

INTERNATIONAL ASSOCIATION OF JUDGES
2nd STUDY COMMISSION

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

REPLIES OF THE ASSOCIATION OF JUDGES OF THE REPUBLIC OF ARMENIA

The 2023 questionnaire asks for responses to the following questions:

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:

a. When performing its judicial functions?

When performing judicial functions, the court may, by law, carry out a data check in two stages: when accepting a claim or an application, which is carried out superficially (for example, the court cannot fully carry out a check of the addresses and personal data of the parties) and during the examination of the case, in case of a controversial issue: either by mediation of the parties or on its own initiative.

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?

The official electronic information system datalex.am was implemented in the Republic of Armenia, but it did not work for about 6 months in 2022 due to the confiscation of the server within the framework of the criminal case, and since February 2023, due to an electronic problem, it has been working with failures until today. That website includes information on the publication of judicial acts, a schedule of court hearings, and a variety of other information on specific civil cases. It does not include information on civil cases that are subject to in camera proceedings (private hearings). The official electronic information system Datalex does not reflect the judicial acts of the Anti-corruption Court and the schedule of court hearings, this information is distributed by the Supreme Judicial Council through the official website.

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

Apart from the electronic system mentioned above, there are no other information means for judges. As for the control of data by the courts, since April of this year, an electronic system has been invested in the Republic of Armenia, by which judges have got access to not all, but certain state information systems, through which they can control some data received during the examination of cases.

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?

People participating in civil proceedings can freely obtain all the data included in the civil case materials, or petition the court to request relevant information from the appropriate authorities. Those people do not include witnesses and experts, who can get acquainted with the records of the actions carried out with their participation, but not with the material of the entire case. People may also request data from civil proceedings with completed and archived cases and/or familiarize with the cases already through court offices.

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?

This is highly dependent on the nature of the personal data being viewed inaccurately. The person participating in the case can submit an application to the judge to correct the erratum, and the question of correcting or leaving it without consequence is decided by the given judge. As for the data of such a nature, which were the subject of the investigation of the case, their change may lead to the change of the essence of the already published judicial act, which is prohibited. In such cases, the party may appeal the judicial act on general grounds.

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?

The final judicial act usually reflects certain personal data of a person, such as full name, surname, patronymic, passport data; address, place of work, fact of marriage, family composition, etc., may be also reflected. Judicial acts are posted on the official website and are publicly available in the Republic of Armenia. Exceptions are those acts which are examined by court decision in a private hearings (adoption, etc.).

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?

There is a Judicial Department adjacent to the Supreme Judicial Council in the Republic of Armenia, which, however, does not generally exercise control over data processing functions. Complaints on human rights violations are usually attributed to individual judges, addressed to the Minister of Justice and the Ethics Commission of the General Assembly of Judges, and

subsequently become the subject of disciplinary proceedings against judges at the Supreme Judicial Council.

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

Currently, the focus of attention in the Republic of Armenia is not on the protection of data of individuals and legal entities, but on the personal data of individual judges: activities, public speech, accounts of judges on social networks, etc. Both the public and the Ministry of Justice, which is part of the executive branch, monitor all actions of the judge both outside of work and at the workplace. The data included in the annual declarations about each judge and submitted to the review of the competent authorities are published and made public almost in full. Thus, as a result of such monitoring by the spokesperson of the Ministry of Justice, due to the judge's post on social networks, the judge's powers were suspended. These processes are carried out not only in order to limit the independence of the judge on target, but also as a result of the "butterfly effect", they certainly endanger the independence of other judges and the judicial system of the Republic of Armenia.