

Café on the Rights of Data Subjects in Language Resources

CLARIN ERIC

Tuesday the 30th of March 2021



Organisers

This edition of the CLARIN Café is organized by **Paweł Kamocki** chair of the CLARIN Legal and Ethical Issues Committee (CLIC).

and

Vanessa Hanneschläger, vice-chair of the CLARIN Legal and Ethical Issues Committee (CLIC).

CLARIN host is **Francesca Frontini** (CLARIN ERIC)

Plan

- Intro:
 - *CLARIN 101 and the TRIPLE project*
- The café:
 - Introduction to the rights of data subjects in the GDPR (Paweł Kamocki)
 - Non-restraining rights of data subjects: information, access, rectification, and portability (Aleksei Kelli)
 - Restraining rights of data subjects: right to be forgotten, to object, and to restrict processing (Paweł Kamocki)
 - Rights of data subjects in academic practice (Esther Hoorn)
- Discussion (animated by Vanessa Hannesschläger)
- Closing remarks

The event is recorded for further dissemination purposes.

Questions and comments? Put them in the chat box.

CLARIN 101

<https://www.clarin.eu/content/clarin-in-a-nutshell>

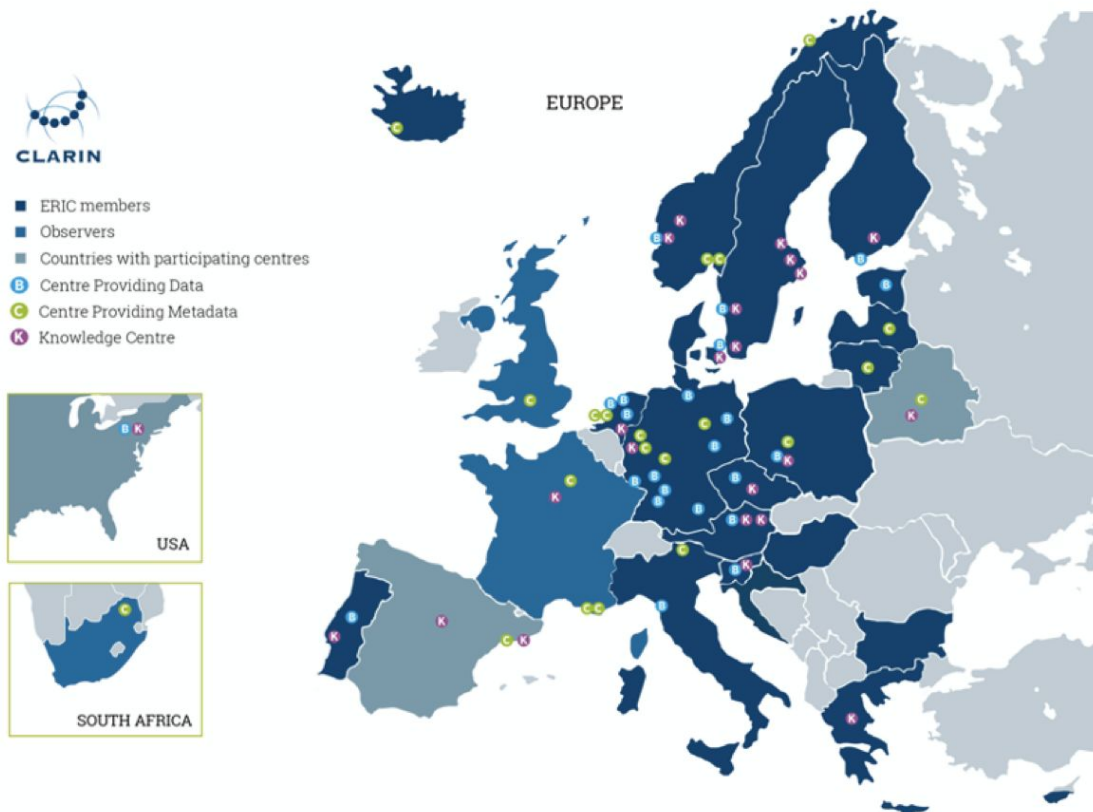


CLARIN in eight bullets

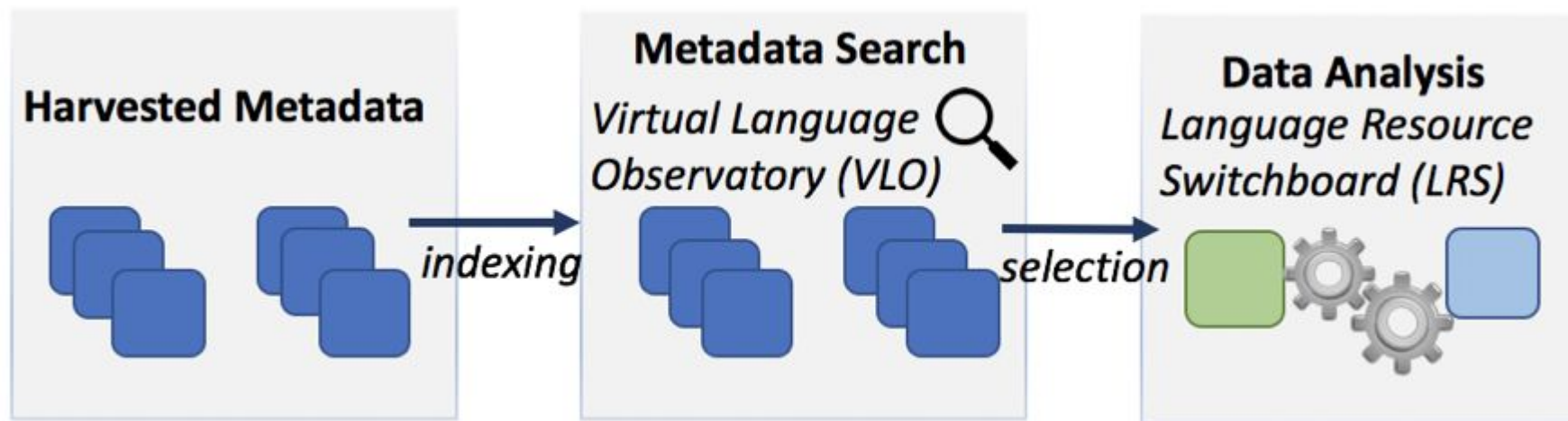
- **CLARIN** is the Common Language Resources and Technology Infrastructure
- **ESFRI** ERIC status since 2012, Landmark since 2016
- that provides easy and sustainable access for scholars in the **humanities and social sciences** and beyond
- to **digital language data** (in written, spoken, video or multimodal form)
- and **advanced tools** to discover, explore, exploit, annotate, analyse or combine them, wherever they are located
- through a **single sign-on** environment
- that serves as an ecosystem for **knowledge sharing**
- and: ready for **integration in EOSC**

CLARIN today

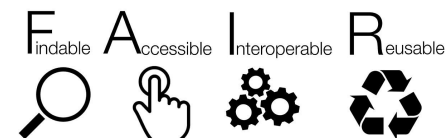
- > 50 centres
- **21 members:** (AT, BG, CY, CZ, DE, DK, EE, FI, GR, HR, HU, IS, IT, LT, LV, NL, NO, PL, PT, SE, SI)
- 3 observers: FR, UK, ZA



The technical Infrastructure



<https://vlo.clarin.eu/>
<https://switchboard.clarin.eu/>



The Knowledge Infrastructure

A horizontal banner image showing a close-up of a bookshelf filled with books of various colors.

Knowledge centres

A horizontal banner image showing a close-up of a yellow film reel.

VideoLectures

A horizontal banner image showing a group of people sitting at tables in a meeting or conference room.

Funding for User Involvement events

A horizontal banner image showing a group of people in a workshop or training session, with a person standing at the front.

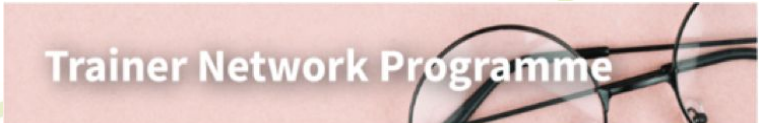
Workshops

A horizontal banner image showing a close-up of a computer screen displaying code or data.

Digital Humanities Course Registry

A horizontal banner image showing a yellow train or tram.

CLARIN Mobility Grants

A horizontal banner image showing a close-up of a person's face wearing glasses.

Trainer Network Programme

A horizontal banner image showing a stack of books with red and blue spines.

Training Suite

<https://www.clarin.eu/content/clarin-for-researchers>

<https://www.clarin.eu/content/knowledge-sharing>

CLARIN – CLIC

Legal and Ethical Issues Committee

<https://www.clarin.eu/governance/legal-issues-committee>

Legal Information Platform

<https://www.clarin.eu/content/legal-information-platform>

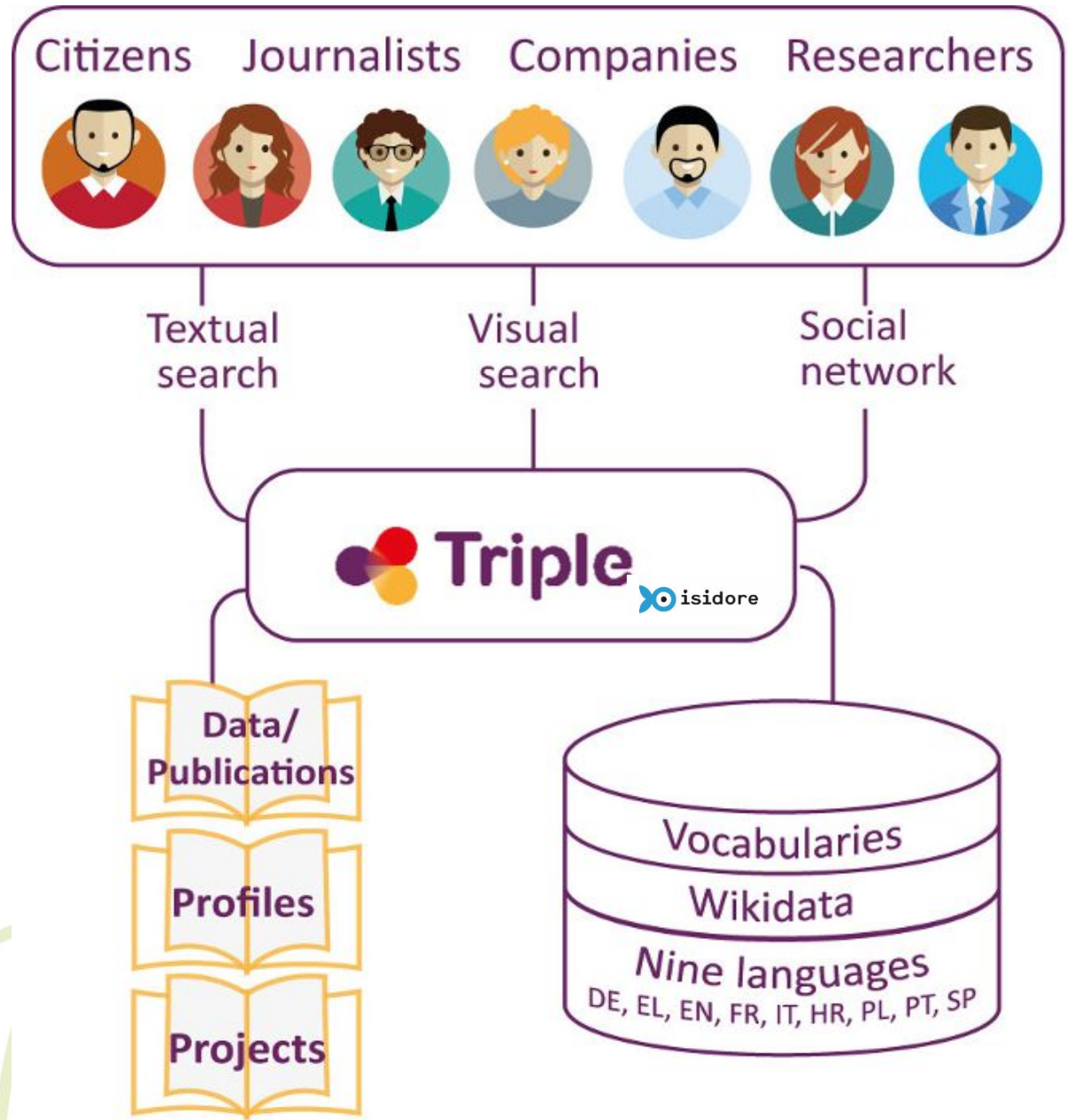
<https://www.clarin.eu/content/bibliographyfurther-reading-legal-and-ethical-issues>

TRIPLE project: Key facts

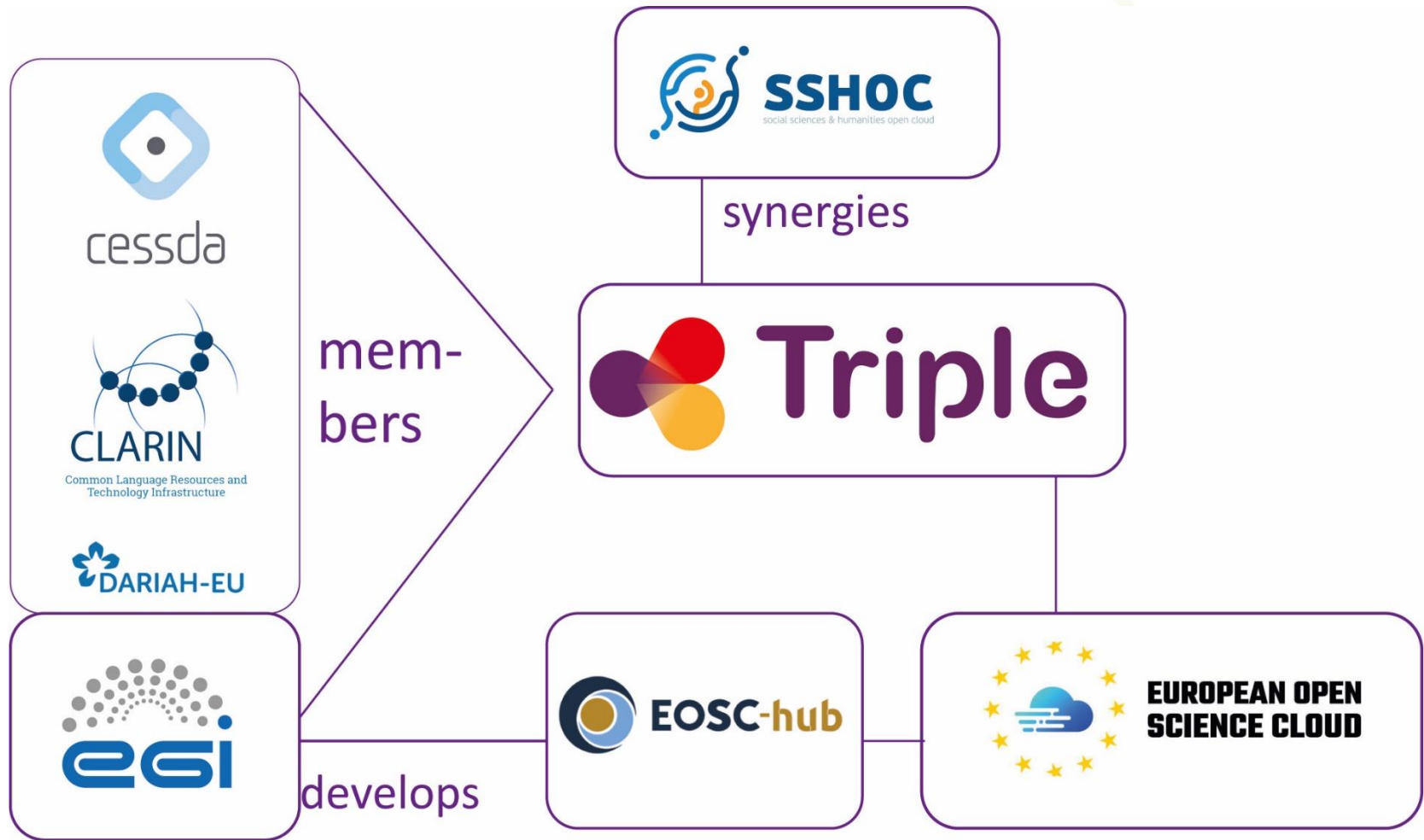
- launched on 1 October 2019, duration of 42 months (2019–2023)
- financed under the Horizon 2020 framework with approx. 5.6 million Euros
- consortium of 19 partners from 13 European countries, Coordinated from France by Huma-Num, (CNRS)
- building an innovative **multilingual and multicultural discovery solution** for the social sciences and humanities (SSH);
- will provide a **single access point** that allows you to explore, find, access and reuse materials such as literature, data, projects and researcher profiles at European scale;

GOTRIPLE: Platform (contents, processes, services)

gotriple.eu



TRIPLE project



CLARIN Café

The rights of data subjects in language resources

with Esther Hoorn, Paweł Kamocki, Aleksei Kelli

...fetch your mugs!

Inputs

- Introduction to the rights of data subjects in the GDPR (Paweł Kamocki)
- Non-restraining rights of data subjects: transparency / information, access, rectification, and portability (Aleksei Kelli)
- Restraining rights of data subjects: right to be forgotten, to object, and to restrict processing (Paweł Kamocki)
- Handling requests on data subjects rights: The perspective of a lawyer in a broad research institute (Esther Hoorn)

Introduction to the rights of data subjects in the GDPR

Paweł Kamocki

Before we dive in

- **General Data Protection Regulation**
 - applies directly since 25 May 2018
 - repealed the Personal Data Directive 1995
- **Personal Data**
 - any information related to identified or identifiable natural person (data subject) (art. 4 GDPR)
 - identifiable with any means reasonably likely to be used
- **Processing** - any operation performed on data
- Natural persons should have **control** over their own personal data (recital 7 GDPR)
 - Rights of data subjects are one of the focal points
- **Fines** up to 20 000 000 EUR (art. 83 GDPR)

Rights of Data Subjects - an Overview


Non-restraining	Restraining
<ul style="list-style-type: none">● information (13-14)● access (15)● rectification (16)● portability (20)	<ul style="list-style-type: none">● withdrawal of consent (7)● erasure (<i>right to be forgotten</i>) (17)● restriction (18)● right to object (21)● no automated decision-making (22)

Take it with a grain of salt

- The information provided in the presentations **does not constitute legal advice**
 - experts from your jurisdiction can provide you with advice on your specific case
- The domain is **constantly evolving**
 - EDPB guidelines on the rights of data subject (in development since January 2020 - publication imminent?)
 - EDPB guidelines on consent (v. 2.0, December 2020)
 - WP29 guidelines on transparency (revised April 2018)
 - WP29 guidelines on portability (revised April 2017)
 - Guidelines from national data protection authorities

General information (Article 12 GDPR)

- Obligation to facilitate the exercise of data subject rights -- adopt **internal procedures!**
- Use **plain language**, understandable to the data subject
- Deadline for answering requests: **1 month**, up to 3 months if complex
- If reasonable **doubt about the identity** of the data subject: possibility to **request additional information**
- If a research **exception** applies: **respond** to the request and **explain** why you don't act + **inform** about the possibility to lodge a complaint and seek judicial remedy
- If requests are **manifestly unfounded** or **excessive**: possibility to **refuse** OR charge a reasonable **fee**

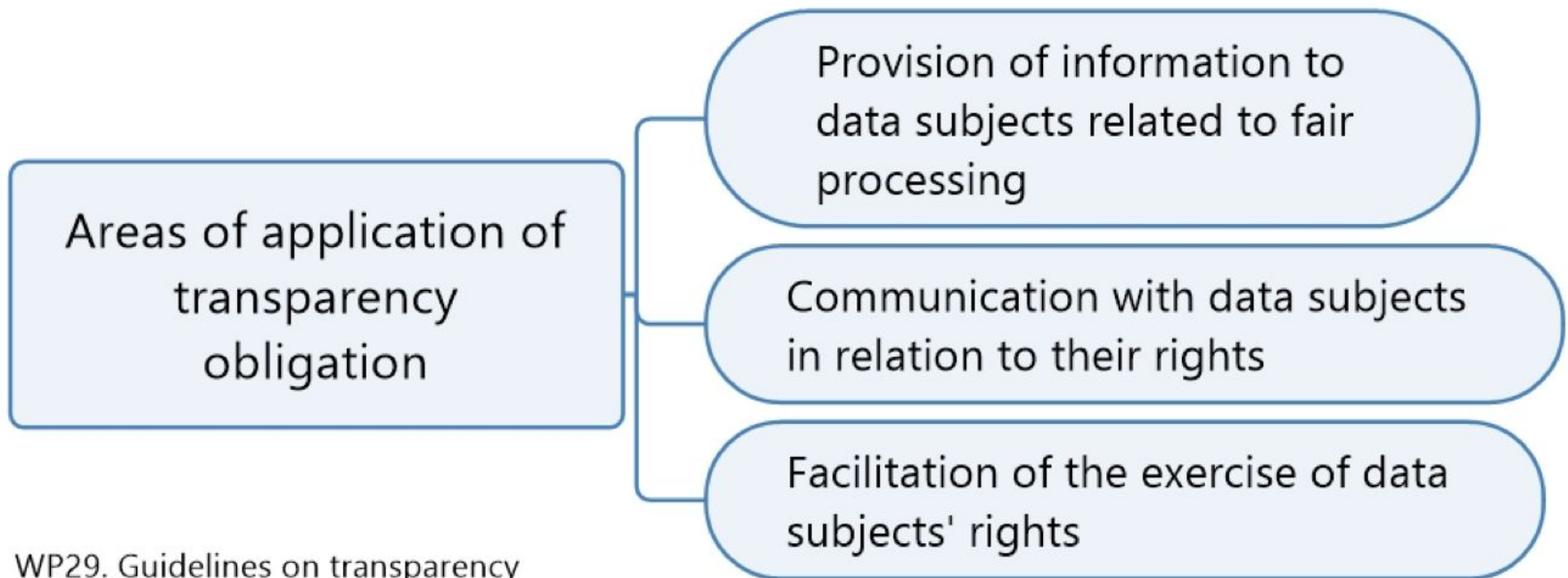


Non-restraining rights of data subjects: transparency / information, access, rectification, and portability

Aleksei Kelli

Transparency

- PD shall be processed in a *transparent manner* (Art. 5.1(a) of the GDPR).

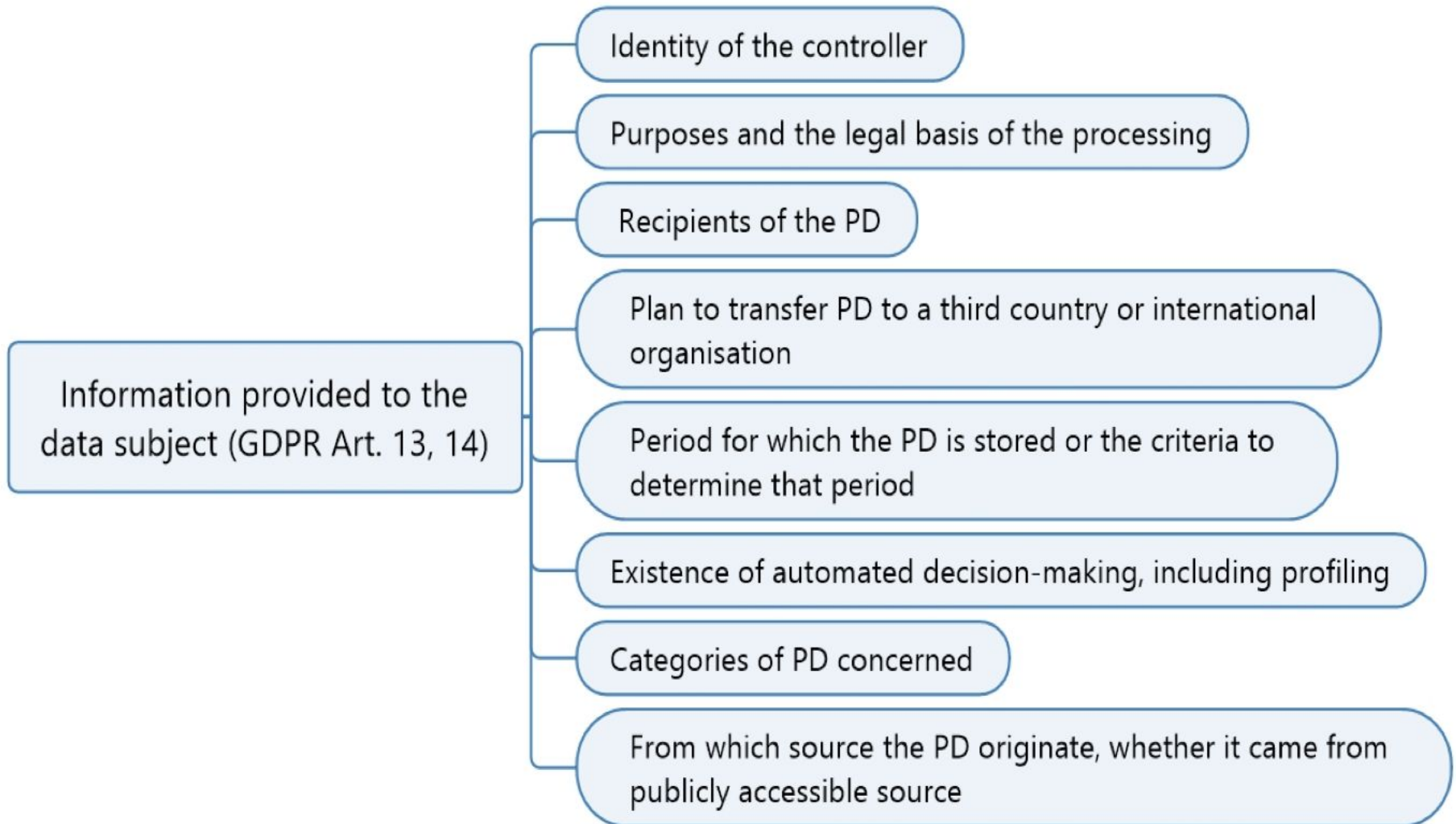


WP29. Guidelines on transparency

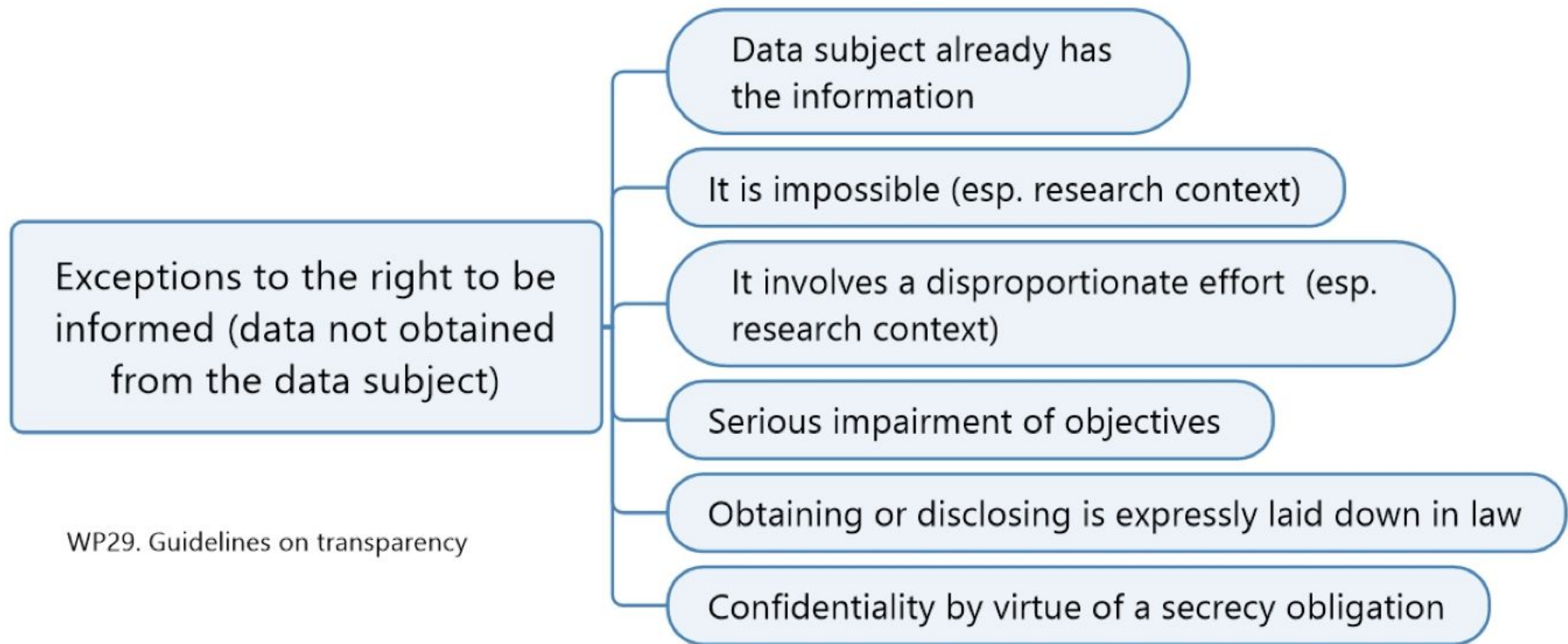
Transparency

- Processing which does not require identification (Art. 11 of the GDPR):
 1. If the purposes for which a controller processes PD do not or do no longer require the identification of a data subject by the controller, the controller shall not be obliged to maintain, acquire or process additional information in order to identify the data subject for the sole purpose of complying with the GDPR.

Right to be informed

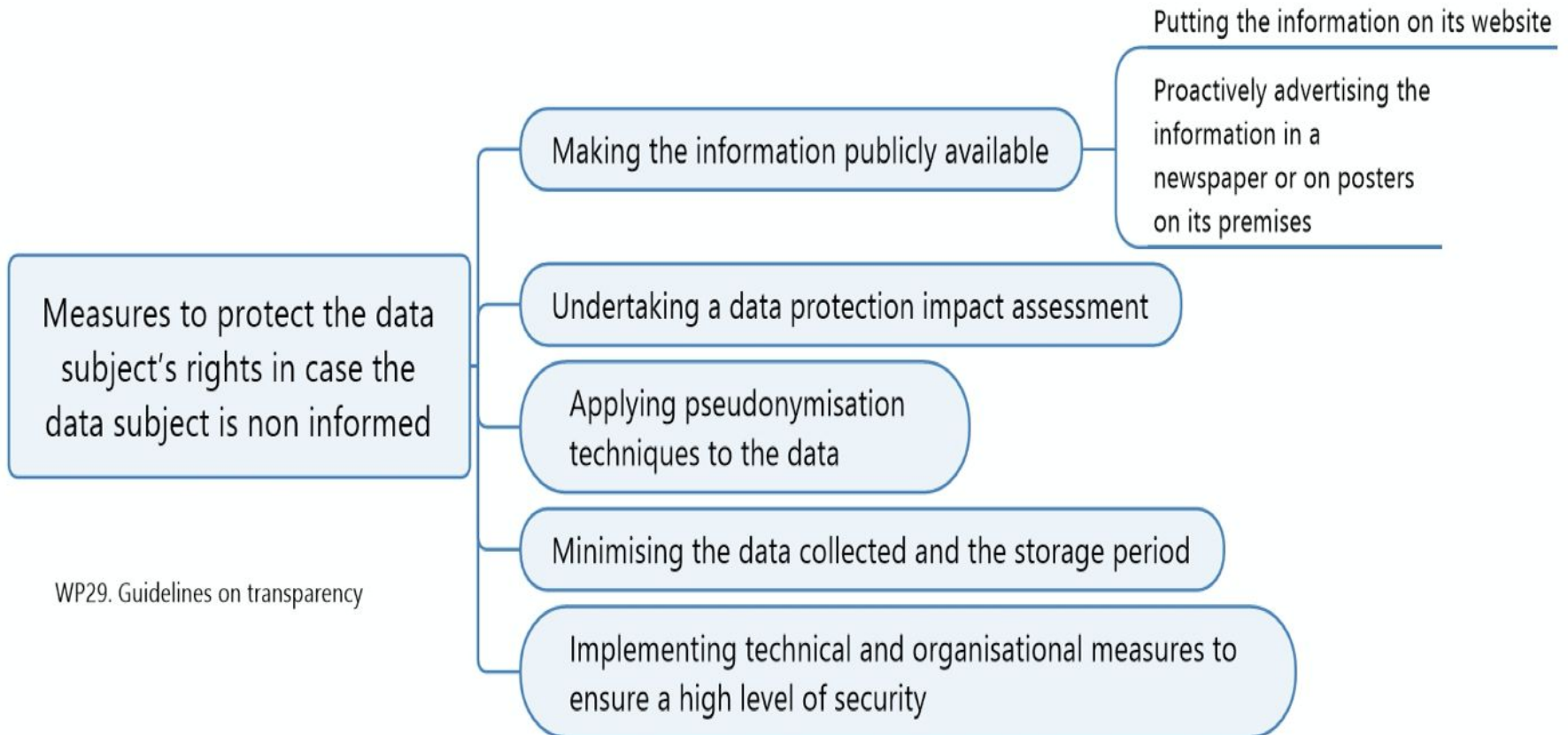


Exceptions to the right to be informed



WP29. Guidelines on transparency

Exceptions to the right to be informed

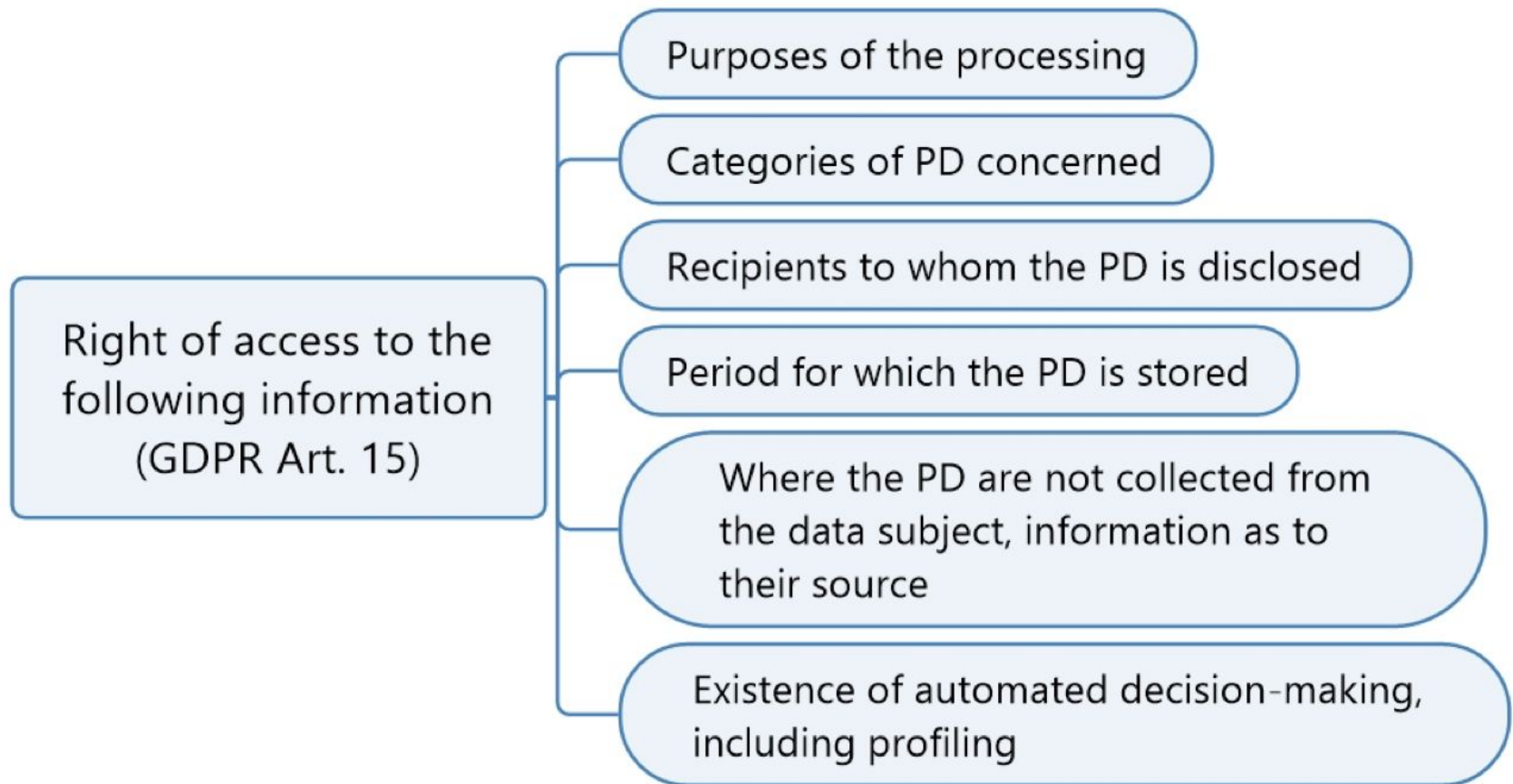


WP29. Guidelines on transparency

Right of access (Art. 15)

- The data subject has the right to obtain from the controller **confirmation** as to **whether or not** PD concerning him or her are being **processed**.
- The controller provides a **copy of the PD undergoing processing**. For additional copies, **a reasonable fee may be charged**.
- The right to obtain a **copy** shall not **adversely affect** the rights and **freedoms of others**.

Right of access (Art. 15)



Right to rectification (Art. 16)

- **Principles relating to processing of personal data (Art. 5.1(d) of the GDPR):**

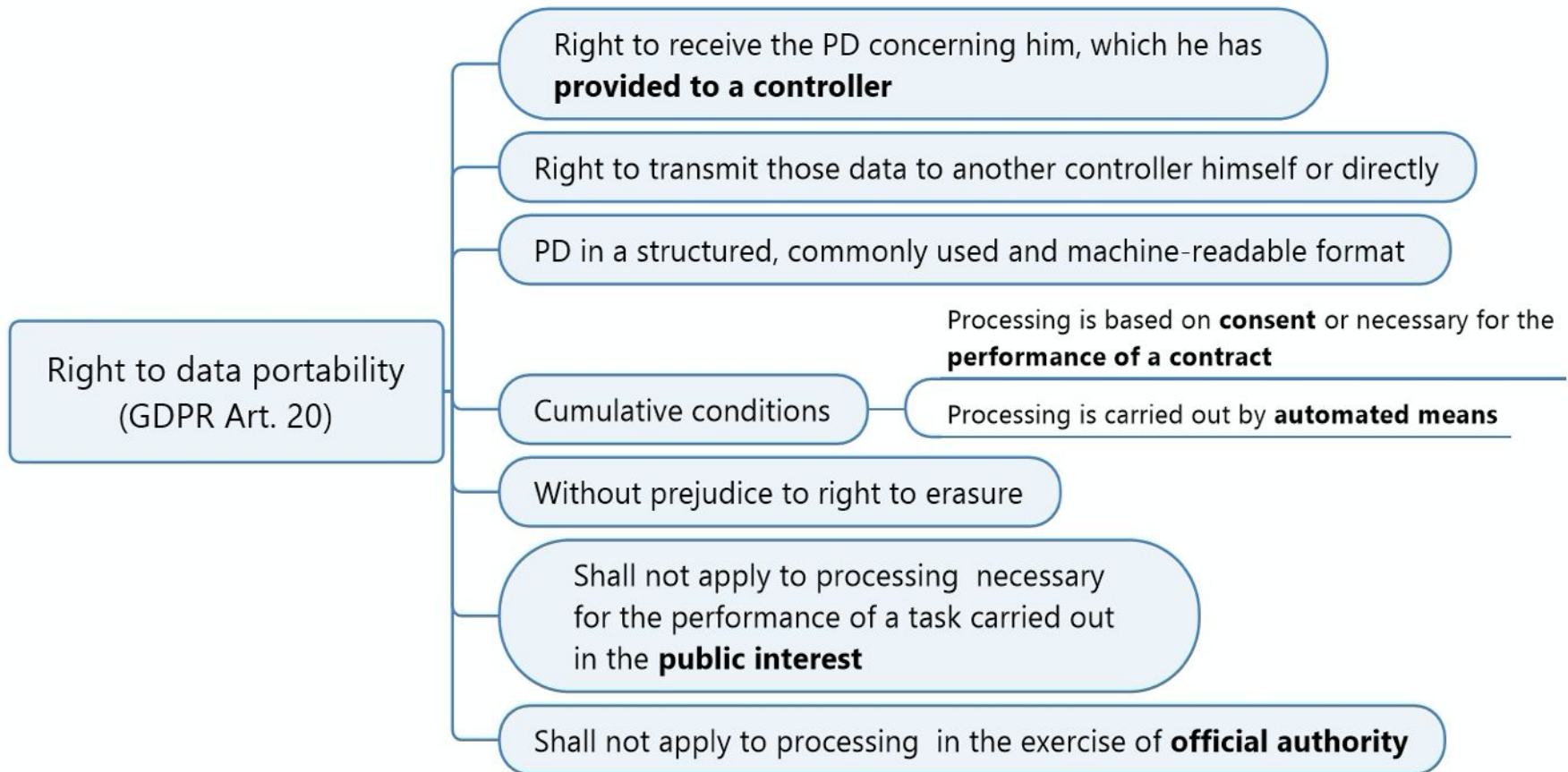
Personal data shall be:

accurate and, where necessary, kept **up to date**; every reasonable step must be taken to ensure that **PD that are inaccurate**, having regard to the purposes for which they are processed, **are erased or rectified without delay** ('accuracy').

Right to rectification (Art. 16)

- The data subject has the right to obtain from the controller without undue delay the **rectification of inaccurate PD** concerning him or her.
- Taking into account the purposes of the processing, the data subject has the right to have **incomplete PD completed**, including by means of providing a supplementary statement.

Right to data portability





Restraining rights of data subjects: right to be forgotten, to object, and to restrict processing

Paweł Kamocki

Withdrawal of consent (Art. 7.3 GDPR)

- Consent can be withdrawn at **any time**
- Withdrawing consent should be **as easy as giving it**
 - e.g. single mouse click, using the same interface
- Without an appropriate mechanism for withdrawal, consent is invalid (EDPB guidelines)
- Consequences:
 - **no retroactivity** (processing before withdrawal remains lawful)
 - the controller should delete the data OR
 - the data subject can request erasure
 - ...**UNLESS a different legal basis applies** to the processing
 - NOTE: be transparent about the purposes of and legal bases for the processing!

Right to object (Art. 21 GDPR)

- When processing is based on **legitimate interest** (i.e., without consent)
- The data subject can **object** to the processing '*on the grounds relating to his or her particular situation*' **any time**
- UNLESS there is an *overriding* legitimate interest
 - BUT absolute right if processing for direct marketing purposes
- If processing for **research** purposes:
 - Not applicable if research is in public interest
 - Can be further limited by **national law**
- Consequences:
 - processing should **stop**
 - data subject may request erasure or restriction of data

Right to be forgotten (erasure) (Art. 17 GDPR)

- Only available in **limited situations**, e.g.:
 - **consent withdrawn** and no other basis available
 - successful **objection** to the processing
 - **unlawful** processing (no legal basis)
 - for data posted on social media by a child.
- When processing carried out for **research** purposes:
 - **does not apply** if erasure would render impossible or seriously impair the objectives of processing.
- Consequences:
 - data has to be **deleted**, including backup copies.

Right to restriction of processing (Art. 18 GDPR)

- Can be thought of as **alternative to erasure**
- Data are **not deleted**, but their **processing is only allowed with consent** of the data subject
 - E.g. to establish a legal claim
- Usually temporary by nature
- If processing for research purposes:
 - can be further limited by **national law**
- **Good practice:** restrict the processing of personal data when you are considering an erasure, rectification and/or objection request
 - consider a parallel processing system for restricted data

What if you already shared the data?

- Obligation to **communicate** rectification, erasure or restriction **to all the recipients** (anyone with whom the data have been shared)
 - **UNLESS** this is **impossible** or involves **disproportionate effort**
- **Upon request, inform the data subject** about all the recipients
- If erasure requested for **data made public online**:
 - take **reasonable steps** (including technical measures) to inform anyone who processes the data about the request to **erase any copies or links**

Conclusion

- Restraining rights of data subjects are **very limited** when it comes to **research**
- You may also receive ‘second-hand’ requests, e.g. from publishers
- **Good practice:** in some contexts (esp. in very large resources, or resources dealing with sensitive data / persons) consider examining the merits of each request, regardless of being legally obliged to do so
 - this can possibly constitute a **safeguard for the rights and freedoms** of data subjects (necessary in research context)
- Erasure is often a **technical problem** (versioning)
 - for more information, see [Arnold et al., Addressing Cha\(lle\)nges in Long-Term Archiving of Large Corpora, 2020.](#)



Handling requests on data subjects rights: The perspective of a lawyer in a broad research institute

Esther Hoorn, University of Groningen

Introduction

My role in university:

- Advising researchers on shared responsibilities
- Coordinating privacy in research
- Alignment of data protection, data management and ethics
- Developed e-elearning Privacy in research: asking the right questions

My question: Can a discipline specific network like CLARIN help researchers to share good practices and to communicate with participants about sharing of data?

Two examples

First example

A data subject wanted to stop his participation in a research project. The university has an obligation as controller to require from researchers that they apply the data minimisation principle as soon as possible. For pseudonimisation the consent form was separated from the survey. What does the GDPR say?

=> article 11 (1) GDPR

If the purposes for which a controller processes personal data do not or do no longer require the identification of a data subject by the controller, the controller shall not be obliged to maintain, acquire or process additional information in order to identify the data subject for the sole purpose of complying with this Regulation.

Transparency

Now some questions:

Should one communicate this with participants?

Based on article 13, 2 (b) GDPR we mention you have the right of erasure etc. , yet you can not do a request with success because we pseudonomize your data right from the start of our project.

Do you have good practices on how to be transparent to the participants about their rights?

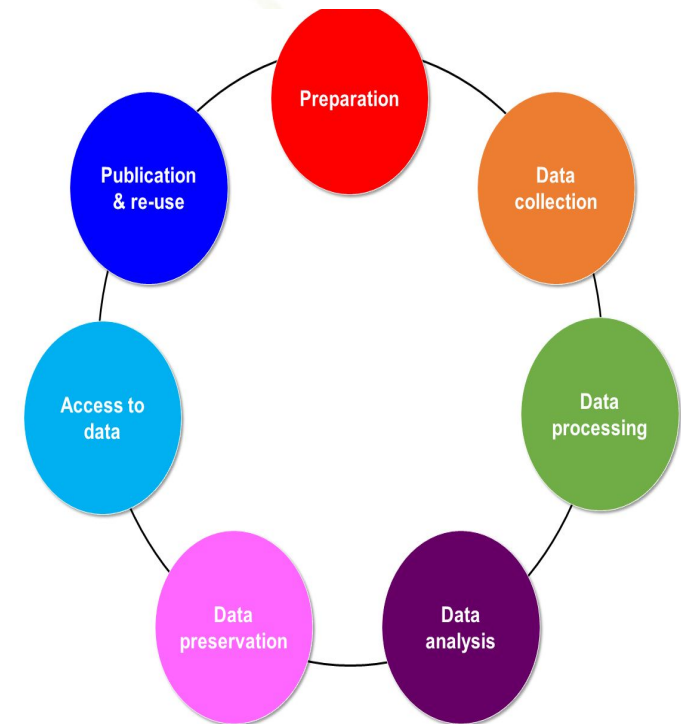
Do you see good information to participants as an ethical topic and/or a GDPR topic?

Do you think you are responsible for this as researcher or the institution?

Controller: a shared responsibility in research

GDPR: means, purpose + criteria in specific legislation

1. Institution has duty of care to enable responsible research (secure working environment etc.)
2. Dean is responsible for research policy
3. Researcher has academic freedom. Yet, needs to comply with Research Integrity & ethical standards
4. Research Funders: provide means...ethical self-assessment with question on data protection, Data Management Plans



Second example: based on DELAD usecase

Audio files with voices of Polish children are stored in the [The Language Archive](#) of the [Knowledge Centre for Atypical Communication Expertise](#) with restricted access for use in research.

Suppose one of the children is grow-up now and comes to TLA with the original audio files, explaining this identifies him and making a request to have his files removed.

What does the GDPR say:

Article 11 (2) GDPR: additional information

One option: The archive is processor for the Polish university as controller: That will not really be easy or transparent for the data subject.

Article 26 GDPR: joint controllers?

Single point of contact?

Transparency

Way forward:

Clarify responsibilities and good practices in a code of conduct and communicate the essence with the data subjects

Start with documenting good practices.

Thanks to the [CLARIN DELAD community](#) for sharing the last example.

Trochymiuk (Lorenc) A., 2008, Wymowa dzieci niesłyszących. Analiza audytywna i akustyczna (Eng. Pronunciation of hearing-impaired children. Auditive and acoustic analysis) (seria „Komunikacja Językowa i Jej Zaburzenia”, vol. 22), Lublin: Wydawnictwo UMCS

Henk van den Heuvel, Aleksei Kelli, Katarzyna Klessa, Satu Salaasti (2020). Corpora of Disordered Speech in the Light of the GDPR: Two Use Cases from the DELAD Initiative. In: Proceedings of 12th International Conference on Language Resources and Evaluation (LREC) Conference, May 11-16, 2020, Marseille, France.



Questions?

legal@lists.clarin.eu

Discussion

It's menti time:

www.menti.com

4846 5391



<https://consent.dariah.eu/>



it's magic!



Call for translations: <https://eldah.hypotheses.org/425>

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 - <https://www.clarin.eu/content/call-submissions-teaching-clarin-times-corona>
 - <https://www.clarin.eu/event/2021/clarin-annual-conference-2021>
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 - **#clarincafe**

Stay in touch with the TRIPLE project



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See you at the next café

Drinking coffee in the afternoon with Czech CLARIN

15 April 2021 – 14:00 – 16:00 CEST

