European Tugowners Association

Factsheet: EU DATA PROTECTION RULES

Overview

The new EU legislation on Data Protection will harmonize and simplify the requirements for private and public organizations that process personal data. It establishes a series of obligations for "data controllers" on data privacy and processing and increases citizens´ rights to control the personal data collected by these organizations.

12/10/2017

The EU adopted in 2016 the General Data Protection Rules. This legislation replaces the Data Protection Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data. These new legal texts will be enforceable starting in May 2018.

The ultimate aim of these rules is to give citizens a bigger control over their personal data (this does not affect corporations´ data) and to further simplify the regulatory environment for business. The Data Protection Directive applies to countries of the European Economic Area (EEA), which includes all EU countries plus Iceland, Liechtenstein and Norway.

The Directive states that personal data can only be transferred to countries outside the EU and the EEA when an adequate level of protection is guaranteed, thus, data transfers should not be made to non-EU /non-EEA countries that do not ensure adequate levels of protection. For a multinational company operating within and out the EEA, the legislation includes specific rules called ***Binding Corporate Rules (BCR)*** . These ensure that all transfers are made within a group benefit from an adequate level of protection. This is an alternative to the company having to sign standard contractual clauses each time it needs to transfer data to a member of its group. BCR must contain in particular:

- **Privacy principles** (transparency, data quality, security, etc.),
- **Tools of effectiveness** (audit, training, complaint handling system, etc.),
- And an **element proving that BCR are binding**.

Regarding the entities that can collect and process personal data, the legislation calls them "***data controllers*** ". These can be a private company, an association or the administration.
Data controllers must respect the privacy and data protection rights of those whose personal data is entrusted to them. They must:

- **collect and process personal data only when this is legally permitted** (unambiguous consent of the "data subject" and that data is necessary for the company. Thus, there must be a reasonable balance between the data controllers' business interests and the privacy of data subjects)
- **respect certain obligations regarding the processing of personal data** (collected legally, for explicit and legitimate purposes, data controllers must protect personal data and implement the necessary security measures..);
- **respond to complaints regarding breaches of data protection rules** (the data controller has to answer data subjects requests, otherwise these can file a complaint to a national supervisory data protection authority);
- **collaborate with national data protection supervisory authorities** (responsible for monitoring the application of data protection rules and for investigating complaints).

If you wish to obtain more information on this issue contact the ***ETA Secretariat***

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