

The General Data Protection Regulation: what does it mean to me as a bank' client?

SEPTEMBER, 2018



The General Data Protection Regulation (Regulation or GDPR) applies to Latvia as of 25 May 2018. One of the objectives of the Regulation is to ensure personal data protection of private individuals or data subjects. The Regulation is binding not only upon banks but equally to other legal entities who process personal data on everyday basis.

Myth # 1 The Regulation prohibits personal data processing

Although the Regulation introduces stricter data processing, storage and erasure principles, it does not prohibit the collection and processing of personal data. The provision of financial and other services cannot be imagined without data collection and processing. The amount of the data collected for each client may differ, depending on what agreements have been signed with the bank. For example, in case of some client, the bank may request contact details only, whereas for some other require information on real estates owned, origin of funds, actual beneficiary etc. For the purpose of personal data processing, the bank collects only data that constitute the required minimum for the specific processing scope. The bank also guarantees its clients' personal data safety and confidentiality.

Myth # 2 I have the right to access all my personal data that are processed by the bank

Although bank's clients have the right to access their data and to obtain a data copy, nevertheless these are not absolute rights.

The bank processes a huge amount of personal data and due to this makes use of the option foreseen in the Regulation and ensures its clients remote access to their personal data using the internet bank.

Moreover, the bank may request the client to specify the particular information and the processing operations to which such a request should apply.

Additional information may assist the bank in giving a faster and more accurate response to the client's request. The bank is prohibited to disclose information in cases prescribed by the laws.

For example, in the area of money laundering and terrorism financing prevention and financial market monitoring, the bank is not authorized to disclose the client information on the results of the client's examination or due diligence.

Important!

In case of obviously ungrounded or excessive requests, the bank may refuse to perform such a request or apply a service fee.

Please remember that data copy is **NOT** a document copy.

Myth # 3**The bank is not authorized to request the client to present a personal identity document (passport or ID card) and to copy or scan it.**

The laws and regulations that govern banking operations oblige banks to identify private individuals by verifying their identity on the basis of a personal identity document. In order to become a client of the bank or for the purpose of undergoing client's inspection, the bank is obliged to make a copy of the person's identity document (also in electronic form) and to ensure that such personal data and document copies are up-to-date.

Myth # 4**The bank must immediately delete my personal data upon my request**

The Regulation foresees the right of the data subject to request erasure of his/her personal data ("the right to be forgotten") however it is not an absolute right. The bank may refuse to erase the personal data, in case it is obliged to keep such data in accordance with other laws, e.g. laws on money laundering and terrorism financing prevention. The bank may also refuse data erasure, in case such data are required for the bank to enforce or protect its legal rights e.g. before the court. Thus, the bank may retain the client's data for a definite term after termination of the relationship with the client.

Myth # 5**The bank is processing my personal data illegitimately as it has not requested my consent thereto**

For the everyday data processing needs the bank mostly uses four out of six possible legal grounds for data processing.

- **Firstly**, in most cases the bank processes data on the basis of the contract signed with the client;
- **Secondly**, the bank processes personal data to satisfy a requirement imposed by the law, e.g. to verify whether the client is a politically exposed person;
- **Thirdly**, the bank performs data processing to pursue its legitimate interests, e.g. video or call recording;
- **Fourthly**, data processing is performed on the basis of the client's consent. In the context of data processing, consent has a specific meaning. In principle, it is necessary only for receipt of commercial notifications and for the collection of data from different state institutions, e.g. the State Social Insurance Agency.

Myth # 6**The bank transfers my personal data to third persons without any legal grounds**

Any transfer of the data at the disposal of the bank is strictly regulated not only by the GDPR but also by other laws. Personal data are transferred for the purpose of fulfilling statutory duties or performance of the transaction intended by the client (e.g. payment). In many cases the provision of banking services would be legally impossible without data transfer.

Myth # 7**I am not obliged to disclose my or other persons' data in the payment order**

The laws which regulate banking operations oblige the bank to identify the payer and the beneficiary. For this purpose, the bank requires information about the payer (name, surname, payment account number, address, number of the personal identification document, personal code, or date and place of birth) and about the beneficiary (name surname, account number).

Myth # 8 The Regulation is not applicable to me because I am not a resident of Latvia

The Regulation is attributable not only to the processing of personal data of individuals who are citizens of EU Member States. The GDPR is attributable also to any offers of goods or services to other private individuals or to monitoring the behaviour of such persons, in case they are staying in the EU, i.e. irrespective of their country of residence.

Myth # 9 When processing the data of employees of a legal entity the bank becomes a data processor

In its operations the bank frequently comes into touch with private individuals representing a client – legal entity, e.g. a company or an association. When processing the data of such private individuals, the duties of the bank remain unchanged. The data processing is performed as part of the main service provided by the bank in the banking area.

In most cases the bank performs data processing in the capacity of a data controller (i.e. sets the objective and the scope of such processing) thus assuming higher responsibility for the data protection and safety. In exceptional cases and only if a separate data processing agreement has been concluded with the bank, and the bank has agreed to act in compliance with documented instructions of another data controller, the bank may become a data processor.

Myth # 10 A complaint against the bank's personal data processing activities must be filed with the banking supervisory authority

The authority in charge of personal data protection matters in Latvia is the Data State Inspectorate. **(any complaints on personal data processing and data protection must be submitted to the Data State Inspectorate (Blaumana 11-13/15, Riga, LV-1011, Ph.+371 67 223131, www.dvi.gov.lv.)**

Important!

Exercise your rights and perform your duties in good faith. The bank and the client are equivalent cooperation partners in the established business relationship. The client also has his/her duties that are associated with personal data processing, e.g. accuracy of the provided data, timely data update. In case you have any questions, please contact the bank or its personal data protection specialist to reach the most effective solution of the matter. For more detailed information about the bank's personal data processing, please consult its privacy policy.

"Guidelines for the Application of the General Data Regulation".