



# **Implications of the GDPR on the use of personal data for science**

## **GDPR impact on collaborative science**

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# Science Europe (SE)

- ▶ Science-Policy Organisation representing the **collective interests of pan-European Research funding bodies as well as European academic research**
- ▶ Membership: **Research Funding and Research Performing Organisations**
- ▶ **43 Member Organisations, 27 countries, approx €30 billion** invested in research annually
- ▶ **Working Groups** dealing with specific fields of interest and policy areas
- ▶ Bottom-up internal advice by **Scientific Advisory Committee (SAC)**: 30 high-level researchers from 16 countries, wide spread of research disciplines (including new and emerging fields)

# The new Regulation and its impact on Science

- ▶ The Regulation **applies to any research that uses personal data**, including scientific research and studies in the arts, social sciences and humanities
- ▶ It includes **special rules for scientific research and academic freedom of expression** that provide exemptions from some general requirements.
- ▶ Part of the rules are included in the actual text of the Regulation and will apply automatically in all Member States.
- ▶ However, **various rules** are delegated to Member States **and need to be implemented at national level** before they can apply.

# Researchers' requirements

Researchers must be able to

- ▶ Collect and process personal data
- ▶ Further process personal data
- ▶ Collaborate with other researchers

Collaborative research often means cross-border research

**→ Harmonisation of legislation needed!**

# Implementation on Member State level

- ▶ ***Pseudonymisation and scope of the Regulation (Art. 4.5, R26)***
- ▶ Principles of data protection:
  - ▶ **Further processing** (Art. 5.1b, R50, R156)
  - ▶ **Storage** (Art. 5.1e)
- ▶ **Lawfulness of processing** (Art. 6, R45, R47)
- ▶ *Conditions for **consent** (R33)*
- ▶ Processing of **special categories** of personal data (Art. 9.2j)
- ▶ Data subject rights:
  - ▶ **information** to be provided to the data subject (Art. 14.5b)
  - ▶ **Right to erasure** (Art. 17.3d)
- ▶ **Processing** of personal data and freedom of expression and information (Art. 85)
- ▶ Processing for historical, statistical and **scientific purposes** (Art. 89, R156, R157, R159, R160)

# Impact of DPR on collaborative science?

- ▶ Objective of the regulation is a good one in theory
- ▶ In practice....
  - ▶ Difficult to say yet as **vital provisions need to be implemented in Member States** (MS) which has not happened yet
  - ▶ Collaboration among the competent authorities of MS needed, otherwise:
  - ▶ **Risk of scattered landscape** as implementation will be different in the Member States:  
uneven conditions for researchers
    - ➔ hinder **cross-border collaboration** in research
    - ➔ hamper research and innovation

# How can the implementation support research?

- ▶ Need for **clear laws** for research: safeguards and exemptions that **support research while respecting people's privacy**
- ▶ Laws must be **proportionate** to the risks of individuals, **practical** and **build on current good practice**
- ▶ **Cooperation** between national lead ministries / data protection authorities and other relevant **ministries**, such as research and health, and **input from the research community** and other concerned groups.
- ▶ Member States should work together to **facilitate cross-border research** by **promoting harmonisation and compatibility**, where possible, between national laws, processes and guidance.

# Summary: Application and impact on research

- ▶ Implementation:
  - ▶ If well done in the MS (= coherent and coordinated way)
    - ➔ more legal certainty for researchers, thus will facilitate collaborative science
  - ▶ if no coordination among MS,
    - ➔ situation in Europe that will significantly hamper collaborative science
- ▶ Research organisations
  - ▶ try to anticipate and adapt to the new circumstances as soon as possible,
  - ▶ but: it will take time to understand all implications completely, the upcoming EOSC and FP9 debates will raise even more questions

# Over the next year...

- ▶ Initiatives trying to foster cooperation among MS, hopefully they will succeed in reaching out to a maximum number of MS authorities
- ▶ problem: in some MS even the competent ministries do not know what to do
- ▶ Codes of conduct? On organizational level? Do they have all the information they need to work on that? Or do they have to wait in limbo for the MS to come up with their legislation?

# Fit for the future?

- ▶ Discussions will not stop there:
  - ▶ European Open Science Cloud / Open Science
  - ▶ Open Access to data?
  - ▶ ...?
  
- ➔ Is the GDPR fit for these new purposes or do we face a situation where we might have to expect a revision any time soon?

# Further Information

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