Toward a CLARIN Data Protection Code of Conduct
Context – General Data Protection Regulation

• 25 May 2018 – GDPR became directly applicable in all EU Member States
• Replaces the Personal Data Directive 1995
• Does not require implementation
• Based on the same concepts as the Directive
  • Personal data, consent, data controller, special categories of data...
• Higher fines
• Accountability (burden of proof always on the data controller)
Special rules concerning research in the GDPR

• Art. 89 GDPR
• Some leeway left to national legislators
• Differences between Member States
  • Common denominator: any derogations from the general principles must be ‘subject to appropriate safeguards for the rights and freedoms of the data subject’
• What are ‘appropriate safeguards’?
  • GDPR only gives one example: pseudonymisation
Bottom-up standardisation in the GDPR

- Promote the development of sector-specific good practices while guaranteeing some flexibility
- Certification (data protection marks and seals)
- Codes of conduct
  - to 'calibrate the obligations of controllers and processors, taking into account the risk likely to result from the processing'
Toward a Code of Conduct I

• Who can adopt a Code of Conduct?
  • associations and other bodies representing categories of data controllers

• How to adopt a Code of Conduct?
  • Art. 40 GDPR: validation by the national supervisory authority → European Data Protection Board → European Commission
  • May be granted universal validity (even for 'non-subscribers) and adopted by non-EU organisations
Why adopt a Code of Conduct?

- To create community-wide definitions, e.g. fairness, legitimate interest, appropriate safeguard
- To develop best practices regarding e.g. anonymisation and pseudonymisation techniques, collecting data from sensitive subjects, data protection by design and by default etc.
- To establish out-of-court dispute resolution
- To facilitate data transfer to non-EU countries
Practical Steps: CLARIN Data Protection Code of Conduct

• Ad-hoc interdisciplinary Working Group
  ➢ expertise on legal, technical and ethical aspects
  ➢ delegated members from CLARIN Committees
  ➢ representatives of Supervisory Authorities?
• Identifying internal and external stakeholders
• Collecting feedback (questionnaire, interviews)
• Preparing a draft, round of consultations
• Submitting the draft to various national Supervisory Authorities
Paweł Kamocki, Erik Ketzan, Julia Wildgans & Andreas Witt

Toward a CLARIN Data Protection Code of Conduct