



**SCOPE**  
EUROPE

# Data Pro Code - Monitoring Framework

SCOPE Europe Monitoring Body

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## Changelog

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## 1 Scope and intent

- (1) This Data Pro Code Monitoring Framework (“**Framework**”) outlines the monitoring mechanisms dedicated to the Data Pro Code (“**Code**”).
- (2) It complements the Declaration of Adherence Agreement and the applicable monitoring procedures.

## 2 Terms

- (1) Terms shall be understood as follows:
  - a. **Code** means “Data Pro Code” in its current and approved version.
  - b. **Monitored Company**: any company or organization that has been declared adherent to the **Code** and is being monitored by the **Monitoring Body**.
  - c. **Monitored Service** any service or product that has been made subject to the Code by the **Monitored Company**.
- (2) Terms defined in the Rules of Procedure already but with a deviant meaning in this **Framework**, will be highlighted in **bold-italic**.

## 3 General Principles

- (1) The **Framework** shall ensure a trusted monitoring, as required by Art. 41 GDPR.
- (2) The **Framework** shall translate Principle 2 of the Code into operational mechanisms.
- (3) The **Framework** shall take into account the overarching approach of the Code, i.e., besides others accessibility for and support

of micro-, small- and medium-sized businesses, whilst reflecting GDPR’s requirements on an effective monitoring. In this regard, Data Protection Authorities expectations, especially as outlined the European Data Protection Board’s Guidelines, were considered in designing this **Framework**.

## 4 Focus of monitoring

- (1) The monitoring shall ensure compliance with the requirements as laid down by the Code.
- (2) The requirements laid down by the Code are those a defined in the Code’s Principles, mainly in Principle 1.
- (3) For the avoidance of doubt: in scope of the monitoring shall be the Data Pro Statement and contractual clauses as applicable to the general provision of services and products by the **Monitored Company**. If and to the extent, customers of the **Monitored Company** require individual adaptations to the contractual clauses or do instruct the **Monitored Company** in deviation from the Data Pro Statement and the Standard Clauses for processing, such individualization shall not be in scope of the monitoring. Customers, who request individual adaptations shall be considered having sufficient expertise in evaluating the consequences of their requests.

## 5 Period of Adherence, Termination

- (1) The **Monitored Company** shall declare adherence acknowledging that the trust and legal effects of adhering to a Code of Conduct require protection against abusive conduct.
- (2) There shall be an adequate minimum period of adherence, safeguarding that **Monitored Companies** do not abusively adhere and terminate how it may fit their needs and – potentially – allow for undermining the **Code's** requirements.
- (3) There shall be an adequate termination period for ordinary termination complementing the minimum period of adherence as provided for by 10 (2).
- (4) The minimum period of adherence and the termination period for ordinary termination shall not limit the possibility for extraordinary termination under Belgium Law for good cause, or as explicitly provided by the Declaration of Adherence Agreement or any applicable procedures.
- (5) Not submitting the compulsory annual renewal of a declaration of adherence shall be considered as infringement of the **Code** if to the extent the **Monitored Company** has not terminated its adherence consistent with the provisions of the **Code** and the procedures established by the **Monitoring Body**.

## 6 Assessments

### 6.1 Types of Assessment

- (1) According to Principle 2, Section 1 of the Code, there shall be three types of assessments. Those shall reflect the lifecycle of an adherent **Monitored Company**.
- (2) There shall be an assessment prior to the enlisting of a **Monitored Company** in the Public Register. This type of assessment shall be referred to a “**Initial Assessment**”.
- (3) There shall be regular reviews. Regular review shall take place at a minimum annually. This type of assessment shall be referred to as “**Recurring Assessment**”.
- (4) There shall be additional reviews, which shall take place in case of complaints, alerts, or any occasion, which provide the **Monitoring Body** with information that raises reasonable concerns of compliance of the affected **Monitored Company**. This type of assessment shall be referred to as “**Ad-hoc Assessment**”.

### 6.2 General Aspects

- (1) **Monitored Companies** that want to adhere to the Code shall submit their interest of being listed as adherent in the public register to the **Monitoring Body**.
- (2) The **Monitoring Body** shall process the indicated interest accordingly.
- (3) To ensure compliance with the **Code** and providing the **Monitoring Body** with sufficient information and powers, the

submission of interest shall be completed with legally binding statements and sufficient information by which the **Monitoring Body** can conclude on the compliance by the **Monitored Companies** or, where applicable, distinct **Monitored Services**, altogether referred to as “**Declaration of Adherence**”.

- (4) The **Declaration of Adherence** shall follow standardized procedures, to ensure a high quality of processing by the **Monitoring Body**, comparability of decisions, and overall, a fair and transparent procedure.
- (5) In the context of 6.2 (4), the **Monitoring Body** may define templates, that must be used to declare adherence. Where **Monitored Company** refuses to use the provided templates, this may result into a negative conclusion by the **Monitoring Body**.
- (6) Declaration of Adherence shall, at a minimum, require the following elements:
  - execution of a legally binding agreement, governing the Monitoring Services and relation between the **Monitored Company** and the **Monitoring Body**;
  - Name of the **Monitored Company**;
  - Contact details of the **Monitored Company**;
  - Contact details of the Data Protection Officer, where applicable;
  - a legally binding statement, that **Monitored Company** or, where applicable, distinct **Monitored Services**, is fully compliant with all requirements of the Code;
  - a copy of the current Data Pro Statement as used by the **Monitored Company**;
  - a copy of the current contractual clauses for processing as used by the **Monitored Company**.
- (7) The elements as of 6.2 (6) are non-exhaustive. Where the Declaration of Adherence Agreement or any applicable procedures stipulate that **Monitored Company** shall provide additional information, **Monitored Company** must not refuse cooperation with reference to 6.2 (6).
- (8) **Monitored Company** shall adequately cooperate with the **Monitoring Body** during the Assessment, especially providing additional information where requested by the **Monitoring Body** to determine **Monitored Company's** or, where applicable, distinct **Monitored Services**, compliance with the **Code**. Unreasonable refusal of cooperation may result in a negative conclusion by the **Monitoring Body**.
- (9) To the extent possible and feasible, the **Declaration of Adherence**, and subsequent procedures, shall be processed electronically.
- (10) To the extent the **Code**, the **Framework**, or any other applicable document will foresee different options of adherence, i.e.,

voluntarily extended means of monitoring services, the **Monitoring Body** shall provide for adequate procedures.

## 6.3 Assessment Process

### 6.3.1 General

- (1) Notwithstanding the powers of the supervisory authority and notwithstanding any requirements stipulated by Article 41 GDPR, the **Monitoring Body** shall assess whether a **Monitored Company** or, where applicable, distinct **Monitored Services**, that declared adherence, is compliant with the requirements of the Code.
- (2) The assessment process shall be based on an evidence-based conformity assessment, without limiting the **Monitoring Body's** powers as provided under GDPR.
- (3) The evidence-based conformity assessment shall be based on interviews and document reviews, which are pro-actively performed by the **Monitoring Body**.
- (4) Upon request by the **Monitoring Body**, the **Monitored Company** shall provide information relevant for the Declaration of Adherence in an up-to-date and accurate manner.
- (5) A **Monitored Company** shall notify the **Monitoring Body** promptly whenever information provided within the Declaration of Adherence becomes outdated or inaccurate, regardless of its reason.
- (6) Providing outdated or false information could amount to an infringement of the

**Code**. The lack of notification shall be treated as providing outdated or inaccurate information.

- (7) Where the **Monitoring Body** is not satisfied with the information and evidence provided by a **Monitored Company** at first place, the **Monitoring Body** is entitled to require additional information.
- (8) Especially in cases of inaccurate or inconsistent information provided by the **Monitored Company**, the **Monitoring Body** is entitled to request further substantiation. Such additional substantiation can be required to be provided by reports of independent assessors. Alternatively, and where feasible, further substantiation can also be gathered by **Monitoring Body** during an on-premises review.
- (9) Costs related to requested additional substantiation as provided by 6.3.1 (8), be it a third-party report or the costs related to the on-premises review, shall be borne by the **Monitored Company**.
- (10) The **Monitoring Body** shall not conclude positively on a **Monitored Company's** adherence to the Code, as long as the **Monitoring Body** is not convincingly satisfied by the provided evidence demonstrating the compliance with the Code.
- (11) To the extent the **Monitored Company** utilizes copyrighted elements, such as the Data Pro Statement, **Monitored Company** shall provide the **Monitoring Body** with

evidence of holding required licenses. The **Monitoring Body** may conclude negatively, where doubts remain regarding the appropriate licensing of such copyrighted elements. The **Monitored Company** acknowledges, that the **Monitoring Body** may require confirmation by the copyright holder, without additional consent by the **Monitored Company** as part of the **Monitoring Services**.

- (12) The **Monitoring Body** shall be entitled to require upfront payments. Outstanding fees, unless agreed upon explicitly and separately with **Monitored Company**, shall prevent the **Monitoring Body** from concluding positively.
- (13) To ensure an effective and appropriate monitoring, the amount of deviating statements in a Data Pro Statement can be limited. Such limitation shall be made transparent in the price list. If not stated differently, per declaration of adherence, that shall be not more than five (5) products respectively services in a Data Pro Statement per declaration of adherence.
- (14) A **Monitored Company** whose Declaration of Adherence was not positively concluded by the **Monitoring Body** during the Initial Assessment may submit a revised Declaration of Adherence and information, subject to the fees as indicated by the price list.

### 6.3.2 Initial Assessment

- (1) The **Monitored Company** shall submit its Declaration of Adherence.
- (2) The **Monitoring Body** shall evaluate the eligibility of the **Monitored Company**, i.e., assess that the **Monitored Company**, respectively its **Monitored Services**, fall within the scope of the **Code**, that the information about the **Monitored Company** is accurate – i.e. e.g., the legal name, legal form, registered address –, that fees have been paid, relevant agreements are in place, copyrighted materials are sufficiently licenced.
- (3) The **Monitoring Body** shall determine that the Declaration of Adherence was submitted complete and in accordance with the procedures. The **Monitoring Body** shall especially ensure that the Declaration of Adherence was submitted by accepted means and based on any mandatory templates as provided by the Declaration of Adherence Agreement, this **Framework**, or any other applicable procedures.
- (4) The **Monitoring Body** shall validate that the copy of the Data Pro Statement is complete.
- (5) The **Monitoring Body** shall validate that the contractual clauses are based on the Standard Clauses for Data Processing that are part of the Data Pro Code and that the provided copy of such contractual clauses is complete.



- (6) If the **Monitored Company** does not use the Standard Clauses for Data Processing that are part of the Data Pro Code, but comparable contractual clauses, the **Monitoring Body** shall conclude on the comparability. Details shall be governed by a dedicated procedure, see 6.3.5.
  - (7) Additionally to the validation of completion, as laid-down in 6.3.2 (4) and (5), the **Monitoring Body** shall assess whether the provided information in the Data Pro Statement is inherently consistent.
  - (8) The assessment of completeness and inherent consistency shall be performed in-depth for a minimum of five percent (5%) of the total number of **Monitored Companies** per year, subject to randomization.
  - (9) Provided that the information provided to the **Monitoring Body** is complete and does not give reason to doubt their accuracy, especially those statements made in the Data Pro Statement, the **Monitoring Body** shall conclude positively on the Declaration of Adherence.
  - (10) The Initial Assessment is subject to the fees as outlined in the price list.
  - (11) Fees are due, even in case of a negative conclusion by the **Monitoring Body**.
- (2) Where applicable, the **Monitored Company** shall provide the **Monitoring Body** with any updated documents, i.e., the Data Pro Statement and the contractual clauses.
  - (3) Where applicable, the **Monitored Company** shall provide the **Monitoring Body** with any updated information about itself.
  - (4) If no updates will be provided, see 6.3.3 (1) and (3), **Monitored Company** shall formally confirm that no updates were performed; in this context also refer to 6.3.1 (6).
  - (5) Significant changes – e.g., an extension of **Monitored Services**, change of the legal status or name of the **Monitored Company**, significant changes in the Data Pro Statement or changes to the contractual clauses– shall pro-actively notified by the **Monitored Company** and subsequently be subject to a Recurring Assessment.

#### 6.3.4 Ad-Hoc Assessment

- (1) The provisions for Recurring Assessment shall apply accordingly, unless specified differently in this section.
- (2) If the **Monitoring Body** has any reason to doubt a **Monitored Company's** compliance with the Code, it shall perform an Ad-hoc Assessment.
- (3) Reason to doubt a **Monitored Companies** compliance with the Code may result from a complaint, an adverse media report or anonymous feedback.

(4) To the extent feasible and related to the doubts of the **Monitoring Body**, the **Monitoring Body** shall request supporting information from the **Monitored Company** in accordance with the principles as laid down in Appendix 2 of the Code. It shall be deemed sufficient to assess that the **Monitored Company** has performed its due assessment and drawn its conclusions based on reasonable facts and considerations. The **Monitoring Body** shall only conclude negatively where the provided information by the **Monitored Company** unfolds a clear breach with the indicated principles or underlying legal obligations, including the related Guidelines of the European Data Protection Board.

### 6.3.5 Procedure on concluding comparability of the contractual clauses

- (1) The burden of proof for comparability shall be with the **Monitored Company**.
- (2) The **Monitored Company** shall lay down in detail, where the elements of the Standard Clauses for Data Processing that are part of the Data Pro Code are reflected in the individual contractual clauses of the **Monitored Company**.
- (3) The **Monitored Company** shall outline any deviation and provide the **Monitoring Body** with adequate explanations and reasons, enabling the **Monitoring Body** to determine whether the deviation results in any adverse effects compared to the Standard

Clauses for Data Processing that are part of the Data Pro Code.

- (4) The assessment of the comparability of the contractual clauses shall be subject to a dedicated fee, compensating the additional efforts required by the **Monitoring Body**.

## 6.4 Results of Assessment

- (1) Once concluded compliant, the **Monitoring Body** incorporates the **Monitored Company** into the Public Register.
- (2) The Public Register shall at least provide the following information:
  - **Monitored Company** adherent to the Code;
  - Date of last Declaration of Adherence;
  - Validity of Adherence;
  - Copy of the current Data Pro Statement as used by the **Monitored Company**;
  - Copy of the current contractual clauses as used by the **Monitored Company** – where the **Monitored Company** uses the Standard contractual clauses as provided by the Code, an indication of this fact shall suffice;
  - where applicable, selected option of monitoring.
- (3) Where provided by the Code-Owner, the **Monitored Company** shall receive an official “Data Pro Code Adherence Mark”. This Data Pro Code Adherence Mark shall replace the “Data Pro Certificate” as

indicated by the Code, to prevent unnecessary linguistic confusion between Article 40 and Article 42 GDPR.

- (4) Where a Data Pro Code Adherence Mark will be provided, this shall be subject to licence and usage policies. Those policies shall ensure that the Data Pro Code Adherence Mark will not be used in an abusive manner by the **Monitored Companies** and will provide for sufficient transparency on what it relates to.

## 7 Functions and Powers of the Monitoring Body

- (1) Notwithstanding any legally mandatory functions, as they may derive e.g. directly from GDPR, subsequent Guidelines of the European Data Protection Board, or national Accreditation Criteria, the **Monitoring Body** performs the following functions:

- Review and report compliance of the **Monitored Company** or, where applicable, distinct **Monitored Services**, declared adherent with the Code;
- Regularly monitor whether adherent **Monitored Companies** or, where applicable, distinct **Monitored Services**, are compliant with the Code;
- Review and decide complaints about infringements of the Code by adherent **Monitored Companies**;
- Establish procedures and structures to deal with complaints about infringements

of the Code or the manner in which the Code has been, or is being, implemented by **Monitored Companies**, and transparently communicate these procedures and structures;

- Implement procedures and structures that prevent conflicts of interests;
- take appropriate action, selecting from sanctions laid down in Principle 2 Section 2 or, where applicable, laid down in this **Framework**;
- Inform the competent supervisory authority of actions taken against **Monitored Companies** or, where applicable, distinct **Monitored Services**, and the reasons for taking them.

- (2) The **Monitoring Body** shall be sufficiently empowered to perform its functions. Its powers shall be as laid down in this **Framework**. To the extent this Framework, or any other applicable procedures and agreements, do not explicitly foresee the **Monitoring Body** with sufficient powers, those powers shall be deemed granted by law. In this case, the **Monitoring Body** shall align with the Competent Supervisory Authority and seek for a written statement that the **Monitoring Body** is provided with such powers by law. This **Framework**, or any other relevant documents, shall be updated and clarified accordingly and without undue delay.

## 8 Sanctions and Remedies

### 8.1 General Principles

(1) According to Principle 2 Section 2 of the Code, the **Monitoring Body** shall be empowered to impose sanctions and remedies on **Monitored Companies**, where the **Monitoring Body** unfolds non-compliance with the Code.

(2) By imposing sanctions and remedies the **Monitoring Body** shall act appropriate and proportionate. Therefore, the **Monitoring Body** shall consider the following aspects with every decision:

- severity of non-compliance with regards to the potential impact on level of data protection related to the personal data processed, including the potential impact on the freedoms and rights of data subjects;
- culpability of the **Monitored Company** - whether the **Monitored Company** intentionally disrespected the requirements of the Code or negligently misinterpreted them;
- frequency of non-compliance - has it been the first breach or have there been similar incidents before

(3) Where a non-compliance has been determined, the **Monitoring Body** shall impose sanctions and remedies that can be one or any combination of the following:

- non-public but formal reprimand;

- temporary or permanent revocation of the adherence to the Code related to the **Monitored Services** concerned;

- temporary or permanent revocation of the adherence to the Code related to the **Monitored Company** and any of its services and products.

(4) A temporary or permanent revocation of adherence shall result into a delisting from the Public Register.

(5) According to Principle 2 Section 2 the **Monitoring Body** may, where deemed necessary, accompany the delisting with an adequate public communication.

(6) Without prejudice to Article 41.4 GDPR, the **Monitoring Body** shall proactively and in due time notify the competent supervisory authority of sanctions and remedies imposed on **Monitored Companies** and the reasons for taking them, including non-public but formal reprimands.

(7) If not stated differently in the decision by the **Monitoring Body**, any decision and its inherently imposed sanctions and remedies, shall take immediate effect, unless stated otherwise by this **Framework** or applicable procedures.

### 8.2 Remedies

(1) If the **Monitoring Body** determines a non-compliance, the **Monitoring Body** shall request from **Monitored Company** that the infringement is resolved in due time.

- (2) The **Monitoring Body** shall provide the **Monitored Company** with the possibility to provide a statement, including its intended actions and roadmap to resolve the determined infringements.
- (3) When imposing and requesting remedies, the **Monitoring Body** may rely on the suggested actions and roadmap (see 8.2(2)), as indicated by the **Monitored Company**. If the **Monitoring Body** considers either the suggested actions or the suggested roadmap insufficient, the **Monitoring Body** shall be empowered to define the required actions by **Monitored Company** and to determine the period in which the actions must be completed.

## 9 Complaints

### 9.1 Principles

- (1) The **Monitoring Body** shall handle complaints by fair and transparent procedures.
- (2) There shall be two types of complaints:
  - complaints that relate to a potential non-compliance of a **Monitored Company**;
  - complaints by a **Monitored Company** related to a decision by the **Monitoring Body** against such **Monitored Company**.
- (3) The **Monitoring Body** shall ensure, that complaints are treated free from conflicts of interest.
- (4) Any party subject to the complaint, be the complainant or the accused, shall be

provided with adequate means for substantiation of accusations respectively for providing arguments of defence.

- (5) To the extent the disclosure of the respective other party is not required for the orderly processing of the complaint, the **Monitoring Body** may not disclose the identity of such party.
- (6) Notwithstanding 9 (5), the **Monitoring Body** shall be entitled to disclose the respective other party without additional consent as it shall be deemed a necessary element for the processing of a complaint.
- (7) Complainants, who do not want to be disclosed to the **Monitored Company**, shall be provided with an option to file a complaint without explicitly disclosing their identity. This may not prevent the **Monitored Company** to identify the complainant by other means, e.g., specifics of the facts that are subject to the complaint.

### 9.2 Complaints against a decision of the Monitoring Body

- (1) A **Monitored Company**, against which the **Monitoring Body** has taken a decision, shall be entitled to file a complaint.
- (2) The complaint shall require the **Monitoring Body** to review its decision.
- (3) Subject of such review shall be the situation as it was at the time of the decision by the **Monitoring Body**. Information, that was provided to the **Monitoring Body** after

such decision, shall generally be irrelevant.

- (4) Where the **Monitoring Body** will be provided with additional information that makes its prior decision obsolete or apparently inadequately harsh, the **Monitoring Body** may – at its own discretion – re-decide on the subject matter.
- (5) Complaints shall be filed by the **Monitored Company** within the applicable default period in the applicable procedures, see 6 Rules of Procedure in its modified version by 4.1 (8) Code-Specific Procedures.
- (6) A complaint shall have suspensive effect, if foreseen in the decision of the **Monitoring Body** against which the complaint is filed.

### 9.3 Complaints against compliance of a Monitored Company

- (1) Anyone can file a complaint, substantiating a potential infringement of the Code by a **Monitored Company**.
- (2) The complaint shall comprise of the relevant requirement of the Code, that the complainant claims to be infringed by the **Monitored Company**, the **Monitored Company**, and the necessary facts that substantiate the claim, allowing the **Monitoring Body** to conclude if the complaint is justified.
- (3) Where the complaint does not provide sufficient facts to conclude, the **Monitoring Body** shall further investigate, to the

extent reasonable in relation to the required resources and the potential infringement. Where deemed unreasonable, the **Monitoring Body** may, without any further requirements, close the complaint as unjustified respectively non-eligible.

- (4) Even if the **Monitoring Body** decides that the complaint was not justified, this shall not limit the **Monitoring Body** to perform an Ad-hoc Assessment, if and to the extent the complaint gave reason to doubt the **Monitored Companies** compliance.

### 9.4 Costs

- (1) Generally, there shall be no costs for complainants.
- (2) The **Monitoring Body** may foresee costs for complainants, to avoid potential abuse due to manifestly unfounded or excessive complaints, in particular if they are recurring.
- (3) To the extent a complaint is justified, the **Monitoring Body** may impose related administrative costs, i.e., the costs for the performance of the Complaints Committee, on the **Monitored Company** as element of its imposed sanctions.
- (4) If and to the extent the processing of the complaint requires additional efforts than document review, e.g., travelling, on-premises reviews, external expert opinions, those costs shall be borne by the **Monitored Company**.

## 10 Conditions to use the Data Pro Code Adherence Mark – Principles

- (1) The **Monitored Company** may only use the Data Pro Code Adherence Mark with regards to the **Monitored Services** upon which the **Monitoring Body** concluded positively in regards of their compliance with the Code.
- (2) The **Monitored Company** must not use the Data Pro Code Adherence Mark abusively. Abusive reference may cumulate to an infringement of the Code.
- (3) The use of the Data Pro Code Adherence Mark shall be subject to further policies, outlining the appropriate integration in **Monitored Company's** communication. Such policies may foresee whether it may be used as a standalone mark, be accompanied with explanatory language on the Code, a reference to the Public Register, and alike. Such policies may also provide for an obligation to communicate adherence to the Code, alongside the Data Pro Code Adherence Mark in public-facing communication of the **Monitored Company**.
- (4) At a minimum, whenever a Data Pro Code Adherence Mark is used, it shall be used alongside with a reference to the Public Register and the unique identifier assigned by the **Monitoring Body**.

- (5) The unique identifier shall be referred to as “Adherence-ID”.

## 11 Confidentiality

- (1) The **Monitoring Body** shall use the information obtained during the performance of Monitoring Services only related to its responsibilities pursuant to the Code.
- (2) The **Monitoring Body** including any persons working on its behalf, shall be bound by an obligation of confidentiality.
- (3) The **Monitoring Body** shall implement reasonable measures to keep all information received in the context of its activities undisclosed and adequately protected from unauthorized access.
- (4) The **Monitoring Body** shall delete Information received when such information is no longer necessary for the purpose it was obtained, unless otherwise determined by applicable mandatory law, and unless required by the **Monitoring Body** to comply with its transparency and reporting obligations to the competent supervisory authority as accredited **Monitoring Body** pursuant Art. 41 GDPR.



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### **About SCOPE Europe**

SCOPE Europe sprl / bvba (SCOPE Europe) is a subsidiary of SRIW. Located in Brussels, it continues and complement the portfolio of SRIW in Europe and is an accredited monitoring body under the European General Data Protection Regulation since May 2021, pursuant to Article 41 GDPR. SCOPE Europe gathered expertise in levelling industry and data subject needs and interests to credible but also rigorous provisions and controls. SCOPE Europe also acts as monitoring body for the EU Data Protection Code of Conduct for Cloud Service Providers and is engaged in other GDPR code of conduct initiatives.