The General Data Protection Regulation and EU research

ISC seminar: The Impact of the GDPR on Collaborative Science in Europe and the EOSC
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Agenda

The GDPR
- What?
- What for?
- When?

R&I Policy
- Why is it important?
- How?
- What is at stake?
What is the GDPR?

Commission proposal for Data Protection Reform (Jan 2012)

General Data Protection Regulation
Reg. EU 2016/679
(+ 'Police Directive')

to make Europe fit for the digital age
• **Protection enhancement**
  - Strengthening citizens' rights – In the digital age, information about individuals being used as a commodity
  - Data portability, Breach notification, Privacy by design/default
GDPR Objectives (2)

• More effective implementation & enforcement
  - Increased coordination among Supervisory Authorities,
  - Higher sanctions

• Harmonisation
  - Reducing fragmentation & business up to €2.3bn/y
GDPR Timeline

- Commission proposal (01/2012)
- EP first reading (03/2014)
- Council's GA (06/2015)
- Trilogues (06-12/2015)
- Council & EP adoption (04/2016)
- OJ publication on 4 May 2016
- Applying from 25 May 2018
Why is GDPR important for EU research?

Personal data protection fundamental right...

VS.

Personal data protection absolute right...

Scientific research

Public good
How does it affect EU researchers?

EU researchers need to be able to:

• Collect and process personal data
• Further process personal data
• Collaborate (cross-border research requires harmonisation)
Challenges

- GDPR and harmonisation
- Implementation

Research stakeholders would need guidance to set up compliance schemes in due time (codes of conduct?)

EDPB's guidelines only from May 2018

- Interpretation

The EC 'Research Family' looks forward to an interpretation of the GDPR that remains overtime favourable to EU scientific research (Case law from 2018)
The 'Research exemption' (1)

- The **GDPR applies to all** scientific research that makes use of **personal data** (e.g. public health research, epidemiology, clinical trials, social sciences);
- The **GDPR does not apply to anonymised data**.

In all MS **scientific research** among "privileged" purposes for data processing, no incompatibility with the initial purpose.
The 'Research exemption' (2)

Safeguards...

Data processing shall be subject to appropriate safeguards (e.g. 'data pseudonymisation') striving for data minimisation

... derogations

MS can provide derogations from a number of individual rights (i.e. right to access by data subject, rectification, restriction of processing, right to object) if necessary for the processing
The 'Research exemption' (3)
...back to challenges

The GDPR empowers MS to *discretionally* favour research

Risk of *fragmentation* in terms of uneven conditions for EU researchers
Thank you

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