941-1945\)--belgique](#)
[juifs--extermination \(1941-1945\)--france](#)
[juifs--persecutions--belgique](#)
[mechelen \(belgique : camp de concentration\)](#)
 palestiniens--belgique
[vittel \(france\)](#)

See also ① Les originaux de ces documents se trouvent à l'Administration des Victimes de la Guerre
 ① Cfr liste dact. AA 1171
 ● [Lijsten i.v.m. weggevoerde Joden / door Dirk Martin \(Soma, januari 1991, 2 p.\)](#)

Remarks Le 2eme volume (AA 1171/2) manque.

¹⁰ http://www.cegesoma.be/cms/catalogue_en.php.

This collection description concerns lists of deported Jews from Belgium in the Second World War. The description contains no personal data. An inventory is attached as a PDF-file to the collection description, but at this level there is no privacy issue either:



The descriptions refer to lists of Jews which were arrested, locked up in the transit camp in Mechelen, or deported.

A second example is provided by the databases of camps and prisons, published by the *Terezín memorial* (Czech Republic) on its website. The databases contain names and personal data of the inmates in the different camps and prisons in Terezín. They are compiled using different archival sources. The description of the content of the database is detailed, however it contains no personal data. To have further access, the user has to contact the documentation centre by e-mail.

*Polizeigefängnis Theresienstadt 1940-1945*¹¹
(*The Gestapo Prison in the Small Fortress Terezín 1940-1945*)

Database of the Inmates in the Terezín Police Prison

¹¹ <http://www.pamatnik-terezin.cz/vyhledavani/Amala-pevnost/index.php>

Team of authors led by Miroslava Langhamerová: Alena Hájková, Dagmar Holzhammerová, Valter Kraus, Dalibor Krčmář, Marek Poloncarz, Ivana Rapavá, Jan Vajskebr

The Terezín Police Prison (Polizeigefängnis Theresienstadt) was established in June 1940 and served as a transit facility of the Prague Gestapo Chief Office. Up to May 1945 approximately 32,000 prisoners had been transported there, mostly members of the home resistance movement as well as victims of retaliatory crackdowns by the German repressive forces, people imprisoned for individual acts against the Nazi occupation authorities and people punished for offences against labour discipline. There were also several dozens of inmates arrested for criminal activity or sexual offences. Many Jewish people were also jailed for their resistance activities and disobedience of the anti-Jewish regulations. A specific group of the Terezín Police Prison inmates was formed by the prisoners of war, mostly from the former Soviet Union, from Great Britain or the Commonwealth. The majority of inmates were subsequently transported to Nazi courts, prisons, penitentiaries and concentration camps, where many of them perished. Imprisonment in the Small Fortress proved to be fatal for approximately 2,600 prisoners who were executed there, beaten dead, or died of various diseases.

The aim of the database is to provide researchers and the general public with on-line access to the list of prisoners. It is based on the original documentation from the time of the German occupation and the immediate post-war period. However, the original sources on the history of the Police Prison are considerably incomplete. Altogether, almost 200 sources of different nature and informative value were used in compiling the database. In terms of origin, the archival documentation can be divided into that kept by the Police Prison, now kept in the archive of the Terezín Memorial, and that of superior institutions, i.e. the Prague Gestapo and other repressive facilities. These documents are primarily deposited in the National Archives, but also in other domestic and foreign institutions. Also used were post-war materials, especially various records and memories serving mainly as an additional source of information. The resultant database is the product of long-standing analytic work of the team of authors during which the individual sources were compared and the most credible data were sought. Due to the fragmentary nature of the sources, at least some information has been found and added to just about two thirds of the prisoners. Therefore, it is unlikely that the list of all the Terezín Police Prison inmates will be fully reconstructed in the future. For the same reason, the quantity of information given about each prisoner tends to vary.

The database will be continuously updated and supplemented with newly obtained information.

Problems encountered when working with the database

Due to the fragmentary character of the sources, which are often contradictory, there are no precise data available for all the inmates. The quantity of information on each inmate may, therefore, substantially differ. The data come exclusively from historical sources.

- Name and Surname: there is a considerable variability in the spelling of the names, which makes it difficult to determine the correct form of the names and to identify the persons involved; when searching for a specific name, only the word root with the symbol * may be used (for example Černý, Czerny - *erný - *ern*)*
- Date of Birth: if the date varies in different sources, the alternative one is given under "Date of Birth 2"*

- *Length of Imprisonment: if available, the dates of transport arrival and departure are given; if not available, the first and last documented presence of an inmate is given; in some cases no approximate time of imprisonment is apparent from the sources*
 - *Reasons for the Termination of Imprisonment: transport – inmate’s transfer to another repressive facility; death – due to illness or for unknown reasons; execution – death penalty executed under the so-called "special treatment" (Sonderbehandlung); beaten to death – murdered by a guard or prison staff; discharged – released before the liberation of the prison; liberated – survived the war and was sent home by the medical and health personnel after May 5, 1945*
 - *Departure / Transport: name of the repressive facility (prison, penitentiary, concentration camp) to which inmate was taken*
 - *Final Termination of Imprisonment: last known place of detention with the date and reason for its termination (death, liberation, discharge)*
 - *Cell: known places of detention in the Small Fortress*
- Contact: databaze@pamatnik-terezin.cz

A third example: the *Dokumentationsarchiv des österreichischen Widerstandes* (DöW) offers a database in which victims of the Nazi-prosecution can be searched. In contrast to the *Terezín Memorial*, the user has a direct access to the database and can type a name. Basic biographical information is given as well as general information on the circumstances of the transport as appears in the following example¹².

Polak Cäcilie

Vorname
Cäcilie
Nachname
Polak
Geburtstag
05.05.1882
Geburtsort
Czernowitz
Wohnort
Wien 2, Zirkusgasse 3/13

Sterbedatum
29.11.1941
Sterbeort
Kowno
Deportation
Wien/Kowno
Deportationsdatum
23.11.1941

[Mehr Information ausblenden](#)

Am 23. November 1941 verließ ein Deportationstransport mit 1.000 jüdischen

¹² <http://www.doew.at/result#>

Männern, Frauen und Kindern den Wiener Aspangbahnhof. Dieser Transport kam jedoch nie am ursprünglich geplanten Bestimmungsort Riga an.

Der Transport aus Wien wurde, wie auch einige für Riga geplante Deportationstransporte aus dem »Altreich«, aus bisher nicht geklärten Gründen in das litauische Kaunas umgeleitet und dem Einsatzkommando (EK) 3 übergeben. Diese Einheit der Einsatzgruppe A war unter massiver Beteiligung einheimischer Kräfte seit Juni 1941 daran gegangen, »Litauen judenfrei zu machen«, und hatte dabei insgesamt mehr als 130.000 Menschen ermordet. Sofort nach der Ankunft wurden die deportierten Wiener Juden im Fort IX, einem Teil der alten zaristischen Befestigungsanlagen von Kaunas, die mittlerweile zu Orten regelmäßiger Massaker geworden waren, von litauischen »Hilfswilligen« unter dem Kommando von Angehörigen des EK 3 erschossen.

Von den Wiener Deportierten sind keine Überlebenden bekannt.

Nicht überlebt

Quelle: Shoah-Opfer

The database is mainly based on deportation lists.

The second factor of risk limitation, next to EHRI's mainly dealing with the collection description level, is that the collection-holding institutions already protect the personal data in accordance with their national legislation. EHRI collects data using export or harvesting. When data are manually entered into the database by EHRI staff, the datasets are provided by the collection-holding institutions or by EHRI-subcontractors using information provided by collection holding institutions. The responsibility for the protection of personal data lies primarily with the collection-holding institutions. It can be assumed that the collection-holding institutions will not allow integration of data into the EHRI portal if this would conflict with their national legislation. This could be the case in the hypothesis of a national legislation that is more restrictive than the Dutch law. The *Commission Nationale de l'Informatique et des Libertés* (the French DPA), points in its answer to WP3's survey to specific obligations of the French legislation with which collection-holding institutions established in France have to comply. A transfer of personal data to the EHRI portal (and as a consequence to the Netherlands) is considered to be a reuse of personal data. This reuse is, following the French law, subject to the explicit authorization of the data subject or to a prior authorization or advice of the *Commission Nationale de l'Informatique et des Libertés*¹³. This would imply that a collection-holding institution based in France would have to refer to the *Commission Nationale de l'Informatique et des Libertés* before transferring personal data to EHRI.

This guarantee can be formalized in an agreement with the collection-holding institutions in which is stipulated that a transfer of personal data will not lead to violation of the national privacy law. This is also the practice of the APEX project, which aims at the creation of a portal for European archives¹⁴. In the content provider agreement, the archival institutions declare to be responsible for the legal accessibility of the data they have uploaded in the portal. Collection descriptions entered or enriched by registred users, will also be based on

¹³ Answer of the Commission Nationale de l'Informatique et des Libertés to the survey December 2011 p. 7.

¹⁴ <http://www.apex-project.eu/>

information from the collection holding institutions and the entries will be controlled by EHRI.

A third factor of risk limitation concerns the publication of personal data on the internet by the collection-holding institutions themselves. Many collection-holding institutions publish on their website names and other personal data extracted from the records they keep. Names can also appear in thesauri, used to search the collection, or in an inventory.

A recent example among many others is The Yiddish Letters Collection of the *International Institute for Social History (IISH)* in Amsterdam. The collection of about 700 letters can be searched using a database. One of the search criteria is the name of the author. The letters are written between 1901 and the 1960s. The database is available on the website of the IISH and can be used without any restriction¹⁵.

Names are also published on websites that are conceived as memorials, such as the Digital Monument to the Jewish Community in the Netherlands. Basic biographical information is given for 'all the men, women and children who were persecuted as Jews during the Nazi occupation of the Netherlands and did not survive the Shoah'¹⁶. Additional information on a person can be added by the public, but only after registration and using a specific tool. There are several search options e.g. by city, street etc. This Digital Monument is in principle limited to Jewish people who did not survive the Holocaust.

The website of *Kamp Westerbork*, a *Durchgangslager* for the Dutch Jews, also publishes biographical information and photo's on Jewish victims on its website. For each victim, basic biographical information and a photo are provided. The users of the website can search for a person but can also add photos, names and information on a particular person¹⁷.

The *Terezín Initiative Institute* provides on its website a search engine to look for information on the victims of the Nazi persecution in Bohemian lands. This search engine can be accessed without restriction, authorization or registration. Searching a name, the user gets basic personal data (identity, dates and places of birth and decease, information on transports and camps). If available, a photo of the person is shown and often original documents from the period of the occupation, containing personal data are digitized. However, only information about people who have been murdered during the Second World War is made available in this way.

¹⁵ <http://socialhistory.org/nl/collections/yiddish-letters>

¹⁶ <http://www.joodsmonument.nl/page/274281>

¹⁷ <http://www.kampwesterbork.nl/nl/museum/tentoonstellingen/index.html#/portretten>

Some examples:

Elsa Tutschová¹⁸



Born 22. 11. 1890

last residence before deportation: Prague, II

address/place of registration in the Protectorate: Prague VIII, Kandertova 106

Transport Cv, č. 667 (06.03.1943 Prague -> Terezín)

Transport Eo, č. 255 (06.10.1944 Terezín -> Auschwitz)

Murdered

Next to this information, the user has access to digitized archival sources concerning the person. These are mostly official documents and forms, in this case an application for a passport.

¹⁸ <http://www.holocaust.cz/en/victims/PERSON.ITI.1933881>

Jméno a příjmení *Eliška Dvůřáková*
 povolání *rodinná* stav *vdaná*
 den, měsíc a rok narození *22. 11. 1890* náboz. *řídovské*
 rodiště *Bořetice Jarobčice, okres Praha* *řídovské*
 příslušnost *Jarobčice* polit. okres *Bořetice*
 bydliště *Praha XII. Sokolova č. 553.*
 rodiče *Bořislav a Josefina Dvůřáková*
 manžel-ka *Julius Táborský*

Popis osoby:
 Postava *střední*
 vlasy *černé*
 oči *modré*
 nos *čtyř*
 vousy
 ústa *normální*
 zuby *čistá*
 zvl. znamení *-*

Doklady:
 Občanská legitimace z
 Osvědčení o státním občanství
 Domovský list (potvrzení o domov. přísl.) *2288 Jarobčice st. 22. 12. 1939.*
 Křestní (rodný list)
 Oddací list *2288 Jarobčice 24. 12. 1921.* den sňatku *24. 12. 1921.*
 Doklad o vdovství (rozl., rozv.)
 Přihláška bytová *Praha 2. 7. 1939. K.*

Vojenský doklad:
 Vojenská knížka
 Rok o: hodnost
 (proposátcí list)

(c) holocaust.cz

The digitized forms often contain a series of detailed information on a person, as photo's and fingerprints, as this application for an identity card shows¹⁹.

¹⁹<http://www.holocaust.cz/en/document/DOCUMENT.ITI.49954>

Propp

Jméno: *Propp*

Křestní jméno: *Max*

Data narození: *2. listopad 1888*

Místo narození: *Haukeřov, Kruho*

Povolání: *typ. obecního*

Bydliště: *Kralice XII, Nová veska, sp. 1142*

Dřívější státní příslušnost: *česká, nyní bez*

Rodiče: *Abraham a Thana, od Wiesbühl - v. v.*

Manžel (ka): *martha*

Popis osoby:

Postava: *střední*

Tvar obličeje: *podobný*

Barva očí: *modrošedá*

Barva vlasů: *šedá*

Ústa: *normální*

Nos: *typy*

Zvl. znamení: *✓*

Otisk palce pravé ruky:

Doklady:

Průkaz bez výj. Austrie, v. z. Haukeřov, 17. 11. 1941, č. 444.

Průkaz o povol. podle zák. č. 15. 11. 1937.

2 listy.

(c) holocaust.cz

1. Kdy opustil svůj domovský stát a z jakých důvodů:

9. 11. 1900 z Haukeřova

vyhlášením

2. Kde se od té doby zdržoval a čím se zaměstnával:

u Rakovského, Mělnicku

od 1. 1933

3. Odkud a kdy přijel do Prahy a čím se zde zaměstnával (z čeho je živ):

9. 1. 1938 z Vojtěcha Sely

podpis. guburugus.

Tiskopis
na žádost o vydání
osobního průkazu.

POLIZEJDIREKCE IN PRAG
POLICEJNÍ ŘEDITELSTVÍ V PRAZE
Eing.- 5. 11. 1941
Doc. 044343

AMBE MEINE KRIMINALZENTRALE
VŠEOBECNÁ KRIMINÁLNÍ ÚSTŘEDNÁ
Eing. 28. 11. 1941

Osobní průkaz vyhotoven
dne 10. 11. 1941

pod číslem 44343-49-3110

poznámka
1. 12. 1941

II

Přijem osobního průkazu stvrzuje dne
24. 11. 1941
ZAPLACENO 30

III
Morav. Průkaz

V. K. Ú.

zaslán na vědomí. *Realizováno!*
V. K. Ú. dne 28. února 1941

IV.

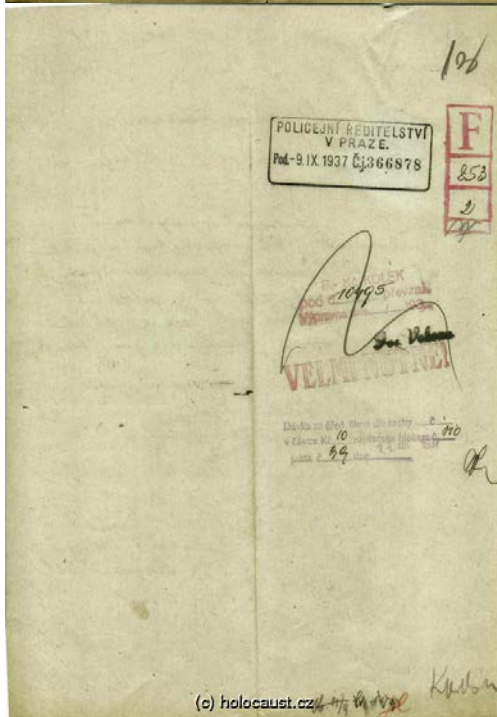
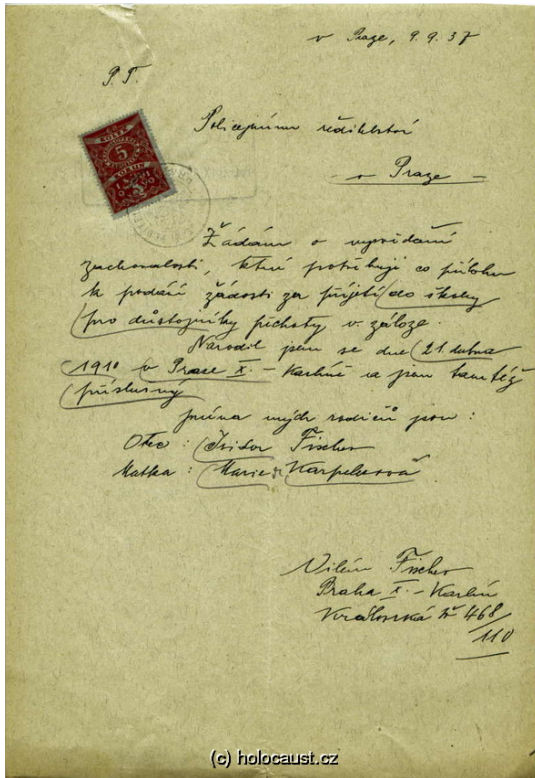
Uložit.

C. O. 9. 1. 1911

Podpis úředníka: *J. J. J.*

(c) holocaust.cz

In the following case, the original document for the application for a probity certificate was digitized²⁰.



²⁰ <http://www.holocaust.cz/en/document/DOCUMENT.ITI.34815>

The document concerns Fischer Vilém, born 21 Oktober 1910, living in Prague, transported to Łódź on 3 November 1941 and murdered²¹.

So basically, the documents relating to a specific person who did not survive the Holocaust are digitized and can be accessed directly via the internet. The original document is in those cases kept in the National Archives in Prague.

Often also the death certificate is digitized, indicating a cause of death, which can be considered as medical personal data²².

Ghetto Theresienstadt
Der Hilfenrat
2.2.5.

TODESFALL

Doc. No. 12974 ✓
Datum: 24.11.1942
Podpis: J. Polak

No. 11/25-87
Sterbematrik

Name (bei Frauen auch Mädchennamen) F l a m m		Vorname Leopold Israhel		Tr. Nr. 11/25-87	
Geboren am 28.9.1873		in Nenzenheim		Bezirk Nenzenheim, Bayern	
Stand verh.	Beruf Kaufmann	Relig. mos.	Geschl. männl.		
Staatsangehörigkeit Deutsches Reich		Heimatgemeinde Nürnberg			
Letzter Wohnort (Adresse) Nürnberg, Bauerng. 21					
Wohnhaft in Theresienstadt Gebäude No. E VII		Zimmer No. 19			
Name des Vaters Plamm Kerschmann		Beruf Kaufmann	Wohnort Nenzenheim		
Name der Mutter (Mädchennamen) Emma		Letzter Wohnort			
Sterbetag 24.11.1942	Sterbestunde 8.30 h	Sterbeort: Theresienstadt			
Genaue Ortsbezeichnung (Gebäude, Zimmer) E VII, Zimmer 19					
Verwandte	Name		Tr. Nr.	Verwandtschaftsgr.	Wohnadresse (b. Gatten u. Kindern auch Geburtsdaten)
	in Theresienstadt Plamm Jettchen Sara geb. Königshofer		11/25-86	Wittin	E VII, Z. 30, S. 5. 1877
im Protektorat	Name		Tr. Nr.	Verwandtschaftsgr.	Wohnadresse (b. Gatten u. Kindern auch Geburtsdaten)
	Sach Lina			Schwester	Q 319
Tag der letzt. Eheschliessung 6.12.1906		Ort der letzt. Eheschliessung Nürnberg		Zahl d. Kinder aus letzt. Ehe 4	
Art des Personalbeweises Kennkarte		No. A 03351	Ausgestellt von St. Präs. Nürnberg		
Behandelnder Arzt: Dr. Alfred Karin					
Krankheit (in Blockschrift) HAEMIPLEGIA LATERIS DEXTRI-Halbseitenlähmung rechts					
Todesursache (in Blockschrift) DEBILITAS CORDIS-Herzschwäche					
Totenbeschau führte durch Dr. Julie Polak		Tag u. Stunde der Totenbeschau 24.11.1942, 8.30 h			
Ort der Beisetzung Theresienstadt		Tag u. Stunde der Beisetzung 26.11.1942, 15 h			
Theresienstadt, am 24.11.1942					
Der Totenbeschauer: <i>Polak Julie</i>		Der Amtsarzt: <i>J. Polak</i>		Der Chefarzt: <i>Dr. Alfred Karin</i>	

²¹ <http://www.holocaust.cz/en/victims/PERSON.ITI.2123824>

²² <http://www.holocaust.cz/en/victims/PERSON.ITI.816648>

<http://www.holocaust.cz/en/document/DOCUMENT.ITI.11011>

Another example ²³

Ghetto Theresienstadt
Der Ältestenrat

TODESFALLANZEIGE

135. Dodatek k zápisu nálezem. No. 18385
Datum: 1.11.1943 Podpis: [Signature] Sterbematrik

Name (bei Frauen auch Mädchenname) <i>Wassermann geb. Kermann</i>		Vorname <i>Karoline</i>		Tr. Nr. <i>AAe/307</i>
Geboren am <i>1. I. 1870</i>	in <i>Lipnitz a/S</i>	Bezirk <i>Lumpowitz 2. Bnd</i>		
Stand <i>Witwe</i>	Beruf <i>Haus halt</i>	Relig. <i>mos.</i>	Geschl. <i>weibl.</i>	
Staatszugehörigkeit <i>Protectorat</i>		Heimatgemeinde <i>Prag Lipnitz B. D. Bnd</i>		
Letzter Wohnort (Adresse) <i>Prag</i>				
Wohnhaft in Theresienstadt Gebäude No. <i>C III / 129</i>		Zimmer No.		
Name des Vater <i>Jakob Kermann</i>		Beruf		Letzter Wohnort
Name der Mutter (Mädchenname) <i>Therese Kermann</i>				
Sterbetag <i>1. II. 1943</i>	Sterbestunde <i>2 1/2</i>	Sterbeort: Theresienstadt		
Genaue Ortsbezeichnung (Gebäude, Zimmer) <i>C III - Zimmer 129</i>				
Verwandte	Name	Tr. Nr.	Verwandtschaftsgrad	Wohnadresse (b. Gatten u. Kindern auch Geburtsdaten)
	<i>Berthold Wassermann</i>	<i>J/751</i>	<i>Sohn</i>	<i>EI/142</i>
	<i>Maria Wassermann</i>	<i>Am/308</i>	<i>Schwägerin</i>	<i>C III / 240a</i>
Tag der letzt. Einschliessung		Ort der letzt. Einschliessung	Zahl d. Kinder aus letzt. Ehe	
Art des Todes <i>Opferlegenheitsm.</i>		No. <i>18554/1</i>	Ausgestellt von <i>Pol. Dir. Prag</i>	
Behandelnder Arzt <i>Dr. Netstein, Dr. Jmicka</i>				
Krankheit (in Blockschrift) <i>LUNGENENTZÜNDUNG</i>				
Todesursache (in Blockschrift) <i>LUNGENOEDEM</i>				
Totenbeschau führte durch <i>Dr. Leopold Drucker</i>		Tag u. Stunde der Totenbeschau <i>1. II. 1943 2 1/2</i>		
Ort der Beisetzung		Tag u. Stunde der Beisetzung		
Theresienstadt, am <i>1. II. 1943</i>				
Der Totenbeschaue: <i>Dr. Leopold Drucker</i>	Der Amtsarzt: <i>[Signature]</i>	Der Chelars: <i>[Signature]</i>		

(c) holocaust.cz

²³ <http://www.holocaust.cz/en/document/DOCUMENT.ITI.15434>

The French *Mémorial de la Shoah* also publishes personal data on its website. In the database 'Recherche de Personne-Victims- Résistants-Justes', names of victims, members of the resistance and righteous can be retrieved. For each victim a set of personal data on the deportation are published, as in the case of Mrs Yvette Dreyfus.

Madame Yvette DREYFUS, Yvette Dreyfus, Yvette (4) Levy Déportée à Auschwitz par le convoi n° 77 au départ de Drancy le 31/07/1944.

Yvette Dreyfus was also engaged in the Resistance. In the database there is a short notice on her activities in the Resistance movement²⁴.

Yvette Henriette LEVY né(e) le 21/06/1926 à Paris (France) . A eu également comme faux nom Gypsy . A été victime sous le nom [Yvette Henriette LEVY](#)
Son secteur d'activité était : Paris sur une période De juillet 1942 au 21 juillet 1944, date de son arrestation. A eu comme responsable Emmanuel Lefschetz
Yvette Lévy, jeune éclaireuse, est chargée par ses chefs de récupérer les enfants dont les parents ont été arrêtés. Ce sont souvent des enfants restés seuls chez eux ou chez des voisins ou chez des concierges. Elle ramène ces enfants à l'Asile, 89 rue Lamarck dans le 18ème, transformé en maison d'accueil pour les jeunes. La famille d'Yvette doit dormir à différents endroits car recherchée. Yvette passe ses nuits 9 rue Vauquelin dans le 5ème. Ce lieu, école rabbinique, est transformé en centre d'accueil pour jeunes filles. Tous les centres et maisons de jeunes sont automatiquement patronnés par l'UGIF. Dans la nuit du 21 au 22 juillet 1944, les enfants de tous les foyers de la région parisienne sont arrêtés et transférés à Drancy par Alois Brunner. C'est ainsi que, le 31 juillet 1944, 300 bébés, enfants, adolescents sont déportés vers Auschwitz par le convoi 77. Après un court passage à Birkenau, Yvette est transférée avec d'autres déportés vers la Tchécoslovaquie où elle travaille dans une usine d'armement produisant des fusées. Elle est libérée le 9 mai 1945 au lendemain de la signature de reddition des Allemands.
Déportée le 31 juillet 1944 vers Auschwitz par le convoi 77, elle est libérée le 9 mai 1945.
A eu comme décoration : Carte de Combattant, carte de Combattant volontaire de la Résistance, chevalier de l'Ordre national du mérite

As in the case of the Terezin Memorial, archival documents containing personal data are published on this website, often lists of names²⁵.

²⁴http://bdi.memorialdelashoah.org/internet/jsp/victim/MmsVictimDetail.jsp?PEGA_HREF_748573740_0_0_viewResistant=viewResistant

²⁵ <http://bdi.memorialdelashoah.org/internet/jsp/media/MmsMediaDetailPopup.jsp?mediaid=2433>

226	DRECHSLER Kalmann	15. 4.91	Kaufmann	6678
227	DRECHSLER Salomon	13. 6.06	Möbelhändler	6680
228	DREYFUS Adrienne	31. 5.81	Ohne	6951
229	DREYFUS Alice	5. 2.87	Vertreterin	6902
230	DREYFUS Alice	29. 7.12	Ohne	6953
231	DREYFUS Colette	3. 7.32	Ohne	6528
232	DREYFUS Emmanuel	29. 4.82	Vertreter	6901
233	DREYFUS Gabrielle	17. 4.91	Ohne	6320
234	DREYFUS Georges	30. 5.86	Kaufmann	6319
235	DREYFUS Georges	4. 1.24	Buchhalter	6952
236	DREYFUS Gérard	29.12.29	Schüler	6115
237	DREYFUS Jacqueline	26.12.28	"	6114
238	DREYFUS Madeleine	16. 5.04	Ohne	6113
239	DREYFUS Marthe	24. 8.05	Ohne	6527
240	DREYFUS Nicole	31.12.30	Schülerin	6321
241	DREYFUS Pierre	26. 8.41	Ohne	6529
242	DREYFUSS Alphonse	17. 5.67	Kaufmann	6277
243	DREYFUSS Myria	27. 2.79	Ohne	6304
244	DREYFUSS Salomon	30. 4.74	Kaufmann	6303
245	DROUCART Marcel	9. 3.09	Kaufmann	6886
246	DURDACHER Renée	9. 5.86	Komponistin	5970
247	DZIALOSZYNSKI Marie	30. 8.14	Fürsorgerin	5912
248	DZIALOSZYNSKI Sender	19.10.95	Vertreterin	6311
249	EDER Szulim	5. 6.93	Stepperin	6395
250	EHRENFREUND David	5. 4.98	Zahnarzt	6983

Mémorial
de la SHOAH

Toute reproduction interdite.

The archival documents have the mention that it is not allowed to reproduce them. The reason seems not to be related to privacy protection, but to copyright issues: for reproduction, of the whole document or a part of the document for collective use, the written consent of the *Mémorial de la Shoah* is required²⁶.

²⁶ <http://www.memorialdelashoah.org/index.php/fr/mentions-legales> - section on intellectual property.

The personal data on the websites of the *Mémorial de la Shoah*, the Terezin Memorial and the *Dokumentationsarchiv des österreichischen Widerstandes* can be consulted by any user, regardless of his or her status (there is no limitation to research purposes) without formalities. The same goes for the Digital Monument to the Jewish Community and the biographies on the *Kamp Westerbork* website. If EHRI would integrate the same documents on its portal or give a direct access to these documents, EHRI would not create a new major risk for the protection of personal data. First of all, the purpose of EHRI is a legitimate purpose which is not different from the purpose of the collection-holding institutions. Basically, EHRI would add a new copy of the same document on the internet. EHRI does not disclose new or more personal data than already published by the collection-holding institution of which it retrieves them. For the objective of EHRI – facilitating transnational access to Holocaust sources to encourage research – these documents are of prime importance. The collection-holding institutions have assessed the compliance with the national data protection law when they published personal data on their website. The already mentioned *Dokumentationsarchiv des österreichischen Widerstandes* mentions on its website, next to the database on Holocaust victims, a research project on exile based on personal files of a lawyer who took the defence of people who were prosecuted. In this case the data are anonymized to comply with the Austrian data protection legislation and the regulations pertaining to the use of files produced by a lawyer²⁷.

The opposite reasoning, implying that EHRI would have to check whether in cases like this the disclosure of personal data complies with the Dutch law, would lead to a conclusion which conflicts with the objectives of the EHRI project. EHRI wants to facilitate Holocaust research by offering the most user-friendly research facilities and by bringing the different sources together in one research portal. From that perspective it would be difficult to understand if EHRI would exclude Holocaust-related sources already published on the internet using the argument of privacy protection. If this argument would be accepted, it would mean that projects such as EHRI are extremely difficult to implement or can only be realized at a disproportionately high cost.

In the European Directive 95/46/EC a similar issue is raised in article 11. This article makes an exception for the obligation to inform the data subject if personal data have not been obtained from the data subject, if the purpose is historical research. The obligation is not to be fulfilled if this proves to be impossible or implies a disproportionate effort²⁸. The qualification ‘disproportionate’ can be applied to this particular problem EHRI is confronted with. Disproportionate can be interpreted as superfluous, since one can assume that the institution which puts the information on the internet has dealt with the same question. If certain data subjects had a problem with the collection and the publication of the data, they can use their right to oppose publication by the institutions which have collected and published the information for the first time. ‘Disproportionate’ is in the case of EHRI also a matter of scale: EHRI operates at a European level and will have more difficulties to find the

²⁷ Note : ‘Vertreibung - Exil - Emigration (I)Die österreichischen NS-Vertriebenen im Spiegel der Sammlung der Rechtsanwaltskanzlei Dr. Hugo Ebner’ Vertreibung - Exil - Emigration (I)Die österreichischen NS-Vertriebenen im Spiegel der Sammlung der Rechtsanwaltskanzlei Dr. Hugo Ebner.
<http://www.doew.at/erforschen/projekte/datenbankprojekte/vertreibung-exil-emigration-i>

²⁸ Directive 95/46/EC article 11. 2.

datasubjects on whom personal data are published, than an institution based in a state where those datasubjects (or their relatives) live.

One could even argue that auditing already published personal data on the internet on conformity with different privacy rules is on bad terms with the philosophy of the European Directive. One of its aims is precisely to take away obstacles for the free circulation of goods and services which spring from the differences in national legislations²⁹. The same argument can be used for historical research, especially for the Holocaust, which was by its nature a European and transnational phenomenon. Demanding a privacy policy that gives preference to the national law is counter-productive for international research, especially when this protection would be in practice purely formal in the context of the internet. This approach would hinder research rather than advancing it, as is the purpose of EHRI.

The lack of uniformity of the national legislations is not only a problem for EHRI. It has been identified in other sectors too and is one of the weaknesses of the actual regime of privacy protection in the framework of Directive 95/46/EC³⁰. If EHRI would have to detect and solve all the possible judicial problems resulting from the conflicting rules, EHRI would be expected to find a solution for a problem the European legislator could not solve with the current Directive. EHRI has instead opted for risk assessment. The conclusion of the assessment is that an open EHRI portal is not a threat for the protection of privacy.

Notwithstanding this risk assessment, it cannot be excluded that in specific and individual cases a person can be of the opinion that his/her right on protection of personal data is infringed on. Therefore, there will be a procedure to mask personal data on the research portal. Masking has the advantage that these data can still be used for research purposes and that it is easier to know which data cannot be published if the collection descriptions are updated.

10. The virtual research environment

There is one restriction to the principle of an open portal, however. EHRI is not only a research portal, but also a virtual research environment (VRE). This research environment is not open for all: access depends on registration and for some facilities on authentication. It is likely that in the VRE, sensitive personal data that have to be protected will be processed. A group of researchers can work on a specific topic using personal data taken from sources that can only be consulted with prior authorization. For the purpose of advancing research, it is useful that this personal data can be accessed by the group of researchers. To do this without violating the privacy rules, these data cannot be made visible for all, but only for the

²⁹ According to recital 7 'Whereas the difference in levels of protection of the rights and freedoms of individuals, notably the right to privacy, with regard to the processing of personal data afforded in the Member States may prevent the transmission of such data from the territory of one Member State to that of another Member State; whereas this difference may therefore constitute an obstacle to the pursuit of a number of economic activities at Community level, distort competition and impede authorities in the discharge of their responsibilities under Community law; whereas this difference in levels of protection is due to the existence of a wide variety of national laws, regulations and administrative provisions' Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data *Official Journal L 281* , 23/11/1995 P. 0031 – 0050.

³⁰ See : Justice Newsroom. The Proposed General Data Protection Regulation ; the Consistency Mechanism Explained 6/02/2013. <http://ec.europa.eu/justice/newsroom/data-protection/news/130206-en.htm>. A systematic comparison of the differences in the national privacy laws was published recently : Monika Kuschewsky (ed.), *Data Protection and Privacy. Jurisdictional comparisons*, London, 2012.

researchers concerned via the VRE. The procedure to have access to sensitive personal data with the authorization of NIOD can be used to give researchers working on the specific topic access to the personal data. The two-step procedure to answer the problem of conflicting national legislations is in this case also useful. It is possible that for a common research project a specific set of personal data from one or more institutions will be used. If these data are protected following a national legislation more restrictive than the Dutch law, authorization to have access to these data can be subject to specific conditions.

When the research is published, these data can be anonymized to comply with the privacy legislation and transferred to the open portal. The underlying personal data can be kept in a database on the VRE and made accessible for other researchers (reuse for scientific/historical purposes), but only with authorization and authentication and with the possibility to impose specific conditions in case of legislations that are more restrictive than the Dutch. For the data transferred from the VRE to the research portal, EHRI can guarantee that they are safe from the perspective of privacy protection according to the Dutch legislation.

11. Personal data of registered users

In order to use certain facilities of the EHRI-website, EHRI needs certain personal data, e.g. to receive a Newsletter or to have access to data for which an authorization and authentication are needed. These personal data are confidential and will be protected against improper use. Moreover, personal data will not be passed on to third parties without prior consent or unless required by the law. For certain other facilities of the VRE as discussion groups or work spaces for a research group on a specific topic, personal data will be passed on to other users since this is necessary precondition to make the facility work.