

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

**Answers of the Association of Judges of the Republic of Moldova**

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?*

The determination of whether a court is considered a data controller can depend on factors such as the specific data protection laws in a jurisdiction, how those laws define data controllers, and the specific context in which the court processes personal data.

In our country, each court is registered in the Register of personal data processing, managed by the National Center for the Protection of Personal Data. Courts process personal data for the purpose of exercising duties provided for by law, in relation to the performance of judicial activity and other administrative activities (particularly those concerning human resources).

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?*

According to the Law on Personal Data Protection nr. 133 from 08.07.2011, a data subject has the right to information regarding their personal data by filing a petition with the court involved in the litigation or with the Center for Personal Data Protection.

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?*

In many jurisdictions, court documents are considered public records, and the processing of personal data in such documents might be subject to different rules compared to other types of processing. While individuals generally have the right to rectify inaccurate personal data held by data controllers, this right might be limited when it comes to personal

data included in court documents. In our jurisdiction, a data subject should submit a written petition to the court where the document is filed if their personal data are inaccurately or inappropriately disclosed. As a result, an employee from the court responsible for P.I.G.D. (Integrated Program for managing cases) will rectify the information immediately.

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?*

In our legal system, court judgments and decisions are customarily considered public records. Consequently, these documents might contain personal data that becomes accessible to the public. This practice is rooted in the principles of transparency and accountability that underpin our judicial processes. However, the scope of accessibility to personal data and the exceptions to this rule can differ based on the specific jurisdiction and legal framework in place.

One key consideration centers around the public interest. The decision to make personal data in court documents accessible often requires a careful balance between the public's right to information about legal proceedings and the imperative to safeguard individual privacy rights. For instance, judgments or decisions that carry significant public interest—like landmark cases or those involving public figures—may be more readily available to the public.

To ensure the rights of individuals are protected, there might be instances where the courts or the relevant authorities mandate redaction, either partial or complete, of specific personal information before the public release of a judgment or document. This process ensures individual privacy rights are upheld while maintaining the overarching transparency essential to the judicial system.

All judgments or decisions of the court in our country are posted on judges national portal, where all the information is accessible to the public with some exceptions, such as: date of birth, home address, personal identification number, and other personal data which are sufficient to identify the subject. Also the judgments and decisions given in files expressly excluded from publication are not posted, such as: data and decisions given in cases concerning minors and family, treason, espionage, rape, sexual intercourse with a minor, incest, child pornography, obligation to medical treatment, prohibition, invention patents, 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?*

Within our legal systems, complaints concerning perceived violations of a data subject's rights by courts are typically addressed using a blend of legal processes and established protocols. If an individual believes their data rights have been infringed upon,

a specific course of action is recommended. Initially, they may need to approach the court that rendered the judgment or decision in question. This approach can encompass voicing concerns to the court's administrative division or pertinent staff members. In instances where personal data appears to be inaccurately or inappropriately revealed, the data subject should present a formal written petition to the court where the document originated. Following this, a designated employee from the court, typically from the P.I.G.D. (Integrated Program for Managing Cases), will promptly amend the data as necessary.

Should the asserted violation pertain specifically to breaches of data protection regulations, the aggrieved party may reserve the right to lodge a formal complaint with the pertinent data protection oversight body. Upon receiving such complaints, this authority undertakes a thorough review and, if justified, initiates corresponding corrective measures.

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

Data protection rules, while essential for safeguarding individuals' privacy and personal data, can sometimes intersect with the principle of judicial independence in various ways. Judicial independence refers to the separation of the judiciary from undue influence or interference by other branches of government or external factors. Data protection rules, such as the right to access personal data and the right to be forgotten, can sometimes be in tension with the need for transparency in the administration of justice. If certain personal data is redacted or removed from court documents, it might impact the public's ability to assess the fairness and transparency of judicial decisions.

In our experience, data protection rules have never adversely impacted our judicial independence. Judges should always remain impartial, unbiased, and fair. They always examine a case considering legislation, evidence, and the balance of probabilities.

Overall, judges play a pivotal role in the justice system, ensuring that cases are decided fairly based on established legal principles and evidence. Their decisions contribute to the development of legal precedent and the maintenance of the rule of law.