

# DATA PROTECTION & LAND REGISTRIES



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# MILESTONES

- data protection required since the use of computers (integrated data management)
- 1980 - Recommendations of the Council Concerning Guidelines Governing the Protection of Privacy and Trans-Border Flows of Personal Data
- **1995 - Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data**
- 2001 - Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 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
- 2002 - Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)



# MILESTONES

- 2008 - COUNCIL FRAMEWORK DECISION 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters
- 2012 - Commission proposed a comprehensive reform of data protection rules to increase users' control of their data and to cut costs for businesses
- **2015 -On 15 December, the European Parliament, the Council and the Commission reached agreement on the new data protection rules, establishing a modern and harmonized data protection framework across the EU. The Regulation shall apply 2 years after its formal adoption by the European Parliament and Council.**



# 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



# LR APPROACH TO PROTECTED DATA

- Personal data must be processed fairly and lawfully
- Personal data shall not be kept in a form which permits identification of the data subject for longer than is necessary for the purpose for which the data were collected and/or processed.
- Personal data shall not be transferred to a third country unless that country ensures an adequate level of protection for the rights of data subjects in relation to the processing of personal data —->

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# DEFINITIONS

- **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).



# PERSONAL DATA USED BY LR

- names
- PINs
- addresses
- data “behind the curtain”
- other?



# LR APPROACH TO PROTECTED DATA

- principle of publicity - publicity of rights (erga omnes effect)
- principle of curtain





# LR APPROACH TO PROTECTED DATA

- **Free access:** Belgium, Bosnia & Herzegovina, Croatia, England & Wales, Finland, Ireland, Italy, Latvia, The Netherlands, Sweden, Scotland.
- **Legitimate interest:** Greece, Lithuania, Spain
- **Specific:** Estonia, Poland, Romania

(information from [www.elra.eu](http://www.elra.eu))



# LR APPROACH TO PROTECTED DATA

Access based on name identification/ plot identification

- Allowed
- Not allowed
- Allowed in certain circumstances

Free access/legitimate interest (depending on the type of information)



# QUESTIONS

- **Is there any "conflict" between LR and data protection?**
  - **Public/protected**
- **Shall LR be an exception to data protection legislation?**
  - Why (not)?
  - If YES, at what extent?
  - How?
- **How LR comply with data protection?**
  - does "right to be forgotten" applies?
  - should the owner be informed if someone accessed its data?



# ANSWERS?

- R. (45) : Where processing is carried out in accordance with a **legal obligation** to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority, the processing should have a basis in Union or Member State law. This Regulation does not require a specific law for each individual processing. (...)
- R. (69): Where personal data might lawfully be processed because processing is necessary for the performance of a task carried out in the **public interest** or in the exercise of official authority vested in the controller, or on grounds of the legitimate interests of a controller or a third party, a data subject should, nevertheless, be entitled to object to the processing of any personal data relating to his or her particular situation. It should be for the controller to demonstrate that its compelling legitimate interest overrides the interests or the fundamental rights and freedoms of the data subject.(...)
- R. (97): Where the processing is carried out by a public authority, except for courts or independent judicial authorities when acting in their judicial capacity,(...)
- R. (156): The processing of personal data for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes should be subject to appropriate safeguards for the rights and freedoms of the data subject pursuant to this Regulation.



# ANSWERS?

Art. 6: 1. Processing shall be lawful only if and to the extent that at least one of the following applies:

(a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;

(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

(c) processing is necessary for compliance with a **legal obligation** to which the controller is subject;

(d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;

(e) processing is necessary for the performance of a task carried out in the **public interest** or in the exercise of official authority vested in the controller;

(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

2. Member States may maintain or introduce more specific provisions to adapt the application of the rules of this Regulation with regard to processing for compliance with points (c) and (e) of paragraph 1 by determining more precisely specific requirements for the processing and other measures to ensure lawful and fair processing including for other specific processing situations as provided for in Chapter IX.

# ANSWERS?

Art. 86:

Personal data in official documents held by a public authority or a public body or a private body for the performance of a task carried out in the public interest may be disclosed by the authority or body in accordance with Union or Member State law to which the public authority or body is subject in order to reconcile public access to official documents with the right to the protection of personal data pursuant to this Regulation.



# CONCLUSIONS

Regulation (EU) 2016/679 does not cover all land registries specific issues.

- Right to be forgotten?
- Right to be informed?

The only reference to a registry is regarding medical or health records.

MS land registry law to be adapted



Thank you for your attention!

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