



[CONCEPT] Working Group to harmonize GDPR related key terms for processing activities

Facilitating data flows across entities (data spaces) and supporting national and European data strategies, by identifying key terminology in regards of purposes, (categories) of personal data and (categories) or recipients



Publisher

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1 Background

Data strategies across Europe¹ are published and updated continuously. Their number is increasing. Any such strategies have a key denominator: facilitating data sharing, overcoming data silos, digitalize public sectors, whilst protecting individuals' rights and upholding control.

Most initiatives focus on technical layers facilitating data exchange. However, any such technical layers find their limitations where the applicable legal framework defines boundaries. E.g., GDPR prevents any data processing for which there is no upfront and exhaustively determined purpose and related legal grounds. Five years since GDPR, private and public sector has established individual approaches on adhering to GDPR requirements. Nonetheless, any such determination is individual to the controller responsible for such data processing. In other words: where strategies impose the overarching objective to enhance data sharing, to increase collaboration, to utilize existing data for the good of society.

Selbstregulierung Informationswirtschaft e.V. (SRIW)² has been involved in several project since establishment more than a decade ago. Its focus lies in operationalizing data protection and consumer protection. Across its projects, SRIW has recognized that a common language on key terminology is a missing link in operationalizing data sharing activities. Otherwise, different parties within a data sharing endeavour may assign data sharing policies to any such data yet cannot be assured that the actual processing is coherent and compliant with those aspects originally determined and translated in associated policies.

2 The idea / approach

GDPR allows for Codes of Conduct, facilitating the implementation of GDPR's provisions. Codes of Conduct – once being approved by authorities – particularize GDPR alongside a legally binding effect. Subsequently, any party adherent to such Code of Conduct can be assured that their activities are not in conflict with GDPR.

To facility data sharing, a common understanding of several key terms which are deemed to be easy to recognize. Such terminology probably relates to aspects such as processing purposes, (categories of) personal data and (categories of) recipients of personal data.

¹ Non-Exhaustive list: Germany: [Federal Data Strategy \(PDF\)](#); Europe: [A European Strategy for Data, European Commission's website regarding its strategy](#); Spain: [Spanish Strategy Post \(Part 1\)](#), [Spanish Strategy Post \(Part 2\)](#); The Netherlands: [Data Agenda](#).

² <https://sriw.de/home>

While the general aspects are considered easy to be determined, defining a common definition of such terms requires significant efforts. Such efforts will require the involvement of multiple stakeholders across Europe. At best, such a common understanding will evolve internationally, as both data spaces and industry are not limited to European-wide sharing, especially in the context of research activities.

Alongside the material development, the consequences of a Code of Conduct must be evaluated. Such a Code of Conduct must uphold potentials for innovation and individual approaches. The Code of Conduct shall allow stakeholders to follow the common definitions, where it is deemed advantageous. Where stakeholders prefer other approaches and definitions as more suitable, stakeholders must remain the possibility of any such individual approach.

3 Early Conceptual stage

Conceptually, the approach may look as follows in the context of processing purposes.

The Code of Conduct may determine the processing purpose “Billing Purposes”, e.g., as *“Billing Purposes relate to the processing of personal data which are directly related to allow the Provider to draft, send to, and enforce against its Customers any legitimate invoices.”*

To allow a logical connection between the purpose and data sets, the Code of Conduct may define common terminology regarding (categories of) personal data. E.g., the Code of Conduct might determine: *“Legitimate Personal Data in the context of Billing Purposes are “Address Data, Credit Scores, Purchase Data, Payment Data, ...”*

This simple example already shows the complexity of language models, because the list of legitimate personal data includes other umbrella terms, such as “address data” or “payment data”.

4 Connecting the Dots instead of starting from scratch

The Code of Conduct must remain compatible with existing initiatives supporting technical salutation for data sharing. Therefore, a constant exchange with any such initiatives is foreseen.

Additionally, it is expected that – without the legally binding and GDPR specific nature – initiatives for language models have already been established here and there. To ensure that any such future Code of Conduct can be implemented as broadly as possible, SRIW strives to analyse any such initiatives. Where possible SRIW strives to build upon any existing work and will certainly invite representatives of such initiatives to collaborate.

5 About Selbstregulierung Informationswirtschaft

Selbstregulierung Informationswirtschaft e.V. (SRIW)³ is a non-profit association with European focus. Ever since its establishment in 2011 and as the primary of a pan-European ecosystem, SRIW assembled first-hand experiences in the establishment of trusted self- and co-regulatory instruments in the information economy. The association benefits from its independent subsidiaries across Europe and its diverse and constantly growing membership.

The everyday business of the association centres on harmonising industry practices with social demands and political requirements. The mechanism considered fit for purpose is balanced and monitored self- and co-regulatory frameworks facilitating effective data and consumer protection.

SRIW strives to collect and amplify valuable experiences to improve the necessary and independent structures required for the development, approval and monitoring of codes of conduct. By actively connecting experts and bringing together interested stakeholders, SRIW serves as a forum for exchange and discussions, providing the impetus for kicking-off frontrunner initiatives.

The ecosystem includes SCOPE Europe srl⁴, most probably Europe's leading independent Monitoring Body. SRIW's subsidiary became known in supporting the first officially approved transnational (European-wide) code of conduct, i.e. the EU Data Protection code of conduct for Cloud Service Providers and becoming the first ever accredited transnational Monitoring Body as well as the first Monitoring Body which was accredited by more than one data protection supervisory authority and for more than one code of conduct.⁵

Since 2021 SRIW is participating as partner in a research consortium related to the project "Cognitive Economy Intelligence Platform for the Resilience of Economic Ecosystems" (CoyPu)⁶ funded by the Federal Ministry for Economic Affairs and Climate Protection of Germany. The project addresses the complex (economic) challenges in crisis situations. SRIW's research is related to the legal challenges, including those relating to the lawful development and integration of generative AI into bigger AI-systems. Researchers of the publicly funded project – CoyPu – contributed to this consultation.

³ <https://sriw.de/home>

⁴ <https://scope-europe.eu/en/home/>

⁵ <https://www.dataprotectionauthority.be/publications/decision-n05-2021-of-20-may-2021.pdf>
https://edpb.europa.eu/system/files/2023-03/document_4_data_pro_code_nl_sa.pdf

⁶ <https://coypu.org>



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Über den SRIW

Der SRIW e.V. wurde 2011 als unabhängige, private Aufsichtsstelle branchenspezifischer Verhaltensregeln gegründet. Oberste Prämisse seit Gründung war und ist es, die notwendigen, unabhängigen Strukturen bereitzustellen, um branchenspezifische Verhaltensregeln zu etablieren und zu verwalten sowie deren glaubwürdige und wirksame Überwachung, inklusive eines Beschwerdemanagements, zu gewährleisten. Seither ist der SRIW erfolgreich an der Entwicklung von Verhaltensregeln, unter anderem im Bereich Datenschutz, beteiligt und engagiert sich auch in anderen Formen rund um das Thema *modern-regulation*.