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Activity 4.4

Social Data Protection applied to the Latvian “Law on Social Services and Social Assistance”

written by

Nils Leopold, Theresa Philippi

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Aim of the chapter:

The following chapter aims at highlighting the data processing operations which may occur when social services and social assistance are being provided according to the above mentioned Law (hereinafter called “the Social Services Law” or “the Law”).

Reference is made to the provisions of “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” (hereinafter called “the Directive”). Such reference intends to highlight the practical application of the directive.

The Social Services Law does not contain any reference to Data protection issues. Section 6 of the Latvian “Personal Data Protection Law grants the right to protection of his/her personal data to every natural person in Latvia. The legal basis for the processing of personal data of clients can be found in Sec.7 of the Latvian Data Protection Law.

Recommendation for provisions concerning data processing operations:

There is no provision about the allocation and technical organisation of data processing operations in the Social Services Law. Legal safeguards ensuring data protection are also missing. Data protection should be included in the catalogues of the individual’s rights and the authorities’ duties. The sections where such provisions are missing are also included in the following list.

Provisions should be made for the dealing with individual complaints made by citizens based upon e.g. Art 10 and Art 12 of the data protection directive 46/95/EC.

Recommendation for a Communication Structure on Data Protection:

Furthermore, a Data Protection Officer should be established at the Social Services Agency.

Every Local Government should appoint one staff member to be responsible for Data Protection. Communication channels and regular meetings between the Data Protection Officer and the responsible staff members in the Local Governments should be provided for by Cabinet Regulation.

Definition of data processing:

Processing personal data includes obtaining, storing, accessing, changing and destroying any information about the people entitled to receive social services and social assistance according to the Law. Furthermore, personal data may be shared with or transferred to other entities providing social services and social assistance.

Data protection implications of Social Service and Assistance:

Section	Described activity	Data protection implications
Sec.4/1 Sec.5	Evaluation of individual needs and resources of a person by a social work specialist	Collection of personal data (level of education, health data, income, property, status of being a victim of a crime...) in order to get a client record
Sec.4/3	Inter-professional and inter-institutional cooperation	Transfer of personal data (client record) to other local governments or social service offices
Sec.6/4 Sec.6/7	Right of the individual to receive a substantiated written refusal in case of denial of social assistance Right of the individual to submit a complaint to the Social Services Agency	See Art 15 of the Directive (right of every person not to be subjected to a decision which significantly affects him and which is based solely on automated processing of data)
Sec.11/3	The Local Government Social Services Office shall assess the needs and material and personal resources of the client	Collection of personal data (level of education, health data, income, property...) in order to get a client record
Sec.12	Duties and rights of the Local Government Social Services Office	It is advised to include a paragraph about the Office's obligation to ensure data protection and the data subject's rights according to Articles 10, 11, 12, 14 and 15 of the Directive
Sec. 13/2 Sec. 14/1	Establishment of social care institutions or agreements with other social service providers Task of the Ministry of Welfare to develop a state policy in the field of social services and develop requirements for social service providers	Development of a State policy and quality standards for state and private providers might require statistics such as anonymous numbers of cases, types of needs, duration of assistance etc. Individual client files should only be used as a basis for establishing anonymous statistics.

Section	Described activity	Data protection implications
Sec.15/2	Tasks of the Social Services Agency	It is advised to include a paragraph about the Agency's obligation to ensure data protection. It is advised to establish a Data Protection Officer there and to appoint one person responsible for data protection in every local government.
Sec. 24	The social worker and the social rehabilitator (...) shall develop and implement an individual social rehabilitation plan for each person to be socially rehabilitated.	Rehabilitation plan is likely to contain personal data.
Sec.43	Register of Social Work Specialists	Personal data contained in this register are subject to data protection
Sec.46	Social carer defines package of social services needed by the client	Does the social carer enter the obtained information into data base? Also paper files are subject to data protection!