



July 2017

2018: Significant changes in the regulation of the personal data protection (GDPR)

In May this year, 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) (hereinafter only the *Regulation* or *GDPR*) entered into force. This Regulation which becomes effective on 25 May 2018 and which will be directly applicable in all EU member states and in the states which form the European Economic Area will replace substantial part of the existing Personal Data Protection Act in the Czech Republic.

The Regulation will affect almost everybody who collects or in another way processes personal data of the Europeans (controller), including companies and institutions outside of the EU territory which act on the European market. Companies, institutions and even individuals who handle personal data of employees, customers, clients or suppliers have to prepare for the changes introduced by the Regulation.

The new regulation contained in the GDPR sets out a number of rules which ensue already from the existing Act, but refines, extends and significantly tightens them.

In particular the following belong among the important changes introduces by the Regulation: New stricter requirements regarding grant of the consent with personal data processing, controller's obligation to maintain records of the processing activities, obligation to carry out a data protection impact assessment in selected cases, obligation to notify a personal data breach in some cases as well as obligation to designate a personal data protection officer in certain cases.

Additional administrative burden will be imposed on the controllers as they, **regardless of their size or number of employees**; will have to **implement technical, organizational and procedural measures in order to demonstrate compliance of the personal data use with the GDPR principals**. For these purposes, some controllers will have to maintain evidence

of processing of personal records and demonstrate that they process only such data which are necessary for the specific purpose, and submit this documentation to the supervisory authority (Office for Personal Data Protection) on request.

Last but not least, an important novelty introduced the Regulation which affects in particular the internet services and e-commerce providers is the right to portability of the personal data to another controller, respectively the right of the data subject (i.e., the persons whose personal are subject to processing) to receive these data in their entirety

During the transition period, i.e., **by 25th May 2018** when the Regulation becomes effective, each personal data controller should **revise his/her information systems and check correctness of personal data use** and, if necessary, **adjust** these procedures **to the new rules**. It is important to pay attention to the revision of the personal data use. While, for the time being, a financial penalty up to 10 000 000 CZK can be imposed for breach of the personal data protection rules, from May 2018 a financial penalty up to 10 000 000 EUR or, in case of an undertaking, up to 2 % of the total annual worldwide turnover can be imposed for less serious breaches and a financial penalty up to 20 000 000 EUR, resp. up to 4 % of the total annual worldwide turnover can be imposed for serious breaches.

According to the EU opinion, the Regulation responding to the modern trends of technological developments and globalisation should provide a number of advantageous and enable business entities to make use of the opportunities offered by the common digital market. If this will be the case and what advantageous and disadvantageous will this legal regulation bring in reality will naturally show only the future practice.