

Personal Data Protection Reform



Source of illustration: State Data Protection Inspectorate, www.ada.lt

PROCESSING PERSONAL DATA IN THE ACTIVITIES OF NOTARIES IN LITHUANIA

Sandra Ražanaite
Lawyer, Lithuanian Chamber of Notaries

European Notary Network Seminar
18 May 2018
Vilnius



The Ministry of Justice is responsible for the state policy-making in the field of personal data protection in Lithuania.

State Data Protection Inspectorate is the institution implementing the said policies and controlling the legitimacy of personal data processing.

Personal data processing is strictly regulated under the Law on Legal Protection of Personal Data as well as other legal acts.

Main definitions and principles of the General Data Protection Regulation are very similar to those established in the current legal acts regulating personal data protection in Lithuania.

Amendments of legal acts related to application of the General Data Protection Regulation and legal acts required for enforcement thereof have not been adopted in the personal data protection regulation system of Lithuania.

Every notary in Lithuania is a data controller.

Just like every data controller, the notary had the duty to obtain registration and is registered with the State Register of Personal Data Controllers.

The State Register of Personal Data Controllers is administrated by the State Data Protection Inspectorate.



The application of the General Data Protection Regulation will eliminate the duty to obtain registration with the Register of Personal Data Controllers and this service will be terminated.

In 2013, the Lithuanian Chamber of Notaries drafted a set of guidelines for all notaries:

- 1) regarding the registration of notaries with the State Register of Personal Data Controllers;
- 2) regarding the processing of personal data by notary bureaus.

These guidelines were approved by the State Data Protection Inspectorate and made available to all notaries.

The guidelines included the following model documents:

1. Regulations for personal data processing in a notary bureau, including employee undertaking to protect the secrecy of personal data;
2. Regulations for processing of image data in a notary bureau, including sample information about video surveillance carried out in the notary bureau;
3. The form of the Notification of data processing in a notary bureau to the State Data Protection Inspectorate, together with comments on how to fill it;
4. The form of the Notification on video surveillance, together with comments on how to fill it;
5. The form of description of data protection measures together with comments on how to fill it.

Notaries in Lithuania have implemented appropriate organisational and technical measures intended for personal data security.



Personal data processing violations in notary activities

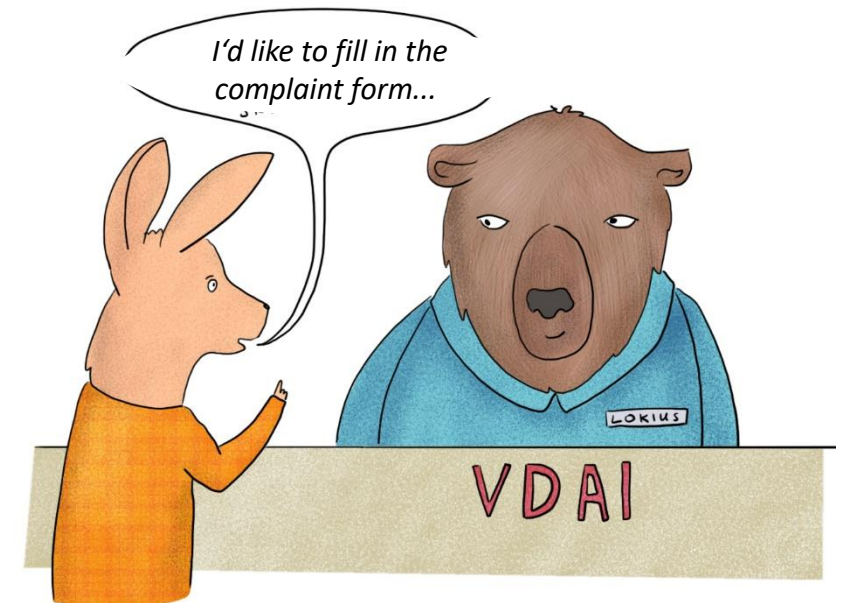


Source of illustration: The Lithuanian Institute of Consumers, www.vartotojai.lt/tapatybe

Checks by the State Data Protection Inspectorate

In 2015, the State Data Protection Inspectorate conducted preventative checks at 3 notary bureaus and inspected the activities of 7 notaries in relation to the processing of personal data.

The checks were performed in view of the legality of the collection of personal data from state registers.



The Personal Data Protection Inspectorate has found all 7 notaries to have disclosed their IDs and passwords for logging on to the Register of Testaments to their aides.

The Personal Data Protection Inspectorate has furthermore established that one notary had logged on to the Register of Testaments based on a verbal request from testator who wanted to cancel a testament, and was unable to produce any written evidence he logged on to the Register at the testator's will.

The Personal Data Protection Inspectorate has stated that in performing said acts the notaries have failed to enforce the appropriate organisational and technical measures of personal data security.

Disciplinary cases heard at the Notary Court of Honour

The Notary Court of Honour has heard 2 disciplinary cases against notaries over potentially illegal use of personal data.

Both disciplinary cases were initiated by the Ministry of Justice on the basis of complaints from the persons affected.

In both cases, the Notary Court of Honour ruled that the notaries had committed a disciplinary violation and fined the offenders.



Source of illustration: The Lithuanian Institute of Consumers, www.vartotojai.lt/tapatybe

In the disciplinary case of 2008, the Notary Court of Honour established that:

- the notary had used Real Estate Register data about real estate and its owners for purposes other than performing the notary's functions, and had transferred them to the attorney-at-law illegally;
- in doing so, the notary violated legal requirements and the terms of the contract made with the Real Estate Register administrator, whereby the notary could only use Register data for the purposes of performing their functions as a notary, and may not transfer/disclose the data to any third persons;
- the notary did not inform the person as to the purpose of collecting their personal data, even though a request had been made to that effect.

In the disciplinary case of 2015, the Notary Court of Honour established that:

- the notary had violated the legal provisions stipulating that checks of data in the state register can only be done to perform the notary's functions and on legitimate grounds only;
- the notary had violated the principles of their professional activity and the requirements of the notary's prudence, honesty, and disciplinary responsibility;
- the notary's conduct in refusing to release the information requested by the applicant as to the purpose of the search for the information about their person was not constructive, correct, and respectful enough. The notary did not act in an appropriate manner.

Preparation for application of the General Data Protection Regulation:

- seminars / trainings;
- new recommendations regarding processing and storage of personal data;
- assigning data protection officer.



Source of illustration: The Lithuanian Institute of Consumers / www.vartotojai.lt/tapatybe

Thank you for your attention.