



## General Data Protection Regulation (GDPR)

Dear clients and business partners,

Through this newsletter, we would like to inform you about a completely new legal framework for the protection of personal data, namely the General Data Protection Regulation<sup>1</sup> (GDPR) which will enter into force on 25 May 2018. The Regulation will significantly increase the protection of personal data, however on the other hand it will bring several new obligations. What changes does this Regulation bring?

**The Regulation introduces new obligations for all companies, institutions and individuals who process personal data across segments**, including companies that only track or analyse user's behaviour on websites and companies that use mobile apps or smart technologies.

In the event of a breach of these obligations, the GDPR allows to impose very **high fines, up to 20 000 000 EUR, or in the case of undertaking, up to 4 % of its total worldwide annual turnover of the preceding financial year, whichever is higher**. The amount of the fine will depend not only on the extent of the breach but also on the steps taken by the companies for the protection of personal data.

Appropriate measures relating to the following changes in the area of personal data protection can avoid breach of these obligations and any sanctions that may arise therefrom. If you are interested in taking appropriate action the experienced team of RD Legal is fully available to you and ready to help with changing your model contracts, internal regulations or introducing other measures that suit your needs and your business.

We will be happy to discuss with you all aspects and impacts of the changes brought about by the GDPR in detail on a personal meeting.

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### Basic meaning of GDPR

The purpose of the personal data protection is the right guaranteed by the Charter of the Fundamental Rights and Freedoms to protect the citizen from unauthorized interference with his private and personal life through unauthorized collection, disclosure or other misuse of personal information

The GDPR is a comprehensive and fundamental legal regulation in this area, which considerably increases the level of protection of personal data and it supplements the current Act No. 101/2000 Coll., On the Protection of Personal Data.

The GDPR introduces a whole series of new rules and adherence to them will have to be documented by each administrator and processor of personal data throughout the processing, which will be associated with a great deal of administrative burden.

However, this regulation brings with it an equivalent level of enforcement throughout the EU, the same sanctions in the event of breach of the obligations laid down and a much more effective cooperation between the supervisory authorities.

### Protection of personal data after the entry into effectivity of the GDPR

#### An overview of the most significant changes brought by the GDPR

1.	<b>Extending of the concept of personal data</b>	Personal data means the name, surname, date of birth, permanent residence and birth registration number. <u>NEWLY</u> according to the GDPR are under the concept of personal data also included e-mail, phone number, IP address, photos, videos, information about the person's origin, family, religion, biometric and genetic data, and also for example cookie files.
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<sup>1</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC

2.	<b>Rights of data subjects</b>	These rights include, in particular, the right of access, rectification and erasure of personal data. Newly GDPR brings so-called right to be forgotten, which is understood as an extended right of erasure, which consists of taking reasonable steps to erase all references to the applicant's personal data and their copies. Furthermore, GDPR also brings the right to limit processing and the portability of personal data.
3.	<b>The principle of responsibility</b>	The Regulation establishes the so-called "principle of responsibility", which lies in obligation of controllers and data processors, regardless of their size or number of their employees, to introduce technical, organizational and procedural measures to demonstrate compliance with GDPR principles.
4.	<b>Data protection impact assessment</b>	To prepare data protection impact assessment are newly obliged companies or institution which carry out a systematic and extensive evaluation of personal data relating to natural persons which is based on automated processing, including profiling, especially in the case of on-line ordering systems, loyalty programs, targeted advertising, or the use of localization data.
5.	<b>Data protection officer</b>	Larger data processors are required to appoint data protection officer or DPO, whose main task will be to monitor the compliance of processing of personal data with GDPR, and also internal audits, employee training and overall internal data protection agenda management.
6.	<b>Records of processing activities</b>	Controllers and processors are required to maintain a record of processing activities. The record of processing activities shall include the name and contact details of the controller and the processor, including the name of the DPO, the purposes of the processing, a description of the categories of data subjects and of the categories of personal data, the categories of recipients to whom the personal data have been or will be disclosed, information on the international transfer of personal data, periods for deletion of individual categories of data and description of technical and organizational measures.
7.	<b>Personal data breach</b>	Newly the controller will have to report a personal data breach to the Office for Personal Data Protection not later than 72 hours after having become aware of it. In some cases, it will also have to inform the persons and entities, whose personal data are involved.
8.	<b>Penalties</b>	The GDPR, by pattern of the competition rules, introduce much higher fines than hitherto customary, up to 20.000.000,- EUR, or in the case of undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

### Recommended measures

Clearly, it is necessary to prepare for changes in the processing of personal data to prevent breaches of the obligations and avoid draconian fines imposed in the GDPR.

**Do you want to be sure that you will not break any of these duties in your usual business activities?** We will prepare for you all the necessary measures that the GDPR requires. Above all, we ensure revision of your internal regulations, model contracts or, if necessary, we incorporate safeguards into your compliance programme so that you are best protected.

We look forward to your questions about presented changes that GDPR will bring or about the other issues you are dealing with.

Best regards

**RD Legal team**