



PHARE PROGRAMME TWINNING PROJECT No. LV/2002/IB/OT-01
DATA STATE INSPECTION

Document 17

Activity 2.2
Manual on the Appointment of a Data Protection Official

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Mandated Body



DATU VALSTS INSPEKCIJA

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The decision regarding the appointment of a data protection official is to be met by the body on its own discretion. The PDP Law provides for public and private bodies (Section 22 para 1) no obligation, but the possibility of the appointment of a data protection official. In larger authorities and in authorities with task variety, i.e. if several functional public places are "bundled" in an authority, however data protection officials should be appointed as supporting measure for the guarantee of the data security in the sense of Section 26 para 1 PDP Law

If so the responsibility for the adherence to the data protection laws and the consideration of the right to informational self-determination still remains with the head of the body.

The data protection official is to be obligated on the data secrecy in writing. The appointment should be given to all employees (e.g. by internal memo or message). A representative of the data protection official may also be appointed.

According to Section 22 para 2 the data protection official may also be from outside the body. He is to be appointed as a natural person. In cases of demands of an external provider which appear as legal entities of private law, a certain employee has to be appointed personally.

The data protection official must be reliable and expert (Section 22 para 2). If he does not have the technical qualifications (legal and organizational knowledge, security in handling the relevant special regulations to the personal data protection, basic knowledge in automated data processing) yet, opportunity must be given to him to acquire these. Beyond that the data protection official has to train himself further regularly, in order to have knowledge of the new technical developments and the legal regulations regarding data protection.

A coordinating and advisory - however up to a certain degree also an internally controlling - function comes to the data protection official in relation to the body. If he is

an employee and - like mostly – fulfils his duties as a by-job, possible conflicts of interest with its major tasks are to be excluded (Section 22 para 2). In particular employees from the personnel administration or the IT Department regularly come into conflict with their actual major task. The appointment of employees in leading functions as well as those in a special relationship to the head of the body will also create conflicts of interest

Public and private bodies shall inform the Data Supervisor of the name of the data protection official and the date of appointment within one month upon his appointment.

The note must contain the following:

- Title or name and address of the controller
- pre-, surname, position and contact information of the data protection official
- date of the appointment
- further functions of the data protection official to prevent a conflict of interests

In all cases, in which no report takes place, the Data Supervisor assumes no data protection official has been appointed.

The appointment of a data protection official shall also strengthen a data protection self-check of the concerned body.

The data protection official has the duty to:

- monitor the proper use of personal data processing operating systems (Section 22 para 6 subpara 1),
- take suitable steps to familiarize the persons employed in the processing of personal data with data protection provisions (Section 22 para 6 subpara 2),
- make the information under Section 21a (1) Nos. 1 to 6 available to anyone in an appropriate manner (Section 22a para 1)

The data protection official has the right to

- act independently in exercising the functions entrusted to him (Section 22 para 3),
- have direct access to the head of the public or private body (Section 22 para 3),
- be supported in the performance of his duties and, in particular, to the extent needed for such performance, make available assistants as well as premises, furnishings, equipment and other resources including education and training (Section 22 para 5),
- be provided by the controller with comprehensive information about any projects for automatic processing of personal data (Section 22 para 6 subpara 1),
- be provided by the controller with an overview of the information stipulated in Paragraph one of Section 21a and a list of persons entitled to access the data processing system or systems (Section 22a para 1),
- be provided any information in relation to his duty on his request (Section 22 para 7),
- inspect any files, databases or other data media, except personnel data, save with the consent of the data subject (Section 22 para 7),
- consult the Data Supervisor at any time (Section 22 para 7)

For an effective task fulfilment further concretized action powers should be lent to the data protection official by internal organization order or a job description, which stresses the independence in exercising the functions specified in the law. In particular it should be entitled to the data protection official that:

- employees shall answer his questions
- he may inspect documents, files and other documents, if in individual cases or from fundamental considerations data protection problems are to be clarified
- he has the right to demand statements within the body

- direct access to the head of the public or private body

The necessary work time and advanced training should be granted to the data protection official for the fulfilment of his tasks apart from his major tasks. The specialist areas must support the data protection official with the fulfilment of its tasks.

He may suffer no disadvantage for performing his duties in an assiduous manner. This is expression of its position as an instruction-free official (Section 22 para 3).

He has to maintain secrecy on the identity of the data subject and on circumstances permitting conclusions to be drawn about the data subject, unless he is released from this obligation by the data subject or by law (Section 22 para 4).

The data protection official has firstly general and data security-organizational tasks. He has however no unrestricted authority to control within the body advised by him. In the context of his task fulfilment the data protection official has to limit his activities strictly to those are needed exercising the functions entrusted to him. Therefore its rights to inspect personal data are limited. This applies in particular to data, which are subject to a professional secrecy or a special official secret. As mentioned above he may furthermore inspect personnel data only with the consent of the data subject.

Use the attached form for the notification of automatic personal data processing operation.

Application for Data Protection Official

Data State Inspectorate
Kr.Barona street 5-4,
Rīga, LV-1050
Tel: +371 7814491,
+371 7223131
Fax: +371 7223556
e-mail: info@dvi.gov.lv
web: www.dvi.gov.lv

1. Controller 'Controller' means the public or private body which processes personal data.	Title or name, surname _____ Address _____
2. Data Protection Official	Name, surname, position _____ Contact information (telephone, e-mail address)
3. Date of Appointment	_____
4. Further duties to prevent conflict of interests	_____

Attestation/ Confirmation

Signature	_____
Name, surname	_____
Position	_____
Date	_____
	Seal: