



DATA PROTECTION & LAND REGISTRY

REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**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
(GENERAL DATA PROTECTION REGULATION)**

A SHORT REMINDER

- **Data:** information (in an electronic form that can be processed by a computer).
- **Personal data:** any information relating to an identified or identifiable natural person.
- **Processing of personal data:** any operation or set of operations performed upon personal data (collection, recording, consultation, ...).
- **Data controller:** the person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data (e.g. the Land Registry itself, the ministry, ...).
- **Data subject:** the person whose personal data are being processed (e.g. the proprietor, the mortgagor and mortgagee, ... entered in the land register).

REGULATION (EU) 679/2016

- STRUCTURE
 - 10 CHAPTERS (7)
 - 99 ARTICLES (34)
 - 173 RECITALS (72)
- EFFECT:
 - INSTANTLY APPLICABLE BY MS AFTER ENTERING INTO FORCE

WHAT'S NEW?

- **easier access to your own data:** individuals will have more information on how their data is processed and this information should be available in a clear and understandable way;
- **a right to data portability:** it will be easier to transfer your personal data between service providers;
- **a clarified "right to be forgotten":** when you no longer want your data to be processed, and provided that there are no legitimate grounds for retaining it, the data will be deleted;
- **the right to know when your data has been hacked:** For example, companies and organizations must notify the national supervisory authority of serious data breaches as soon as possible so that users can take appropriate measures.
- **Better cooperation** between law enforcement authorities
- **Better protection** of citizen's data

PRINCIPLES UNDERLYING DATA PROTECTION

- Principle of respect for the fundamental rights
- Principle of data minimization
- Principle of proportionality
- Principle of transparency

RECITALS

- (9) The objectives and principles of Directive 95/46/EC remain sound, **but it has not prevented fragmentation** in the implementation of data protection across the Union, legal uncertainty or a widespread public perception that there are significant risks to the protection of natural persons, in particular with regard to online activity.
- (13) (...) **The proper functioning of the internal market** requires that the free movement of personal data within the Union is not restricted or prohibited for reasons connected with the protection of natural persons with regard to the processing of personal data. (...)
- (17) Regulation (EC) No 45/2001 of the European Parliament and of the Council (2), on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (...) should be adapted to the principles and rules established in this Regulation and applied in the light of this Regulation(...)

RECITALS

- (27) This Regulation **does not apply to the personal data of deceased persons**. Member States may provide for rules regarding the processing of personal data of deceased persons.
- (111) Provisions should be made for the possibility for transfers in certain circumstances where the data subject has given his or her explicit consent, where the transfer is occasional and necessary in relation to a contract or a legal claim, regardless of whether in a judicial procedure or whether in an administrative or any out-of-court procedure, including procedures before regulatory bodies. **Provision should also be made for the possibility for transfers where important grounds of public interest laid down by Union or Member State law so require or where the transfer is made from a register established by law and intended for consultation by the public or persons having a legitimate interest. In the latter case, such a transfer should not involve the entirety of the personal data or entire categories of the data contained in the register and, when the register is intended for consultation by persons having a legitimate interest, the transfer should be made only at the request of those persons or, if they are to be the recipients, taking into full account the interests and fundamental rights of the data subject**

WHAT ABOUT LAND REGISTRY?

- The **right to data portability not applicable for public authorities:**
 - **Recital (68)** “(...) It should not apply where processing is based on a legal ground other than consent or contract. By its very nature, **that right should not be exercised against controllers processing personal data in the exercise of their public duties.** It should therefore not apply where the processing of the personal data is necessary for compliance with a legal obligation to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of an official authority vested in the controller”
- Only reference to public registries is regarding medical and social condition.
 - **Recital (157)** “By coupling information from registries, researchers can obtain new knowledge of great value with regard to widespread medical conditions such as cardiovascular disease, cancer and depression.(...) Within social science, research on the basis of registries enables researchers to obtain essential knowledge about the long-term correlation of a number of social conditions such as unemployment and education with other life conditions(...)”

WHAT ABOUT LAND REGISTRY?

- Art. 23: “Union or Member State law to which the data controller or processor is subject may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 12 to 22 and Article 34, as well as Article 5 in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22, when such a restriction respects the essence of the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard:
 - (...)
 - (c) public security; L 119/46 EN Official Journal of the European Union 4.5.2016
 - (d) the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
 - (e) other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security;
 - (f) the protection of judicial independence and judicial proceedings;
 - (h) a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority in the cases referred to in points (a) to (e) and (g);
 - (j) the enforcement of civil law claims.

WHAT ABOUT LAND REGISTRY?

- Exception to the general principle for transfers:
 - Art. 49: (1) In the absence of an adequacy decision pursuant to Article 45(3), or of appropriate safeguards pursuant to Article 46, including binding corporate rules, a transfer or a set of transfers of personal data to a third country or an international organisation shall take place only on one of the following conditions:
 - (...)
 - (d) the transfer is necessary for important reasons of public interest;
 - (e) the transfer is necessary for the establishment, exercise or defence of legal claims;
 - (f) the transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent;
 - (g) the transfer is made from a register which according to Union or Member State law is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down by Union or Member State law for consultation are fulfilled in the particular case.
 - (...)

IMPACT ON IMOLA

- Provisions required for interconnected or interoperable national land registries
 - Recital (111): Provision should also be made for the possibility for transfers where important grounds of public interest laid down by Union or Member State law so require or where the transfer is made from a register established by law and intended for consultation by the public or persons having a legitimate interest. In the latter case, such a transfer should not involve the entirety of the personal data or entire categories of the data contained in the register and, when the register is intended for consultation by persons having a legitimate interest, the transfer should be made only at the request of those persons or, if they are to be the recipients, taking into full account the interests and fundamental rights of the data subject.
 - Art. 49:
- A complete set of data subject of protection under Reg. (EU) 2016/679 shall be defined

RELATION WITH REG. (EU) 1349/2014 & 650/2012

- No connecting provisions
- Further study based on CPs support and previously provided information
- Questionnaire to be submitted to CPs



25TH OF MAY 2018

- The Regulation shall apply from 25 May 2018.
- Directive 95/46/EC is repealed with effect from 25 May 2018.
- **Appropriate provisions to be done in the meanwhile!**

May 2018

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19	7	8	9	10	11	12	13
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Thank you for attention!

- Adresa ELRA din 2011 cu data protecton