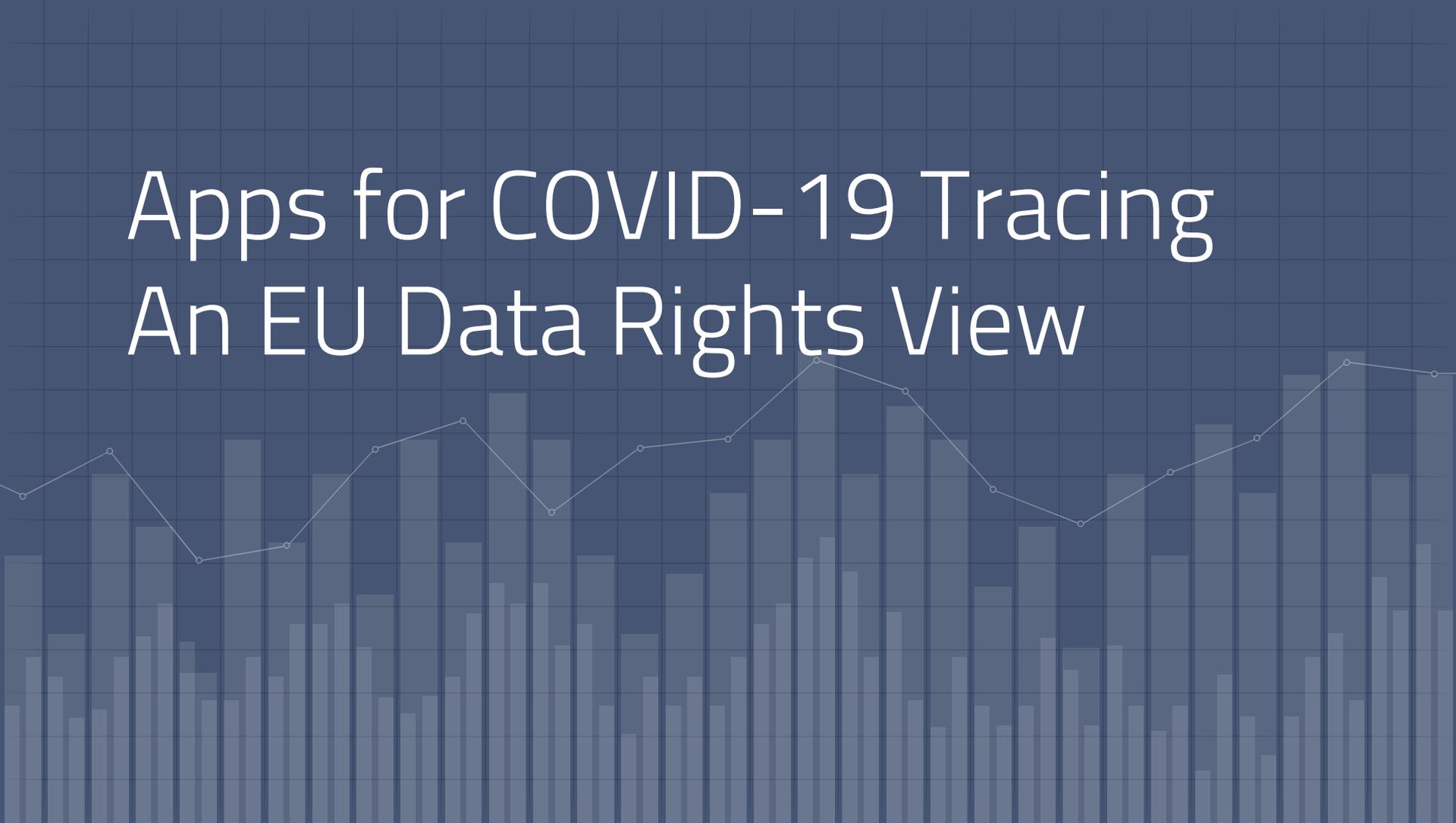


Apps for COVID-19 Tracing

An EU Data Rights View

The background of the slide is a dark blue grid. Overlaid on this grid is a white line graph with circular markers at each data point, showing a fluctuating trend. Below the line graph, there is a faint, semi-transparent bar chart with vertical bars of varying heights, suggesting data points over time or across categories.

Tracing Apps May Be Good

But good intentions can't exempt governments, platform providers or developers from Data Protection



Legal Basis?

Legislative Requirement?

Consent?

Public Health?

Legitimate Interest

Consent needs four elements to be valid

Freely given

Specific

Informed

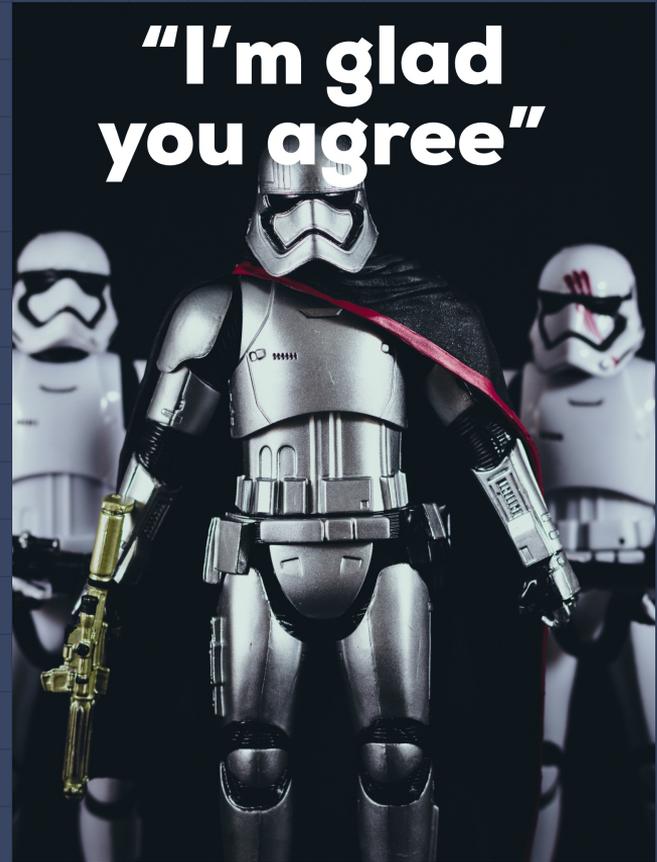
Unambiguous



Consent, Freely Given

Power imbalance will
invalidate consent

- Public Authorities
- Employers



Free consent is granular consent

Agree to Processing X

But must be able to disagree with Processing Y too

Specific Purpose

Before you can get Freely Given consent, you must have decided what you're asking people to agree to.



Consent but for a Specific Purpose

Specific Consent

Know what use the data will be put to.

State that clearly.

Use it only for that purpose.

Vs

Function Creep

Collect data for one purpose but then start using it for one or more extra purposes.

Never say

“I wonder what else we could do with this?”

Informed Consent

You need to meet certain criteria if you want to say you've received Informed Consent.



Information about processing

Who and why

- (i) the controller's identity,
- (ii) the purpose of each of the processing operations for which consent is sought,

What and how

- (iii) what (type of) data will be collected and used,
- (iv) the existence of the right to withdraw consent,

Where and how

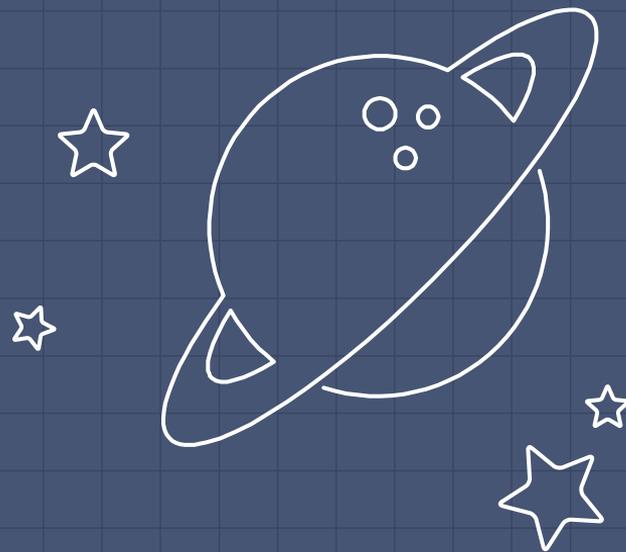
information about the use of the data for automated decision-making on risks and safeguards of data transfers in the absence of an adequacy decision

Unambiguous Consent

You need to meet certain criteria if you want to say you've received Informed Consent.



Withdraw Consent



Should be as easy to say No as it was/is to say Yes

To get valid consent

Be humble

Even in a pandemic, what researchers want is not preeminent

Ask politely for the right to use someone's data. It is their dignity at stake.

Be honest

Show citizens what you want to do. Explain it.

Tell them why you want to do it.

Transparency breeds trust

Be Willing to Take No for an answer

Seriously.

“Necessary and Proportionate”

The Key provision for all data processing not performed under explicit Consent

A large, stylized blue number '2' is positioned on the right side of the slide. The background features a dark blue grid pattern with a bar chart overlay at the bottom.

ICCL/DRI Principled Framework

Have a clear and limited purpose:

Be necessary and proportionate to the problem:

Be effective:

Embrace transparency and promote trust:

Subject to statutory oversight:

Subject to timely deletion of personal data:

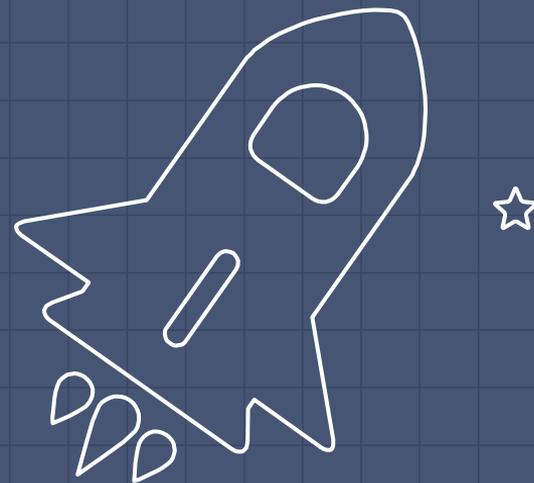
Privacy and data protection by design:

Subject to a sunset clause:

Broaden the range of actors involved and foster engagement:

Scorecard

An easy to understand assessment for the public



THANKS!

Any questions?

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