



GDPR: keeping data processing records

Fit4DataProtection



L'Europe à la portée de votre entreprise.

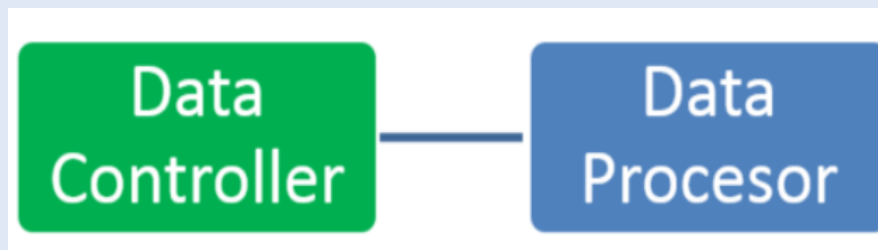
Keeping data processing records under the GDPR

1. Why ?
2. Who ?
3. What ?
4. How ?
5. Sanctions ?
6. What can we recommend ?



2. Who ?

- ❑ (virtually all) data controllers **and processors**
- ❑ exception for enterprises/organisations < 250 employees, BUT not if:
 - ✓ processing with a risk to the rights and freedoms of data subjects
 - ✓ **the processing is not occasional** (e.g., CRM, HR, supplier management),
 - ✓ the processing includes special categories of data (health data, political preference, ...) or personal data relating to criminal convictions and offences.



3. What ?

	Lux 2002 Act		GDPR	
	Controller (notification / DPO register)	Processor	Controller	Processor
name and contact details	■		■	■
legitimate basis of processing	■			
purposes of the processing	■		■	
categories of data / persons concerned	■		■	
categories of recipients	■		■	
transfer to non-EU/EEA countries	■		■	■
general description of security measures	■ (except for DPO register)		■	■
time limits for erasure			■	
categories of processing				■

4. How ?

- ❑ written / including in electronic format – no other requirement
- ❑ implicitly: per type/category of processing
 - ✓ per business stream + further subdivisions if needed
- ❑ existing CNPD notification forms can help
 - ✓ inventory of past processing activities
 - ✓ relevant categories of processing, purposes and data
- ❑ but a more comprehensive prior data mapping (“as is” + future projects) – gap analysis and remediation are needed
- ❑ from simple over more developed excel sheets ...
- ❑ ... to **more developed software based tools** integrating the previous phases of data mapping and gap analysis and remediation





5. Sanctions ?

administrative fine up to 10.000.000 EUR or, in the case of an undertaking, up to 2% of the global annual turnover worldwide, whichever amount is the highest

6. What can we recommend ?

- ❑ do not see the record as just another obligation ...
- ❑ ... it is the cornerstone of each organisation's GDPR compliance ...
 - ✓ it is the logical end point of a GDPR gap analysis and remediation
 - ✓ any other privacy relevant documents (privacy notice, contracts, ...) should be checked against the content of the record
- ❑ therefore do not hesitate to include in the record other types of useful information (e.g., legitimate basis for processing)
- ❑ do not forget that the record is basically a summary of all relevant processing activities to the attention of the competent authorities ...
- ❑ ... and that the accountability principle potentially requires to demonstrate compliance with the GDPR in a greater detail !

How can NautaDutilh help ?

- GDPR awareness
- audit / impact assessment
- DPO
- data record
- lawful basis / consent
- data subjects rights
- data breaches
- trainings
- legal assessment compliance gap
- external DPO servicing
- legal advice (e.g. definition of scope re personal data, adequacy of purpose description)
- legal assessment invoked legal basis / draft consent language
- draft privacy notices / legal assessment scope other rights
- draft notifications / assistance in contacts with authorities

How can NautaDutilh help ?

- ❑ transfers outside EU / EEA
- ❑ processing agreements
- ❑ authorities / courts – increasing number of contentious cases to be expected!
- ❑ assessment legality transfer / legal assistance in implementing safeguards (SCC / BCR)
- ❑ draft / amend / negotiate processing relevant agreements
- ❑ assisting clients
 - in administrative proceedings before the authority
 - before the competent courts

Questions? At your disposal!



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- One of the largest law firms in the Benelux region:
 - 388 lawyers including 72 partners, including 14 female partners.
 - 10 of our lawyers are also university professors.
- Spread across 6 offices and 5 country desks: Offices in Amsterdam, Brussels, London, Luxembourg, New York and Rotterdam.
- Our country desks focus on: Germany, France, India, China and Japan. We also monitor growth markets such as Brazil, Mexico, Indonesia, South Korea and Turkey.
- An independent firm with non-exclusive relations with the top law firms in more than 80 countries.

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