



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

Document 22

Activity 4.1
**Development of a public awareness strategy for the
general public**

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DATU VALSTS INSPEKCIJA

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I. Introduction

Within the European Unions Phare-Twinning-Project for data protection in Latvia a strategy for a public awareness campaign for the general public has to be drafted as activity 4.1 in component 4 of the Work and Time Schedule. It has to be agreed on between MS and CC experts and approved by the Director of the Latvian Data State Inspection (DSI). The DSI as the core data privacy institution has to play the most important role in this strategy. In promoting the strategy in the general public the DSI should use various channels to strengthen the awareness for data privacy as a fundamental right in the post-soviet era. The awareness campaign might include elements of public relations policy over a longer period.

The strategy has to consider and should explain to the public the background of a 46-year soviet rule and legislation in Latvia without any data protection, the fundamental changes that took place in this time in the highly developed countries caused by data processing and the necessary **balance** between the power of authorities based on personal information and the necessary control and restrictions of these powers. Latvian legislation, esp. the Latvian Personal Data Protection Law/the EC-Directive (95/46/EC), which is part of the *acquis communautaire* of the European Union (EU), and the Latvian Electronic Documents Law should be mentioned if required.

The awareness campaign should be started after the predictable considerable change in Latvian data protection law.

a) Data privacy as a fundamental right in the post-soviet era

Data privacy as a fundamental right was unknown in the Soviet Union. Soviet citizens could not act against the state in order to protect their individual rights, for the individual was not a subject, but an object of state activities. Soviet authorities raised personal data, when it seemed to be useful to their purposes, combined them with other personal data from other sources, transmitted them whenever it seemed useful and stored it for a long time and any purpose. There were no restraining regulations on the use of personal information by state or economic institutions regarding individual rights. Especially people not belonging to the mainstream of society, e.g. suspects, criminals, prisoners, foreigners, ill persons, the poor, the elderly etc. were mere objects to state institutions. Especially the repressive character of the police, the health service, the intelligence services and the entire industrial-military complex was based on processing personal data. There was almost no possibility for the oppressed individuals to regain lost reputation, to act independently or to defend themselves against administrative acts violating their individual rights or their property, material as well as immaterial. On the other hand side the soviet industry did not raise much personal data from its customers; the creation of more perfect industrial goods or customers satisfaction was not a main goal of soviet economic units, as is well known.

In opposite to this, there was a growing concern in western societies about the means, the amount and the purposes of personal data processing in the 1970`s. In 1970, the German state of Hessen was the first state worldwide to pass a data privacy law. The main approach in these times was to secure civil liberties opposite to the public institutions, whose technical possibilities – and therefore power - did increase enormously by using modern electronic data processing means. In 1995 the European Commission and the European Council passed the EC-Directive on data privacy and the free data transmission for commercial purposes. This was a major step towards common standards of data privacy among EU-member states. It was implemented in the legislation of the member states meanwhile.

It seems therefore indispensable to create a common understanding of what is data protection and regulations on data processing all about. Data privacy should be understood in the general public as a fundamental right of every citizen in a free and democratic society opposite to the public authorities to protect his or her liberties. It might be hard to understand, but data protection commissioners as official authority do control and limit the power of other official authorities of the same entity. But by this way, data privacy will not only protect the rights of individuals, but create a free and liberal society with its benefits on the whole as well.

b) Fundamental change of societies and economy caused by data processing

Beginning in the 1960`s western societies changed fundamentally towards data processing societies. Information, personal as well as non-personal, became the main basis for the economic development in the highly developed countries. This historical process, which can be compared to former industrial revolutions, has not ended yet.

c) Reception of the *acquis communautaire*

With its EU-membership, Latvia has to implement the *acquis communautaire*. One main item of this *acquis communautaire* is the abovementioned EC-Directive on data privacy (95/46/EC). It guarantees a common standard of data protection and data processing procedures among the member states, which are neither allowed to fall below nor to exceed the given standards.

II. Preparations

An awareness campaign should be carefully prepared. The future impact of the DSI on legislation, administration and economic units in order to protect data privacy depends at least on its support by the public opinion. A strong public support will enhance the effect of the DSI and its activities. A weak public appearance will prevent the DSI to be effective.

An awareness campaign and public relations are neither secondary nor easy-to-manage. They demand time, skills and responsibility. The DSI should therefore **appoint a responsible employee** for the awareness campaign(s) and public relations. This employee should be directly responsible to the head of the DSI. All awareness campaign activities should be concentrated on this person. He or she should be responsible for press statements, annual or occasional press conferences and all leaflets, brochures and written statements to the public. He or she should be a well-trained person, best a jurist, with social and journalistic abilities and skills. If there is no such person at first sight, a suitable employee should be sent on a course.

- **Appoint a suitable employee** responsible for the awareness campaign(s) and public relations

An awareness campaign has to be financed. It is therefore important and sets the frame for any activities, that there are sufficient financial means in the DSI's budget for this purpose.

- Ensure the **financial means** for an awareness campaign in the budget

An awareness campaign should be easily recognized as such. The DSI should be recognized, whenever it turns itself to the public ("brand recognition"). As in economic units, it should remain in the minds of the public. The DSI should therefore create or acquire a popular logo, aligned with creating or acquiring a corporate design. The logo should become the permanent logo of the DSI to be used all the time. The corporate design should include letterheads as well as merchandising products like fire-lighters, ball-pens or shopping bags.

- **Create or acquire a popular logo** for the public awareness campaign within a corporate design for the DSI

An awareness campaign needs to use some ready-to-read information on the DSI and its tasks. Therefore leaflets or brochures should be drafted for further general use on the DSI-website as well as in printed copies. The number of copies depends on the financial means, but should not fall below 2000. The main function of these leaflets/brochures should be **to encourage** the general public strongly to turn itself to the DSI and to take advantage of their fundamental right of data privacy, mainly concerning state activities.

There are no special target groups for these leaflets/brochures, because everybody might be affected by data protection violations. According to experience, people will be relatively uninterested in data protection unless they become personally affected.

- **Draft a leaflet/brochure** (component 4, activity 4.4 of the Work and Time Schedule)

III. Approach

An awareness campaign should primarily aim at high-level decision-makers and opinion leaders and at the press. Although all levels of society are affected by data processing, it might be wise to approach initially only decision-makers and opinion leaders and to broaden the activities step by step to the general public. Relevant in this sense are the juridical community in universities and other academic institutions, parliamentary caucuses, mayors, the ministries and political parties. In particular relevant are the decision makers and leading administrative persons in the social security system, the health service, the police and law enforcement authorities and any other administration dealing with personal information. High-level decision-makers in the private sector, esp. in the telecommunications and software industries, should be aimed at, too.

IV. Principles to be brought out

In appointments with the press and the abovementioned other persons the **meaning, the importance and the principles** of data protection should be pointed out, e.g.

- Data privacy is a **fundamental right** opposite to public authorities concerning almost everybody in a modern society. Public authorities like the police, intelligence services, the health care institutions, registry offices, car registry offices etc. raise data from every citizen for legally described purposes, store it and transmit it for eventually different purposes
- Data protection was completely unknown in the Soviet Union, but is now part of the *acquis communautaire*
- Data privacy violations **might affect everybody** (e.g. by wire-trapping, by video surveillance or by police registration), the mighty as well as the powerless, the rich as well as the poor, criminals as well as law-abiding people
- Data privacy might frequently appear contradictory to other goals of public administration and indeed some frictions may occur, but have to be seen as the prize of freedom
- Every single step of data processing in the public sector has to have a **legal basis** (not a sub legal) and there are no exceptions to this rule
- Public authorities have to have a good reason for raising and processing personal data (which must be described in the relevant law) and are only allowed to raise personal data when it is absolutely necessary for their legally described purposes

- Public authorities have to explain their legal competence for data processing, their purposes and their data protection concept in every single case to the DSI and the person affected
- Every personal information in official databases has to be deleted after a determined duration

Members of the DSI should cite examples of current data protection violations:

- The overall use of the Latvian personal identity number is not conformable to data protection
- The wide-spread use of video surveillance in Latvia should be restricted or terminated
- Any other results of auditing and control activities, which are not conformable to the law and the EC-Directive

It should be stressed that

- The DSI has to be or is (after a considerable change in legislation) an **independent** state authority to advise, control and restrain other state authorities on data raising and - processing in order to protect the citizens "right to be let alone"
- The DSI will control public authorities **ex officio**, without any complaints by citizens or other occasions
- The DSI will control effectively and without any fear of pressure by state or political authorities, **acting as a lawyer** of those affected by data protection violations
- The DSI tries **to play a part** in this countries data protection discussion
- The DSI tries to be a **reliable counterpart** for public authorities, tries to advise them constantly and strives to be their "brain" on data privacy issues

It should be pointed out that

- Data privacy in the private sector affects almost everybody, because almost everybody is using computers, telephones, credit cards etc. and therefore leaves data traces in databases, which can be easily trapped
- Data privacy in the private sector is a matter of **fair and regulated competition**, but not a fundamental right (which might be hard to understand, but is in accordance with the EC-directive)

These principles might also be recalled and depicted in the **leaflet/brochure**, which is to be drafted in activity 4.4 of the Work and Time schedule.

V. Target groups

a) The academic community in universities

The academic community in Latvian universities should be approached in order to gain their support for the aims and goals of data privacy. The Riga Technical University, the University of Latvia, the University of Rezekne and the other academic institutions (Institute for Electronic and Computer Science), even the Daugavpils Pedagogical University and other suitable institutions should be approached. Selected professors dealing with law - esp. constitutional law, police and intelligence law, health legislation, data processing etc. should be approached.

- **Try to engage selected professors of law to help explain data protection to the public**

b) Parliamentary caucuses

The legislation of the Saeima determines the future status of data privacy in Latvia. Therefore the Saeima is extremely important for the DSI. It depends on the Parliament whether data privacy issues will be accounted or neglected in future legislation. Especially future legislation on independence of the DSI, its financial means, the number of its staff and data protection in special legislation etc. will depend on the increased awareness of data protection issues by parliamentary decision makers. The DSI should primarily approach high-level decision makers in the parliamentary caucuses, esp. the chairmen and the general managers of the Caucuses and maintain enduring relations to this group. Alongside with these activities, data protection issues should be discussed with every MP who seems to be interested or approachable.

- **Try to build up and maintain an enduring network with MP`s**

c) Political parties

Activity three might be accompanied by approaching political party leaders outside the Saeima. It is well known, that the political landscape in Latvia is quite splintered. An approach to political party leaders should therefore concentrate on the most important (bigger) ones.

- **Try to talk regularly with political leaders**

d) Mayors

Mayors are responsible for the entire local affairs. They are therefore a main target group for the awareness campaign.

- **Make inaugural visits to the mayors of the bigger entities**

e) **Ministers**

Ministers should be approached to awaken the consciousness of these persons to data protection issues in their offices. E. g. the Minister of the Interior, who is responsible for the police and the intelligence services, should be approached especially carefully and well prepared. It would be useful to maintain good and constant relations with him or her.

- **Make inaugural visits to ministers and try to maintain good enduring relations to them**

f) **Doctors, esp. in the health care units, and other medical professions**

Data protection in the health care system is extremely important. The relations between doctors, general practitioners as well as doctors in clinics, and the patients depend on the secrecy of the relation. A special topic is data protection with psychiatrists. No personal data must be revealed or disclosed without a legal basis, even not to the police or other law enforcement authorities. There might be some deficits in Latvia on this topic. Therefore doctors should be approached very intensely in order to raise awareness concerning data protection and the consequences of violation.

- **Establish a data protection curriculum for doctors and other medical professions**

g) **Mass media, esp. the press**

Mass media play an extremely important role in a free society. Their power can be compared with the classic powers like legislation, executive power and jurisdiction. Mass media are able to influence or even create public opinion on certain aims and goals. Mass medias support is indispensable for the DSI in gaining the public opinion especially regarding its future tasks as a totally independent data protection authority. Controlling and advising the public authorities as well as the private sector will probably only be successful, when mass media will support the view of the DSI.

Most important – according to journalistic principles – is **to have a message before any activity starts**. This means, that every activity is more or less useless, unless the DSI cannot offer a message to the public at the exact time, it is contacting any target group. Such messages have to consider the interests and information

status of the target groups they are working for, e. g. journalists of the mass media or specialized media (computer media, health media, juridical media etc.), the scientific community, leading members of the parliamentary fractions or caucuses, the political parties and other must differentiate among them. A message could be, regarding the different target groups in Latvia:

- **Always have a message when contacting the media**

Press conferences should take place regularly or by occasion. A regular press conference should be held at least once a year. Press conferences at occasion should be held, when severe violations of data privacy have occurred. **Interviews** with journalists should also be held several times a year regularly or on occasion.

The DSI should build up and maintain good relations to (some) relevant journalists. The acceptance of fundamental rights like data privacy by the general public depends on this support. An awareness campaign should therefore start with a well-prepared campaign on certain journalists of political papers, predominantly quality newspapers, but also of the more popular newspapers. The aim should be to build up and maintain enduring contacts in a network of journalists and the DSI. The DSI should moreover re-evaluate its media activities.

- **Try to build up and maintain an enduring network with journalists**

Although the mass media is important in general, the press – quality newspapers as well as popular press – still has the deepest impact on high-level decision makers in politics and economics. Press journalists still have the relatively deepest influence on politicians and economic leaders. It is therefore advisable to concentrate on the press without neglecting radio and TV broadcasting.

- **Concentrate on the press**

According to German jurisdiction, it is one of the legally allowed means of data protection commissioners to inform the general public about single cases, which are or appear scandalously. This would not violate the official secrecy.