

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?

Yes

Estonian Personal Data Protection Act § 15:

Law enforcement authorities may process personal data pursuant to law if the processing thereof is required for performance of the functions arising from the purpose of prevention, detection and proceedings of offences and execution of punishments.

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

Estonian Personal Data Protection Act § 16:

(1) Processing of personal data by the same or another controller for other purposes provided for in subsection 12 (1) of this Act, which are not the initial purposes for which the personal data was collected, is permitted insofar as:

1) the controller has the grounds pursuant to law or the legislation of the European Union for processing of personal data for such purposes; and

2) such processing of personal data is required according to law or the legislation of the European Union and it is proportional with the purpose pursued.

(2) Personal data collected or to be collected by law enforcement authorities for the purposes provided for in subsection 12 (1) of this Act may not be processed for any other purposes, except in the cases provided for in subsection (1) of this section or if such processing is permitted by law or the legislation of the European Union. If personal data are processed for such other purposes, Regulation (EU) 2016/679 of the European Parliament and of the Council shall apply, except in the case personal data are processed in the course of such activities which are not in the scope of regulation of the specified regulation. In any situation where the purposes of processing are not in the scope of application of the specified regulation, the Estonian law shall apply.

(3) If law enforcement authorities also perform, in accordance with law, other functions besides those which are performed for the purposes provided for in subsection 12 (1) of this Act, Regulation (EU) 2016/679 of the European Parliament and of the Council shall apply to processing of personal data for such purposes. In any situation where the purposes of processing are not in the scope of application of the specified regulation, the Estonian law shall apply.

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

No

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?

Yes

Estonian Data Protection Act:

§ 22 (1) The controller is required to disclose the following information:

- 1) the intended purpose of processing of personal data;
- 2) the right of the person to access his or her data and to rectify, erase or restrict thereof and the procedure for the exercise of these rights;
- 3) the name and contact details of the controller and data protection specialist;
- 4) the contact details of the Estonian Data Protection Inspectorate;
- 5) the right to file a complaint to the Estonian Data Protection Inspectorate, if the rights of data subjects have been violated upon processing of personal data.

(2) Disclosure of information on the website of the controller or in any other places which are easily accessible by data subjects is considered to be the disclosure specified in subsection (1) of this section.

§23 (1) If an obligation to notify data subjects of processing of their personal data is provided by law, the controller shall provide the following additional information to the data subject:

- 1) the information specified in subsection 22 (1) of this Act;
- 2) the legal basis for processing of personal data;
- 3) the retention period of personal data or the bases for determining the retention period;
- 4) the categories of the recipients to whom transmission of the personal data is permitted;
- 5) if necessary, any other additional information.

(2) In the cases provided by law, the controller may also transmit the information provided for in subsection (1) of this section to data subjects later, restrict the transmission thereof or not transmit it, if this may:

- 1) prevent or impair prevention, detection or proceedings of offences or execution of punishments;
- 2) damage the rights and freedoms of other persons;
- 3) endanger the national security;
- 4) endanger protection of public order;
- 5) hinder formal investigation or proceedings.

§ 24 (1) Data subjects have the right to obtain a confirmation from the processor of processing of their personal data. At the request of the data subject, the processor of personal data shall communicate the following to the data subject:

- 1) the personal data concerning the data subject and the categories of the personal data concerned;
- 2) the information available about the origin of the personal data;
- 3) the purposes of and legal basis for processing of personal data;
- 4) the recipients or the categories thereof to whom personal data of the data subject have been disclosed;
- 5) the intended retention period of the personal data or the bases for determining the retention period;
- 6) the right to apply to the controller for rectification of the personal data of the data subject, erasure or restriction of processing thereof;
- 7) the right to file a complaint with the Estonian Data Protection Inspectorate and the contact details of the Estonian Data Protection Inspectorate.

(2) In the cases provided by law, the controller may also transmit the information provided for in subsection (1) of this section to data subjects later, restrict the transmission thereof or refuse to issue it if this may:

- 1) prevent or impair prevention, detection or proceedings of offences or execution of punishments;

- 2) damage the rights and freedoms of other persons;
- 3) endanger the national security;
- 4) endanger protection of public order;
- 5) hinder formal investigation or proceedings.

(3) The controller shall notify data subjects immediately in writing of restricting access to the information specified in subsection (1) of this section or refusal to access such information and the reasons for it. The controller need not state the reasons if provision of such information would bring about any of the circumstances specified in subsection (2) of this section.

(4) Upon notification of data subjects in accordance with subsection (3) of this section, the controller shall notify the data subjects of their right to address the Estonian Data Protection Inspectorate or a court in order to appeal the decision.

(5) The controller shall document any factual and legal bases of the decision made pursuant to subsection (2) of this section and, if necessary, make this information available to the Estonian Data Protection Inspectorate.

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?

Yes

Estonian State Liability Act:

§ 7 (1) A person whose rights are violated by the unlawful activities of a public authority in a public law relationship (hereinafter injured party) may claim compensation for damage caused to the person if damage could not be prevented and cannot be eliminated by the protection or restoration of rights in the manner provided for in §§ 3, 4 and 6 of this Act.

§ 9 (1) A natural person may claim financial compensation for non-patrimonial damage upon wrongful degradation of dignity, damage to health, deprivation of liberty, violation of the inviolability of home or private life or the confidentiality of messages or defamation of honour or good name of the person.

(2) Non-patrimonial damage shall be compensated for in proportion to the gravity of the offence and taking into consideration the form and gravity of fault. [RT I 2004, 56, 405 - entry into force 25.07.2004]

§13 (1) The following shall be taken into account upon determining the amount of compensation:

- 1) the extent to which the damage was unforeseeable;
- 2) objective obstacles to preventing damage;
- 3) gravity of the violation of rights;
- 4) limitations, provided for in private law, regarding the part the injured party had in causing the damage;
- 5) other circumstances which would render compensation for damage in full unfair.

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 Constitution of the Republic of Estonia:

§ 24 Court sessions shall be public. A court may, in the cases and pursuant to a procedure provided by a law, declare that a session or a part thereof be closed to protect a state secret or trade secret, morals or the private and family life of persons, or where the interests of a minor, a victim or the administration of justice so require.

Judgment shall be pronounced publicly, except in cases where the interests of a minor, a spouse or a victim require otherwise.

Estonian Code of Civil Procedure:

§ 38 (1) The court declares the proceedings closed to the public – in part or in their entirety – of its own motion or on a motion of a party to proceedings, where this is manifestly needed: 1) in order to protect national security or public order – first and foremost, to protect a State secret or classified information of a foreign State or information intended for an authority's internal use; [RT I 2007, 16, 77 – entry into force 01.01.2008]

2) in order to protect the life, health or freedom of a party to proceedings, a witness or any other person;

3) in order to protect the private life of a party to proceedings, a witness or any other person – unless the interest in the publicity of proceedings prevails over the interest in protecting the private life;

4) in order to maintain the confidentiality of adoption;

5) in the interests of a minor or of a person with an intellectual disability – first and foremost, to examine the person;

6) to protect a business or other similar secret – unless the interest in the publicity of proceedings prevails over the interest in protecting the secret; [RT I 2008, 59, 330 – entry into force 01.01.2009]

7) to examine a person obligated by law to maintain the confidentiality of another person's private life or of a business secret, if the law allows the person to disclose the secret in the proceedings;

8) in order to protect the confidentiality of messages transmitted by post, telegraph, telephone or any other means available to the public.

(2) In a situation that is not mentioned in subsection 1 of this section but in which it is manifest that objective administration of justice would otherwise be jeopardised – or in which the closing of the proceedings to the public offers a significantly higher likelihood of convincing the principal parties to terminate the proceedings by a compromise or of reconciling them by any other means – the court may declare the proceedings so closed, in part or in their entirety, of its own motion or on a motion of a party to proceedings.

(3) In situations listed in clauses 2, 3 and 6–8 of subsection 1 of this section, the court does not declare the proceedings closed to the public in part or in their entirety if this is opposed by the person for the protection of whose interests the declaration should be granted.

§ 462 (1) A judgment that has entered into effect is published in the computer network at the designated address. This has no impact on the judgment's entry into effect. [RT I 2008, 59, 330 – entry into force 01.01.2009]

(2) On a motion of the data subject or of the court's own motion, the subject's name in the judgment that has entered into effect is replaced with initials or an alphabetic character and the subject's personal identification number, date of birth, registration number or address are not

published. A judicial disposition does not mask the particulars of a State or municipal authority, of a public legal person or of any other person exercising public authority. [RT I 2007, 12, 66 – entry into force 25.02.2007]

(3) Where the judgment contains personal data of a special category and where publication of the judgment with such data may materially harm the inviolability of the person's private life, even if the provisions of subsection 2 of this section are applied, the court, of its own motion or on that of the data subject, only publishes the operative part of the judgment in the computer network, or does not publish the judgment. The court disposes of the motion by an order. [RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(4) Where a judgment contains information regarding which any other access restriction is prescribed by law, the court, of its own motion or on that of the data subject, only publishes the operative part of the judgment when the judgment has entered into effect.

Estonian Code of Administrative Court Procedure:

§ 175 (1) A judgment which has become final is published at the designated address in the computer network. This has no effect on the judgment's attainment of finality.

(2) Regardless of whether a judgment has or has not become final, the court may, observing the conditions provided in section 89 of this Code, disclose the judgment to any person who requests this.

(3) On the basis of an application of the data subject, or on the court's initiative, the name of the data subject in the judgment to be published is replaced by initials or a sequence of letters, and of his or her personal identification code, date of birth, registration number, address or other particulars which would permit specific identification of the data subject are not published. The particulars of an agency of the State or of a local authority, of a legal person in public law or other person vested with public authority are not concealed in a court decision.

(4) Where a judgment contains sensitive personal data or other data whose publication may significantly harm the right to privacy of the person concerned, and where it is impossible to avoid encroachment on the person's right to privacy by observing, among other things, the provision of subsection 3 of this section, the court, on the basis of the application of the data subject, or on its own initiative, publishes the judgment without the particulars which encroach on the right to privacy, publishes solely the operative part of the judgment, or does not publish the judgment.

(5) If a judgment contains information which is subject to other limitations of access provided by law, the court, on the basis of the application of the interested person, or on its own initiative, publishes the judgment without that information, only publishes the operative part of the judgment, or does not publish the judgment.

Estonian Code of Criminal Procedure:

§ 408¹ (1) A judgment or a court order that has entered into effect and that terminates proceedings in the case is published in a dedicated location of the computer network except if pre-trial proceedings are still pending in the criminal case in which the order was made. [RT I, 23.02.2011, 1 – entry into force 01.09.2011]

(2) A judicial disposition that is made public states the name and personal identification number of the accused or, if they do not possess such a number, their date of birth. The personal identification number and name or date of birth of an underage accused are replaced by initials or a character sign, except if the disposition to be made public is at least the third one convicting the minor of a criminal offence. The court replaces the names and other personal particulars of other persons with initials or character signs. A disposition does not state a person's residence. [RT I, 23.02.2011, 1 – entry into force 01.09.2011]

(3) Where the body or statement of reasons of the judicial disposition contains personal data of specific categories or personal data regarding which another access restriction prescribed by law applies and the disposition allows a person to be identified even though their name and other personal particulars have been replaced with initials or character signs, the court, of its own motion or on an application of the data subject, only makes public the operative or final part of the disposition.[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(4) Where the body or statement of reasons of the judicial disposition contains information regarding which another access restriction prescribed by law applies, the court, of its own motion or on an application of the data subject, only makes public the introductory and the operative or final part of the disposition.[RT I 2007, 12, 66 – entry into force 25.02.2007]

5. How are complaints addressed in your jurisdiction concerning alleged breaches by the courts of the rights of data subjects?

Estonian Personal Data Protection Act:

§ 25. Right of data subjects to request rectification and erasure of personal data

(1) Data subjects have the right to demand from the processor rectification of any inaccurate personal data based on facts concerning the data subject.

(2) Data subjects have the right to request from the controller erasure of any incomplete personal data concerning the data subject if this is appropriate in light of the purpose of processing of personal data.

(3) Data subjects have the right to demand from the controller erasure of the personal data collected if:

1) the processing of personal data is not permitted pursuant to law;
2) the principles of processing of personal data were not taken into account upon processing of the personal data;

3) the controller is obliged to erase the data in order to comply with any obligations under the law, judgment, international agreement or other binding agreements.

4) The controller shall restrict processing of personal data instead of erasing thereof if:

1) the data subject contests the accuracy of the personal data and the accuracy or inaccuracy thereof cannot be ascertained; or

2) the personal data must be retained for verification purposes.

(5) If the controller has implemented, instead of erasure of personal data, restriction of processing of personal data provided for in clause (4) 1) of this section, the controller must notify the data subject of removal of such restriction.

(6) The controller is required to immediately notify the data subject in writing, if the controller refuses to rectify or erase the personal data or restrict the processing thereof, and state the reasons for the refusal. The controller need not state the reasons if provision of such information would bring about any of the circumstances specified in subsection 24 (2) of this Act.

(7) Upon notification of data subjects in accordance with subsection (6) of this section, the controller shall notify the data subjects of their right to address the Estonian Data Protection Inspectorate or a court in order to appeal the decision.

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?

We have data protection and public information specialist both in courts first stage and in appeal courts.

6. In your experience have data protection rules impacted adversely on your judicial independence? No