

INTERNATIONAL ASSOCIATION OF JUDGES
2nd STUDY COMMISSION

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

The previous questionnaire on this topic in 2020 investigated:

- Do you store data in your jurisdiction?
- How is it stored and for how long?
- Who had access to the data in your jurisdiction?
- Are there data protection rules in place in your jurisdiction?
- Who covers the costs relating to the storage and protection of the data in your jurisdiction?

The 25 responses received to the 2020 questionnaire were synthesised into principal conclusions published as the Report of the Second Study Commission 2021, which may be accessed on <https://www.iaj-uim.org/> . This year's questionnaire will seek to build on the responses received to the 2020 questionnaire and will focus on how data protection rules specifically impact on the way we as judges do our work.

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?
 - 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?

Yes, based on and for the purposes of the current legislation of Georgia, the court acts as data protection controller in all cases, including the following cases:

- a) when performing judicial functions (justice);
- b) in the administration of justice, including - in the publication of court rulings (decisions), as well as - in the publication of the list (schedules) of court hearings;
- c) in ensuring effective management (activity) of courts and producing statistics.

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, the subject (party to the proceedings, other interested third party, witness, etc.), whose personal data is processed by the court or on its behalf, has access to the information related to this data processing, unless this information contains a secret (including - state secret) 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?

Yes, the subject, whose personal data was processed by mistake or incorrectly disclosed in a court decision, has the right - to request the correction of this error (inaccuracy) in accordance with the procedure established by the applicable procedural legislation.

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?

During the publication of the court decision, personal data is hidden. As for the publication of the list (schedule) of court hearings, without exception, only the names and surnames of the disputing parties are indicated in it. In the event that during the implementation of these procedures, the personal data of any subject is processed by mistake, this subject has the right to correct this error, as well as to demand compensation for the damage caused.

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?

According to Article 3, Clause 3, Sub-Clause "B" of the Law of Georgia "On Personal Data Protection", the operation of this law does not apply to the processing of data for the purposes of legal proceedings in court, as this may harm the legal proceedings before the final decision is made by the court. Thus, the entity defined by this law and equipped with special powers - the Personal Data Protection Service does not supervise the process of personal data processing by the court in the process of justice implementation.

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

In our opinion, the obligation to protect personal data has no impact on judicial independence.

Please reply by the 15th of July 2023 to secretariat@iaj-uim.org, copying your replies to johndwards@judiciary.ie, flaviadciana@gmail.com, msv@domstol.dk , and kmeidsvik@kme-adr.ca,