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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

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