

**INTERNATIONAL ASSOCIATION OF JUDGES
2nd STUDY COMMISSION**

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

Answers from Iceland

In the following answers regarding Iceland to the Questionnaire of the 2nd Study Commission IAJ-UIM: In preparing the answers regarding data protection in the courts. At the outset it should be mentioned that Iceland, as a party to the European Economic Area (EEA) agreement with the European Union, has incorporated the EU General Data Protection Regulation No. 2016/679 (GDPR) and implemented the GDPR with a special act, the Data Protection Act No. 90/2018. Accordingly, the courts of Iceland operate in accordance with the GDPR.

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.

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.

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

Yes, in most cases. It should be noted though, that a special institution, the Judicial Administration, is responsible for the joint administration of the courts, supervising information on technical matters involving the courts, and collecting and publishing statistical information about the courts. To the extent such information contain personal data the Judicial Administration would be a data controller in the meaning of the Data Protection Act.

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. This is secured with the general provisions of the GDPR protecting the rights of the data subject to access to his own personal 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. In addition to the general provisions of the GDPR, the Judicial Administration has issued Rules No. 3/2022 on the publication of judgments and rulings on court websites. According to Article 15 of the Rules, individuals can bring complaints regarding the publication of a court decision with their name or other identifiable information on the Internet and such complaints shall be directed to the Chief Judge of the court that issues the decision. This includes both the right of the data subject to have personal data rectified and erased.

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 general rule according to legislation on procedure before the courts in civil and criminal cases, judgments are generally made accessible. Accordingly, publication of judgments is considered to be a core element in an open and transparent court system. This is based on the principle, that trials are open and judgments shall be pronounced publicly, enshrined both in the Icelandic constitution and Article 6 of the European Convention on Human Rights. However, a balance is sought between this principle and individual interests of protection of their personal data. According to the previously mentioned Rules No. 3/2022 there is a policy of anonymising judgments and decisions before they are published, to protect individuals' right to privacy when the case involves sensitive personal information, for instance health data, issues related to family matters and children's rights. Before the publication of a judgment on a website of a court, the text is carefully scrutinised by the staff of each court to secure that no such personal data is released to the public.

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 the GDPR, the courts are exempted from the control of the national authority on data protection, the Data Protection Authority, when acting in their judicial capacity. This concept also covers the publication of judgments. No centralised body has been established to deal with alleged breaches by the courts of the rights of data subjects. As previously stated individuals can bring complaints to the Chief Judge of a court which issues a judgment or processes any other personal data. If an individual is not satisfied with a decision of a court on his complaints he or she can direct comments or suggestions regarding the conclusion to the Judicial Administration. Even though the Judicial Administration cannot overturn the decision of the court it will present its opinion and suggestions to the court concerned.

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

No, the data protection rules have not had any special impact on judicial independence.