



Overview of the latest developments regarding the national implementation of the GDPR requirements

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# Austria



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

**14** see Section 4 (4) DSG

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**No** there are not any special rules.

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**No**

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**No**

## Local "speciality"

Section 6 DSG Section 6 contains provisions on data secrecy (Datengeheimnis); Section 12 DSG contains special provisions on Image data processing.

## Current status of the local GDPR adjustment laws

Data Protection Act (DSG), effective from 25 May 2018

## Information status

Nov 2018

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**BINDER GRÖSSWANG**

# Belgium



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art. 8 GDPR? 13, 14, or 16?

13

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**No** the existing Collective Bargaining Agreements (regulating e.g. the monitoring of employees or workplace surveillance) continue however to apply post-GDPR

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** the Act stipulates that in some circumstances of data processing by public authorities, and in order to protect national security, public security or the rights and freedoms of others, to prevent the hindrance of criminal investigations or prosecutions, the notification of a data breach to the data subjects may be delayed, restricted or omitted

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**Yes** The Act stipulates that private organisations which process personal data on behalf of a federal authority or to which a federal authority transfers personal data, are required to designate a DPO, where the processing could lead to a high risk to the rights and freedoms of natural persons (cf. Article 35 GDPR). Processors of public authorities and controllers receiving data from government databases (e.g. data received from the national register, the national social security database, the crossroad database for vehicles, etc.) are thus required to assess the risks of their processing activities in order to determine whether they need a DPO

## Local "speciality"

The Act introduces a cease and desist procedure, in which claims for alleged infringements of data protection legislation can be brought before the President of the Court of First Instance by either the data subject or the DPA. If an infringement is found, the President may order to cease the infringing practices and impose a penalty if the court order is not respected. In addition, the President may order interim measures, such as measures to prevent any disappearance or inaccessibility of evidence

In addition, the Act also introduces criminal fines for infringements

## Current status of the local GDPR adjustment laws

Act of 30 July 2018 relating to the protection of natural persons with respect to the processing of personal data (published in the Belgian State Gazette on 5 September 2018)

## Information status

Oct 2018

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**LOYENS**  **LOEFF**

# Bulgaria



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

14

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

Yes

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

Yes

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

Yes

## Local "speciality"

Employer shall not be entitled to make of copy of employees ID and/or driving license, unless required by a law (Art. 25e of the Draft Bill).

## Current status of the local GDPR adjustment laws

Bill Personal Data Protection Amendment Act 2018

## Information status

Nov 2018

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# Croatia



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

**16**

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** the Act has introduced special rules for data processing in context of employment.

Employees' biometric data may be processed for the purpose of recording working hours and monitoring access to premises only if either (a) required by special law or (b) conducted as an alternative to another recording/monitoring method, provided that the employee has given his/her explicit consent.

Video surveillance of work premises is allowed if it satisfies conditions prescribed by GDPR Implementing Act and work health and safety regulations, provided that employees are duly informed of such surveillance

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**No** the Act does not introduce any exemptions from Article 34 GDPR

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**No** the Act does not contain any specific rules

which would require controllers, processors or associations and other bodies representing categories of controllers or processors to designate data protection officers in cases other than those expressly referred to in Article 37(1) GDPR

## Local "speciality"

Under the Act, it is prohibited to process genetic data for purposes of assessing the prospects of illness or other health aspects related to data subjects in the context of conclusion or performance of life insurance agreements or agreements with endowment clauses. This prohibition may not be derogated from by way of data subject's explicit consent

## Current status of the local GDPR adjustment laws

GDPR Implementing Act was adopted by Croatian Parliament and has entered into force on 25 May 2018

## Information status

Oct 2018

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# Cyprus



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

Pursuant to 125(I)/2018, Part III, section 8(1), the age for minor's consent under Article 8 GDPR is **14**

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**No**

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** 125(I)/2018, Part III, section 12(1) provides that the Controller can be exempt, wholly or partly, from the responsibility of communicating the personal data breach to the data subject, for one or more of the reasons stated in Article 23(1) of the Regulation. For such an exemption, however, the law requires a prior impact assessment and prior consultation with the Commissioner. The Commissioner can also impose terms and conditions to the Controller, in respect of any such exemption, under section 12(3)

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

The Commissioner shall have the power to prepare and publish a list of processing activities and instances for which the designation of a Data Protection Officer will be necessary, in addition to those under Article 37(1) of the GDPR

## Local "speciality"

Processing of genetic and biometric data for health insurance purposes is prohibited

## Current status of the local GDPR adjustment laws

The Law For the Protection of Natural Persons Against the Processing of Personal Data and the Free Movement of such Data (Law No. 125(I)/2018) was passed in Cyprus on 31/7/2018

## Information status

Oct 2018

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# Czech Republic



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

Currently proposed at **15**

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**No**

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes**

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**No**

## Local "speciality"

Administrative fines for municipalities currently proposed only up to CZK 5/15 thousand (approx. EUR 200/590)

## Current status of the local GDPR adjustment laws

Adaption bill is in the 3rd reading in the Chamber of Deputies (lower chamber of the Parliament)

## Information status

Nov 2018

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# Denmark



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

13

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** the Danish Data Protection Act section 12

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** the Danish Data Protection Act section 22

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

No

## Local "speciality"

Danish law does not recognize the concept of administrative fines. However, the Danish Data Protection Agency has been provided with the option of awarding a fine in lieu of prosecution (i.e. fixed-penalty notice) - if this is not accepted normal court proceedings will commence

## Current status of the local GDPR adjustment laws

The Danish Parliament approved the Danish Act No. 502 of 23 May 2018 on supplementary provisions to the regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the Data Protection Act), which supplements and implements the EU General Data Protection Regulation

## Information status

Nov 2018

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# Estonia



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

The Ministry of Justice intends to propose the age of

**13**

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**No**

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**N/A**

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**N/A**

## Local "speciality"

Estonian law does not recognize the concept of administrative fines and thus such fines cannot be

imposed in the way as set out in GDPR and thus Estonia is subject to the relevant exemption. Thus, in Estonia the fine is imposed by the DPA in misdemeanour proceedings

## Current status of the local GDPR adjustment laws

The Ministry of Justice has drafted a conceptual paper on the new legal framework for the protection personal data. Currently the paper is subject to intra-governmental coordination. At the moment no draft law has been published yet

## Information status

Jul 2017

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# Finland



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

13

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** Art. 30 of the Data Protection Act sets out that the processing of employment data is governed by the Employee Privacy Act (759/2004, as amended)

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

No

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

No

## Local "speciality"

Art. 24(4) of the Data Protection Act sets out that no penalties can be imposed on public authorities

## Current status of the local GDPR adjustment laws

The Data Protection Act has been approved by the Finnish parliament and is awaiting its entry into force

## Information status

Nov 2018

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# France



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

**15** the French Government has chosen to use the leeway left to the Member States regarding the age for minor's consent in relation to Information Society Services. Therefore, Article 20 of the new law states that a minor is able to consent to the processing of personal data in relation to Information Society Services from the age of 15 years old. Under the age of 15, processing is lawful only if the consent is given jointly by the minor and the parent.

In addition, according to the CNIL guidelines, if the users of the services are minors, appropriate mechanisms of vigilance must be implemented, for example through awareness messages, or a combined system of control of user's age and involvement of the parents (for example, through parental control).

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**No** employment data is construed by the CNIL as normal personal data to the exception of the social security number and healthcare related data.

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** the new law (Art. 24) sets forth exemptions to the data breach notification obligation for data processing operations that are necessary to meet a legal requirement or for the performance of a task carried out in the public interest, for purposes of protecting national security, national defence or public security. The decree n°2018-687 of August, 1st 2018 sets out the list of data processing and categories of data processing covered by the derogation. In addition Art. 30 of the new law sets forth that the communication of a data breach to the data subject may be delayed, limited or not issued as long as such measure is necessary and proportionate in a democratic society, taking due account of the fundamental rights and the legitimate interests of the concerned data subject, where such communication could endanger public security, national security or the rights or freedoms of others or hinder the proper conduct of investigations and legal proceedings necessary to prevent, detect or prosecute criminal offenses or to execute criminal sanctions

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**Yes** Art. 70-17 of the new law incorporates part of the content of Art. 37 of the GDPR by stating that a single data protection officer may be appointed for several public authorities or bodies, taking account of their organisational structure and size.

Moreover, French courts acting in the exercise of their judicial functions are exempted from the obligation to appoint a data protection officer.

## Local "speciality"

The French Government has chosen to maintain certain preliminary notification obligation for the processing of specific sensitive data, for example for biometric data necessary to identify or verify the identity of individuals, for genetic data, or for processing using the registration number in the National registry of natural persons (NIR).

## **Current status of the local GDPR adjustment laws**

France has adopted the law n° 2018-493 on June 20, 2018 which implements the requirements resulting from the GDPR in France

### **Information status**

Oct 2018

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# Germany



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

16

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** Section 26 Federal Data Protection Act

provides for a special regulation concerning the processing of personal data in an employment context. The provision applies to existing employees as well as to candidates and former employees

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** Section 29(1) s. 3 Federal Data Protection

Act sets forth that the notification obligation does not apply if meeting this obligation would disclose information which by law or by its nature must be kept secret, in particular because of overriding legitimate interests of a third party

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**Yes** if organisations constantly employ as a rule at least ten persons dealing with the automated processing of personal data. If the controller or processor undertake processing subject to a data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679, or if they commercially process personal data for the purpose of transfer, of anonymized transfer or for purposes of market or opinion research, they shall designate a data protection officer regardless of the number of persons employed in processing

## Local "speciality"

Appointment of data protection officer for organizations who constantly employ as a rule at least ten persons dealing with the automated processing of personal data (e.g. using email programs like Outlook)

## Current status of the local GDPR adjustment laws

Law

## Information status

Oct 2018

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# Greece



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

**15** according to the draft bill

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** Article 17 of the draft bill specialises the legal requirements for processing of employee data

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** Art. 12 of the draft bill stipulates that notification of a breach shall not be made for reasons of national security, national defence, public order, prevention of crimes, important financial interests of the State and in case of exercise of legal rights

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**Yes** Art. 14 of the draft bill provides that the Greek Data Protection Authority may issue a list of cases where the appointment of a DPO shall be obligatory. No such list issued yet

## Local "speciality"

According to the draft bill in cases where the processing of sensitive data is based on the data subject's consent, such consent needs to be in writing

## Current status of the local GDPR adjustment laws

Regulation is applicable - the Draft bill has not passed yet

## Information status

Nov 2018

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# Hungary



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

16

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

N/A

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** under the amended Hungarian Data

Protection Act, the notification obligation may be delayed, limited or omitted if that is necessary for, amongst others, the effective conduct of criminal proceedings, the prevention and detection of crimes, the execution of sanctions against perpetrators of crimes, the effective protection of public security and the internal and external security of the state, and the protection of fundamental rights

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

The proposal specifies detailed rules on the conference of data protection officers, which serves as a continuous professional forum where data protection officers and the Hungarian Data Protection Authority may keep contacts and cooperate in the creation of unified legal practice in the implementation of data protection laws. The conference shall be convened once a year at least

## Local "specialty"

(a) supervision of the grounds for data processing: unless provided otherwise in the applicable laws or EU legislation, data processors shall, at least in every third year from the start of the data processing, supervise if the processing of personal data is necessary in reaching the purposes of the data processing; (b) Rights of a deceased person: the rights of a person in relation to his personal data (i.e. right of access, right of correction, right of deletion, etc.) may be enforced by a duly authorized third party within five years from the death of the person; (c) Data breach: notification on the data breach shall be reported to the Hungarian Data Protection Authority through the special online surface created for these purposes

## Current status of the local GDPR adjustment laws

One amendment of Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information ("Hungarian Data Protection Act") was already published and went into force. Currently, a draft bill concerning GDPR related amendments of sectoral laws is under consideration by the Cabinet

## Information status

Oct 2018

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# Ireland



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

16

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

No

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

Yes

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

Yes

Section 34 of the Data Protection Act 2018 gives the Minister for Justice and Equality the power to specify such rules by secondary legislation, but no such rules have yet been put in place

## Local "specialty"

Public authorities and public bodies will not be liable to administrative fines for breach of the GDPR, except where they are acting as an 'undertaking' (as this term is defined in competition law)

## Current status of the local GDPR adjustment laws

The Data Protection Act 2018 was enacted on 24 May 2018, and generally came into force on 25 May 2018. Certain provisions have not been brought into force

## Information status

Oct 2018

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**MCCANN FITZGERALD**

# Italy



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

14

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** Art. 111-116 of Legislative Decree No

196/2003, as recently amended, provides rules for the implementation of Art. 88 GDPR. In particular (among others):

- the National Data Protection Authority promotes the adoption of code of conducts for public and private subjects for the purposes set forth under Article 88 of GDPR (Article 111);
- the information statement provided by Article 13 of GDPR is not due by the Controller in case of spontaneous submission of resumes (until the first contact occurs). For the purposes referred to in Article 6, paragraph 1, letter b) of GDPR, consent to the processing of personal data included in the resumes is not requested (Article 111-bis)

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** pursuant to article 2- duodecies of

Legislative Decree No 196/2003, as recently amended, obligations provided for by article 34 GDPR can be delayed, limited or excluded in order to safeguard the independence of the judiciary system and court proceedings

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**Yes** pursuant to section 2-sexiesdecies of

Legislative Decree No 196/2003, as recently amended, DPO must be appointed also in relation to personal data processing carried out by judicial authorities in the exercise of their functions

## Local "speciality"

Articles 167 et seq. of Legislative Decree No 196/2003 have introduced certain provisions according to which the violation of GDPR's requirements may amount to criminal offence (for example the illegal communication or diffusion of personal data processed on a large scale can be punished with imprisonment from one up to six years)

## Current status of the local GDPR adjustment laws

Legislative Decree No 196/2003 (as amended by Legislative Decree No 101/2018) Code on personal data protection, containing provisions for the armonization of the national legal system to the Regulation (EU) 2016/679 (entered into force on September 19, 2018)

## Information status

Nov 2018

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# Latvia



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

13

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**No** The Personal Data Processing Law does not implement additional measures with respect to Art. 88 GDPR.

Processing of employment data is partially regulated by Latvian Employment Law, which indicates that during a job interview the employer cannot process data which can be directly or indirectly discriminatory and does not relate to performance of intended work, particularly data concerning: 1) pregnancy; 2) family status; 3) previous convictions (except if required by law) 4) data concerning nationality, ethnic origin, religious beliefs and affiliation to political party, employee trade union or other public organizations.

Furthermore, Employment Law allows processing of health data only, if it has substantial role for the fulfillment of the work. Other than that, general data protection principles apply for employees data processing.

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** Article 26 of the law provides a right to incorporate data subjects rights' restriction in other laws in situations specified in article 23 of the GDPR

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**No** the law states that additional measures with respect to Art. 37(IV) GDPR will not be implemented

## Local "speciality"

GDPR would not apply if CCTV cameras used by natural persons for personal or household reasons, except where cameras survey public areas on large scale or technical aids are used for structuring of information; GDPR obligations does not apply to usage of dash cameras as long as not shared to 3rd parties without legal basis; No obligation to retain system audit logs only for fulfilment of data subject's request

## Current status of the local GDPR adjustment laws

Personal Data Processing Law (entered into force on July 5th, 2018)

## Information status

Oct 2018

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# Lithuania



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

14

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** Article 5 of the law. It is forbidden to process

candidate's for employment or employee's personal data about convictions and criminal offenses, except when such personal data is necessary to verify that a person meets the requirements for performing duties or functions prescribed by laws and other legislation

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**No** the law does not set forth such exemptions

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**No** the draft of the law does not set forth such specific rules

## Local "speciality"

It is forbidden to disclose personal identification code publicly and to process it for the purpose of direct marketing

## Current status of the local GDPR adjustment laws

Law on the Protection of Personal Data (entered into force on July 16th, 2018)

## Information status

Oct 2018

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# Luxembourg



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

The Law does not provide for any special rules in this respect. It is therefore expected that **16** years old limit will apply, as provided in article 8 GDPR

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** Title VI of the Law is dedicated to the processing of personal data for supervisory purposes within labour relationships. This title amends the Luxembourg Labour code

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

The Law does not provide for any special rules in this respect

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**Yes** the college of the mayor and aldermen may designate the "Commissariat du Gouvernement à la

protection des données auprès de l'État" as their Data Protection Officer

## Local "speciality"

Regarding the reform of the local data protection authority ("CNPD") and the attribution of powers; it should be noted that – according to Article 49 of the Law– the CNPD will be able to impose a periodic penalty payment ("astreinte") in the event that a responsible entity does not comply with the CNPD's administrative decisions

## Current status of the local GDPR adjustment laws

Law of 1 August 2018 on the organisation of the National Commission for Data Protection and the General Regime of Data Protection (Published in Mémorial A N° 686 du 16 août 2018)

## Information status

Oct 2018

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**LOYENS  LOEFF**

# Malta



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

13

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

No

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

No

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

No however the Malta Gaming Authority has issued guidelines in consultation with the local supervisory authority (the Information and Data Protection Commission). Article 11 of the guidelines require B2C gaming operators to have a DPO: "Every B2C gaming Operator must designate a DPO, since as a core activity, B2C Operators monitor individuals systematically and on a large scale"

## Local "speciality"

Article 8 of the Data Protection Act states that identity documents shall only be processed where processing is clearly justified having regard to the purpose of processing and either the importance of secure identification, or any other valid reason as may be provided by law. The national identity number shall only be used under appropriate safeguards for the rights and freedoms of the data subject under the GDPR

## Current status of the local GDPR adjustment laws

On 28 May 2018, a new Data Protection Act (Chapter 586 of the Laws of Malta) entered into force, replacing the 2001 Data Protection Act

## Information status

Nov 2018

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# Netherlands

## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

16

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

No

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** pursuant to Article 41 of the Bill, the rights and obligations mentioned under Article 34 of the GDPR (as well as under 12 to 21 of the GDPR) do not need to be upheld by the Controller insofar as this is necessary and proportionate for the realization of the exceptions listed under Article 41 of the Bill, for instance national security and national defence. Moreover, Article 42 of the Bill provides that Article 34 of the GDPR will not apply to financial institutions as referred to as in the Dutch Financial Supervision Act (Wet op financieel toezicht)

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

Article 39 of the Bill imposes a confidentiality obligation upon the DPO

## Local "speciality"

In accordance with Art. 87 of the GDPR, Art. 46 of the Bill provides for restrictions re the processing of citizen numbers under (only permitted on grounds of respective law). Exceptions currently existing under the Dutch Data Protection Act (Wet bescherming persoonsgegevens) that allow specific types of special categories of data to be processed by a specific category of controllers (e.g. employers, insurers and hospitals), or for specific purposes (e.g. identification purposes or sick leave management) have been maintained in the Bill (under chapter 3)

## Current status of the local GDPR adjustment laws

On March 13, 2018, the House of Representatives (Tweede Kamer) agreed upon the GDPR Implementation Bill (Uitvoeringswet Algemene verordening gegevensbescherming, UAVG), as was presented to the Parliament on 13 December 2017. In this draft, the comments received during the public consultation period were taken into account, as well as the advice provided by the Council of State (Raad van State)

On April 24, 2018, the Parliamentary Commission for Justice and Safety (Eerste Kamercommissie voor Justitie en Veiligheid) published its final report of findings following the preliminary study that it conducted regarding the UAVG. Following this report, the Senate (Eerste Kamer) announced that it will adopt the UAVG on May 15 2018 without, in principle, any further room for debate or votes (Hamerstuk)

The final formal step will be for the UAVG to be signed and published in the gazette (Staatsblad) upon which the UAVG can enter into force on a by royal decree designated date. The expectation is that this date will be (prior) to May 25, 2018

### **Information status**

May 2018

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# Poland



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

16

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** The current draft version of the Act amending various acts in connection with the implementation of Regulation 2016/679 stipulates that it will be possible to process employment personal data on the basis of a consent. Lack of consent or its withdrawal may not be a basis for unfavourable treatment of a person applying for employment or of an employee, and may not cause any adverse consequences for them

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

Yes

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**No** The Personal Data Protection Act however, specifies, who exactly a public authority or body according to Art. 37(I)(a) GDPR is, and gives more details re the notification of a DPO (data to be provided, 14-day-deadline, electronic form)

## Local "speciality"

N/A

## Current status of the local GDPR adjustment laws

Law - Poland adopted the Personal Data Protection Act (PL – Ustawa o ochronie danych osobowych), effective as of 25 May 2018 (b) BILL - Currently, works are in progress on a draft Act amending various acts in connection with the implementation of Regulation 2016/679 (PL – Ustawa o zmianie niektórych ustaw w związku z zapewnieniem stosowania rozporządzenia 2016/679)

## Information status

Oct 2018

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# Portugal



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

According to the draft bill **13**

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

According to the draft bill, **Yes** some of the more controversial choices have been with respect to data processing in the context of employment, where the Draft Bill, besides clarifying the legal grounds for processing (generally disqualifying consent except for limited circumstances where there is benefit for the employee), has included some important limitations on: 1) the use of CCTV recordings, as well as on other technological means of remote surveillance (restricting it for criminal proceedings, or for the purposes of establishing disciplinary liability, however only if carried out within a criminal proceeding); 2) the processing of biometric data of employees (only allowed for the control of attendance and control of access to the premises); 3) the transfer of personal data of employees between companies (only allowing said transfer in cases of occasional transfer of the employee, as far as the transfer of the data is proportional, necessary and appropriate to the objectives to be achieved or of assignment of employees by a company of temporary work, or secondment to another State)

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

According to the draft bill **No**

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**Yes** with regards to public entities, the Draft Bill contains detailed indications on the possible options for appointment of a single DPO for different entities

## Local "speciality"

A controversial option included in the Draft Bill was the choice of exempting the application of fines to public entities, although defining that this option should be reviewed within 3 years, after the entry into force of the Bill

## Current status of the local GDPR adjustment laws

The Council of Ministers approved Draft Bill n.º 120/XIII (hereinafter "Draft Bill") that will ensure the implementation of the GDPR in Portugal. This Draft Bill is still subject to changes as it will have to be approved by the Parliament. The first discussion of the Draft Bill in Parliament was held on the 3rd of May 2018, where it was heavily criticized by several parties and ultimately rejected. It is now under revision in Parliamentary Commissions

## Information status

Oct 2018

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# Romania



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

16

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** according to the provisions of art. 5 of the

Law no. 190/2018, the Romanian legislation imposes special conditions for the processing of personal data of employees in the context of the use of monitoring systems by means of electronic communications and / or video surveillance at the workplace

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

No

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**Yes** the Law no. 190/2018 provides two specific processing activities in which the designation of a DPO is mandatory:

- processing of a national personal identification number on the legal base of the legitimate interest of the controller or of a third party;
- processing of a special category of personal data on the legal base of the performance of a task carried out in the public interest, by political parties, organisations of citizens pertaining to minorities, non-governmental organisations under certain specific conditions systems by means of electronic communications and / or video surveillance at the workplace

## Local "speciality"

According to the Art. 14 of the Law no. 190/2018 Romanian legislation limits the amount of fines imposed on public authorities and bodies in case of violation of certain provisions of the GDPR

## Current status of the local GDPR adjustment laws

Law no. 190/2018 regarding on implementing measures for the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

## Information status

Oct 2018

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# Slovakia



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

16

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** (Art. 78 (3) of the Act no. 18/2018 Coll.) Data

controller who is the employer of the data subject is authorized to provide his or her personal data or to disclose personal data in the scope of title, name, surname, job title, job description, employee's personal number or employee's number, telephone number, fax number, e-mail address of the workplace and employer identification data, if necessary in connection with the performance of the duties, of the data subject. The provision of personal data or publication of personal data must not interfere with the seriousness, dignity and security of the data subject

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

No

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

No

## Local "speciality"

Obligation of data controllers and data processors to bind by secrecy all natural persons who come into contact with the personal data of the data controller or the data processor. The obligation of secrecy under the first sentence must be maintained after termination of the employment relationship or similar employment relationship of that natural person

## Current status of the local GDPR adjustment laws

Act (18/2018 Coll.) approved, effective from May 25, 2018

## Information status

May 2018

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# Slovenia



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

15

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

No

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

No

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

**Yes** but they apply to designation of DPOs by public sector organizations. The bill introduces a definition of the "public sector"

## Local "speciality"

The bill sets out a minimum fine of EUR 4,000 for violations of the provisions of the GDPR and specifies fines for a responsible person of the breaching organization **Current status of the local GDPR adjustment laws**

Bill. The bill is yet to be considered by the National Assembly and it is possible that the text will be changed considerably in the legislative procedure.

## Information status

Oct 2018

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# Spain



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

14

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** Articles 87 and following Project LOPD

foresee special rules on several issues:

- Right to privacy and use of corporate digital devices (art. 87).
- Right to digital disconnection out of work hours (art. 88).
- Right to privacy regarding the use of recording and surveillance devices in the workplace (art. 89).
- Right to privacy regarding the use of geolocalization devices in the work sphere (art. 90)

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**No** the Spanish Data Protection Agency issued its

Guidelines for the management and notification of security breaches. The document includes an example of criteria to assess the severity of the data breach and,

therefore, the necessity to notify the relevant supervising authorities and data subjects.

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

Obligated data controllers: Project LOPD includes an extensive list of entities that, due to the nature of their activities, are obliged to designate a DPO in all cases. Broadly referred to, they are the following: professional bodies, schools and colleges, operators of public networks and communications services, credit entities, insurance companies, investment services providers, electricity and gas distributors, controllers of databases on insolvency or subject to AML regulations, publicity companies carrying out data subject profiling, health centres, gambling operators, private security firms and sports federations.

Notification: data controllers shall notify the identity and contact data of a DPO to the Spanish Data Protection Agency within 10 days from their designation. Competent supervising authorities will publish in their website a list of the notified DPOs and their contact data

## Local "speciality"

a) Specific data treatments ruling: video-surveillance, whistleblowing, contact details within legal entities, financial solvency of individuals, marketing exclusion lists or Robinson lists, corporate transactions, etc. b) DPO: specification of situations considered covered under Art.37.1 GDPR. c) Fining procedure: description of the formalities related to the fining procedure; division of breaches in: minor, serious and very serious. d) No economic fines for public administrations. e) Ruling of processing of data of deceased persons. f) Safety measures for the public sector to be ruled under the National Security Scheme regulation. h) Guidance as regards when to conduct a risk assessment. i) Application of the GDPR to the representative when the data controller or data processor is not established in the UE.

## **Current status of the local GDPR adjustment laws**

Bill. The text was passed by Congress in October 2018 and is currently subject to examination and possible amends by the Senate. Since the Congress approval was unanimous, even though political majorities in the Senate are different, no substantial changes are expected and it is possible that the new regulations will be in force before the end of 2018

### **Information status**

Nov 2018

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# Sweden

## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

13

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** there is currently no specific legislation under Swedish law regarding the processing of employee's personal data. However, there are a number of Swedish laws that, in addition to the GDPR, concern employees' privacy in the work place. There are also provisions regarding personal data in collective bargaining agreements for certain sectors

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** Article 34 of the GDPR shall not apply on data breaches which are to be reported under the Swedish Protective Security Act (1996:627) (N.B. the new Swedish Protective Security Act (2018:585) will enter into force as of 1 April 2019) or any ordinance issued related to said act.

Further, the Swedish Data Protection Act authorizes the Swedish Government to issue ordinances limiting rights and obligations in accordance with Art. 23 GDPR, which could include exemptions from Art. 34 GDPR's notification obligation. No such ordinances have been issued as of today

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

No

## Local "speciality"

A data subject's right of information and access to personal data under the GDPR, articles 13-15, shall not apply to such personal data that a controller of personal data may not disclose to a data subject due to what is prescribed by an act or other statutory instrument, or as otherwise stated in a decision which has been issued based on a statutory instrument.

Likewise, a controller of personal data who is not a public authority may not provide data to a data subject if such data would have been confidential under the Swedish Freedom of Information and Official Secrets Act (SFS 2009:400) if the controller of personal data would have been a public authority

## Current status of the local GDPR adjustment laws

Law; the Swedish Data Protection Act (2018:218), effective as of 25 May 2018.

Regulation; the Swedish Data Protection Regulation (2018:219), effective as of 25 May 2018

## Information status

Nov 2018

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**ROSCHIER**



# United Kingdom



## Minors' consent age

What is the age for minors' consent in relation to Information Society Services under Art.8 GDPR? 13, 14, or 16?

13

## Employment data

Will there be special rules in your jurisdiction for the processing of employment data in implementation of Art. 88 GDPR?

**Yes** special categories of personal data (health & criminal convictions) exempt from obligation to obtain consent. Access rights exempt certain types of employment data (s. 10 and sch. 1 Data Protection Act 2018)

## Data breach exemptions

Will there be exemptions from Art. 34 GDPR's notification obligation in case of a data breach pursuant to Art. 23 GDPR in your jurisdiction?

**Yes** The Data Protection Act 2018 does stipulate that in certain circumstances, such as processing by public authorities, and for the purpose of protecting national security, public security, or the rights and freedoms of others, to prevent the hindrance of criminal investigations, and in cases of parliamentary privilege, Art. 34 GDPR does not apply

## DPO specifics

Will there be specific rules in your jurisdiction for the designation of a Data Protection Officer in the implementation of Art. 37(IV) GDPR?

Art. 37(4) does not apply (para 29. sch.6 Data Protection Act 2018)

## Local "speciality"

Art. 22 (Automated Individual Decision Making): The UK are proposing to include an additional exemption based on section 12(2)(b) of the Data Protection Act 1998 such that automated decision making can occur provided that an individual is informed that the decision making process has occurred in such a way and is able to request that the decision is reconsidered on a non-automated basis

## Current status of the local GDPR adjustment laws

Data Protection Act 2018

## Information status

Oct 2018

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