

LIBERIA'S REPORT ON THE INTERNATIONAL ASSOCIATION OF JUDGES
2ND STUDY COMMISSION 2023

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:
 - a. When performing its judicial functions?
 - 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?
 - c. For purposes connected with the efficient management and operation of the courts and for statistical purposes?

Ans. In our jurisdiction court documents are considered public documents, so, therefore, it does not matter whether it is in the performance of a judicial function, administration of justice, publication of court judgment/decision, or publication of list or schedule of proceedings or hearings or including the efficient management and operations of the courts, the court would not be considered a data controller for purposes connected to data protection law. Once a matter is before the court the information contained in the pleadings of the parties is public including the testimonies of witnesses and as well as the final judgment.

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?

Ans. In our jurisdiction all parties before the court always have the right to request from the Clerk of Court who is the custodian of records of the court, to make copies of documents/information related to his/her case and provide same to him/her/them. The request may include information for personal data as well.

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?

Ans. In our jurisdiction parties before the court have the right to seek rectification of information especially personal which has been inaccurately or inappropriately disclosed. The request for rectification must be done through the office of the Clerk of Court for the attention of the judge who has the authority to order the rectification of the record/data.

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?

Ans. In our jurisdiction, there is no requirement for the publication of court judgments/decisions containing personal data. Once a judgment/decision of a court is made it becomes a public record. The Clerk of Clerk who is the custodian of the records of the court stores and preserves the documents while submitting a copy thereof to the Record Section of the judiciary for documentation and statistical purposes.

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?

Ans. Under Article 73 of the Liberian Constitution, “no judicial official shall be summoned, arrested, detained, prosecuted or tried civilly or criminally by or at the instance of any person or authority on account of judicial opinions rendered or expressed, judicial statements made and judicial acts done in the course of a trial in open court or in chambers... Statements made and acts done by such judicial officials in the course of a judicial proceeding shall be privileged. No such statements made, or acts done shall be admissible into evidence against them at any trial or proceeding.” Given this constitutional reliance, courts or judges cannot be complained against by anyone on account of alleged breaches of data rights.

In this jurisdiction, there is no one with the sole or special responsibility to supervise data processing operations of courts when acting in their judicial capacity.

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

Ans. Data protection rules, if any, have not had any impact on judicial independence in our jurisdiction.