Legal aspects of the KRAKEN system
Women in technology behind data-sharing, privacy preservation and SSI

Jessica Schroers, KU Leuven

31.5.2022
1. Roles under the GDPR
2. Legislative developments
   - Data Governance Act
   - Data Act
   - Digital Identity Regulation
Roles under the GDPR
Most important roles:

- **Data subject**: natural person whose personal data are processed
- **Data controller**: determines the purposes and means of the processing
- **Data processor**: processes personal data on behalf of the controller

→ Controller: main responsible for compliance with the GDPR obligations

→ Allocation (except if provided by law): factual assessment
Joint controllers

• Controller: alone **or jointly** determines the purposes and means

→ **Joint controllers**: several controllers jointly determine the purposes and means of the processing

Different forms of joint participation:
- Common decisions: decide together
- Converging decisions: decisions are converging on purposes and essential means
  - Complement each other and are necessary for the processing to take place
  - Based on case law: Wirtschaftsakademie, Jehovan todistajat, Fashion ID
<table>
<thead>
<tr>
<th>Data owner</th>
<th>Data provider/data owner</th>
<th>What Data will be provided?</th>
<th>GDPR actor</th>
<th>KRAKEN acting</th>
<th>GDPR actor</th>
<th>What data will be provided?</th>
<th>Data buyer – GDPR actor</th>
<th>Nr. Of controllers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>“origin controller”</strong></td>
<td>Anonymous data</td>
<td>GDPR not applicable</td>
<td>/</td>
<td>/</td>
<td>/</td>
<td>/</td>
<td>0 [1]</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Personal data</td>
<td>Controller</td>
<td>Only upon instructions of the Origin controller or Receiving controller</td>
<td>Processor</td>
<td>Personal data</td>
<td>Controller</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Anonymous data</td>
<td>GDPR not applicable</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Determining own means and purposes</td>
<td>Controller</td>
<td>Personal data</td>
<td>Controller</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Anonymous data</td>
<td>GDPR not applicable [except possible Joint Control]</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>Data subject</strong></td>
<td>Data subject</td>
<td>Only upon instructions of the Receiving controller</td>
<td>Processor</td>
<td>Personal data</td>
<td>Controller</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Personal data</td>
<td>Determining own means and purposes</td>
<td>Controller</td>
<td>Personal data</td>
<td>Controller</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Anonymous data</td>
<td>GDPR not applicable [except possible Joint Control]</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>
2 types of data provider

Origin Controller

Anonymous data

Personal data

Data subject

Kraken platform

One type of data consumer

Receiving controller
Roles in KRAKEN

• For account data:
  • Account: data subject
  • KRAKEN platform: controller

• For content data:
  • Batch data:
    • Provider: controller or data subject
    • KRAKEN platform: nothing/processor for consumer/joint-controller?
    • Consumer: controller
  • Data analytics:
    • Provider: controller or data subject
    • KRAKEN platform: processor for the analytics
    • Consumer: controller for the analytics, afterwards, if result anonymous: GDPR does not apply anymore
  • Data streams:
    • Provider: controller (data union manager)
    • KRAKEN platform: nothing/processor/joint-controller?
    • Consumer: controller
Legislative developments
Data Governance Act

• **What is it?**

• **What does it aim for?**
→ foster the availability of data for use by increasing trust in data intermediaries and by strengthening data-sharing mechanisms across the EU
  ▪ Making public sector data available for re-use, in situations where such data is subject to rights of others.
  ▪ Sharing of data among businesses, against remuneration in any form.
  ▪ Allowing personal data to be used with the help of a ‘personal data-sharing intermediary’, designed to help individuals exercise their rights under the General Data Protection Regulation (GDPR).
  ▪ Allowing data use on altruistic grounds.

• **What is important for KRAKEN?**
Chapter 3 and 4: Requirements applicable to data sharing services and data altruism

• **Current status**
Awaiting Council’s 1st reading position
Data Act

• **What is it?**
Proposal for a Regulation of the European Parliament and of the Council on harmonised rules on fair access to and use of data, 23.2.2022

• **What does it aim for?**
→ ensuring fairness in the allocation of value from data among actors in the data economy and to foster access to and use of data

• **What is important for KRAKEN?**
  ▪ Provides data subjects a possibility to receive and share data generated by products or services they use
  • Includes obligations for the data consumer

• **Current status**
Awaiting committee decision
Digital Identity Regulation/eIDAS2.0

• **What is it?**

• **What does it aim for?**
Amends the eIDAS Regulation: E.g. include European Digital Identity Wallets and extra trust services (electronic attestations of attributes, qualified electronic archiving and electronic ledgers)

• **What is important for KRAKEN?**
Potentially for SSI: EDIW and electronic attestations of attributes

• **Current status**
Awaiting committee decision
Thank you for your attention!

Jessica Schroers
Jessica.Schroers@kuleuven.be