

INTERNATIONAL ASSOCIATION OF JUDGES

2nd STUDY COMMISSION

REPORT FROM SLOVENIA

How data protection rules are impacting on the way judges work in civil litigation?

1. In your jurisdiction is a court considered to be a data controller for data protection law purposes in all, or any, of the following situations:

The controllers of personal data are the individual courts where concrete legal proceedings are conducted or where the individual's application is considered. Courts process personal data both when performing their basic judicial function, as well as within the scope of fulfilling the duties of the judicial administration.

- a. When performing its judicial functions?

Yes. The set of personal data that is collected and processed within an individual type of legal procedure is determined by individual laws depending on the specific content of the individual legal procedure (e.g. Civil Procedure Act, Criminal Procedure Act, Free Legal Aid Act, Court Fees Act, Act on Financial Operations, Insolvency Procedures and Compulsory Termination, Act on Misdemeanors).

These are personal data that the courts need and process in specific court cases to perform the function of judging or conducting court proceedings, such as personal names, addresses, dates of birth, identification numbers of parties and other participants in the proceedings (e.g. witnesses) and their proxies and other data in the context of legal proceedings, including special types of personal data (e.g. personal data that reveal racial or ethnic origin, political opinion, religious or philosophical belief or trade union membership, data related to health) and personal data related to criminal convictions and misdemeanors. The data can be found in court files or registers, directories and auxiliary books of courts.

- b. For purposes connected with the administration of justice, including the publication of a judgment or court decision, or a list or schedule of proceedings or of hearings in proceedings?

Yes, in that context the court is also considered to be a data controller. Courts may process personal data within the framework of the execution of court administration tasks, which are intended to ensure security in courts, knowledge management, planning, organizing, staffing, coordination, communication, implementation of technological support for court operations, ensuring the functioning of legal information systems of courts and in the implementation other tasks which, on the basis of the law, court rules and other regulations, ensure the conditions for the regular exercise of judicial authority.

As part of exercising the powers of judicial administration, courts process:

- personal identification data and data necessary for communication, e.g. first and last name, address, email address, telephone number,
- data necessary to process an individual's application, e.g. description of the request or

request,

- data collected through video surveillance of court buildings and premises.

- c. For purposes connected with the efficient management and operation of the courts and for statistical purposes?

This aim is not foreseen in Slovenian legislation.

2. In your jurisdiction does a data subject (e.g. a party to litigation, a witness, or a party whose interests may be affected by the litigation) have a right to information regarding the processing of their personal data by or on behalf of the courts?

The rights that an individual has in relation to the processing of personal data by the courts depend on whether the courts process them in the context of the execution of a judicial function or in the performance of judicial administration tasks:

a) Execution of judicial function

In case of processing of personal data for the performance of judicial functions in court matters, the individual to whom the personal data relates may exercise the rights guaranteed by the General Regulation on the Protection of Personal Data and the Personal Data Protection Act (ZVOP-2) only to the extent and in the manner specified by the laws governing the legal proceedings in his case (the third paragraph of Article 19 of the Personal Data Protection Act).

b) Execution of court administration tasks

In the case of processing of personal data that is not carried out for the performance of judicial functions in court matters, the individual has the following rights, which depend on the legal basis on which the individual processing is based:

- information on processing or the right of access (Article 15 of the General Regulation on the Protection of Personal Data),
- correction of incorrect data (Article 16 of the General Regulation on the Protection of Personal Data),
- deletion of data that is no longer necessary (Article 17 of the General Regulation on the Protection of Personal Data),
- restriction of processing (Article 18 of the General Regulation on the Protection of Personal Data),
- data portability (Article 20 of the General Regulation on the Protection of Personal Data),
- objection to processing (Article 21 of the General Regulation on the Protection of Personal Data).

3. In your jurisdiction does a data subject whose personal data is published in a court document such as a judgment, have the right to seek rectification of allegedly inaccurate or inappropriately disclosed personal data?

The individual to whom the personal data relates in a legal proceeding implements his request

for the correction of personal data by using objections, ordinary or extraordinary legal remedies in accordance with the laws governing the judicial procedure in his case (the third paragraph of Article 12.a of the Act on Courts).

4. In your jurisdiction is personal data contained in a judgment or decision of a court, or in a list or schedule of proceedings or hearings, generally made accessible to the public? If so, are there exceptions and what are they? If not, is there a redaction requirement, or alternative requirement, to be implemented before a judgment / list /schedule can be published so as to safeguard the rights of data subjects?

Court proceedings are, with exceptions, public. An individual participant in the court proceedings must therefore expect a certain narrowing of the field of his privacy due to the publicity of the trial, since individual facts from his private life are revealed already at the public court hearing, but they can also be the subject of journalistic reporting.

Within the courts, only those persons who are entrusted with the management of proceedings in which individual personal data are located have access to personal data. These are, in particular, judges responsible for the procedure in question and other court employees (e.g. professional associates, recorders, registrars).

Personal data of parties or other participants in the legal proceedings may be forwarded to:

- to other parties and their representatives in accordance with procedural legislation (e.g. Articles 189 and 199 of the Civil Procedure Act),
- to other participants in the procedure and to persons who have a legitimate interest or benefit, in accordance with procedural regulations (e.g. Article 150 of the Civil Procedure Act or Article 128 of the Criminal Procedure Act),
- court experts, interpreters, appraisers,
- bankruptcy trustees, executors, notaries,
- to other courts for the purposes of the procedure (first paragraph, Article 12.a of the Courts Act),
- the media and the general public (for the purposes of implementing Article 17 a of the Courts Act),
- to state and other public bodies upon proven legal grounds (Article 13 of the Courts Act),
- to scientific research organizations upon fulfillment of the conditions,
- courts and competent authorities of other countries for the purpose of fulfilling legal obligations (fourth paragraph of Article 12.a of the Courts Act),
- in pseudonymized form, the personal data of the parties and other participants in the procedure are published in the case law database.
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Other personal data processed by the judiciary (outside of specific legal proceedings) may be forwarded to third parties and competent authorities only in the case of a concrete legal basis.

5. How are complaints addressed in your jurisdiction concerning alleged breaches by the courts of the rights of data subjects? Does your jurisdiction have a person or body with special responsibility for the supervision of data processing operations of courts when acting in their judicial capacity?

Complaints can be made to the Information Commissioner of the Republic of Slovenia against the controller's behavior in relation to the protection of personal data in the performance of court administration tasks. In order to ensure the independence of the judiciary, the Information Commissioner is not competent to supervise the processing of personal data carried out in the context of court cases or related decision-making by professional associates or judicial assistants, court interpreters, court experts and court appraisers determined by court order (48 Article of the Personal Data Protection Act). An individual who believes that the controller violates his rights, established by the General Regulation or by the laws governing the processing or protection of personal data, can file a lawsuit in an administrative dispute before the administrative court to request judicial protection of his rights.

Also, in order to ensure the independence of the judiciary, the authorized person for the protection of personal data may not perform tasks related to the processing of personal data in specific court cases or when courts process personal data in the context of the exercise of their judicial function. This means that the authorized person can perform his tasks exclusively in the field of judicial administration of the court, when it does not act as a judicial authority.

6. In your experience have data protection rules impacted adversely on your judicial independence? If so, how have they done so?

No such example was gathered when preparing this report.