

Privacy Is Your Personal Right

Why Do We Have a Data Protection Ombudsman?

The Finnish Constitution guarantees every citizen's private life and honour and the sanctity of the home. The protection of personal data is stipulated in detail by an Act. One of the objectives of the Personal Data Act is to improve the opportunity of individuals to control the use of their personal data. We have the right to know why and how our personal data is being processed and to decide about the processing, unless otherwise stipulated by the law.

As the use of information technology is on the increase and the sphere of communication is rapidly expanding, the protection of privacy is becoming even more topical. Everyone should control the processing and circulation of his or her personal data.

The controller is responsible for the processing of data.

The Data Protection Ombudsman and the Office of the Data Protection Ombudsman provide guidance and advice on all issues related to the processing of personal data and control the observance of the law.

The Data Protection Ombudsman is there to protect your rights.

For the Protection of Privacy

In 1988

the first Personal Data File Act came into force, marking the first law concerning data protection in Finland. The Act was to prevent violations of integrity at all stages of data processing. The functional objective was to promote the development of, and compliance with, good data processing practices.

On June 1, 1999

the Personal Data Act, which replaced the Personal Data File Act, came into force. The main principles of the protection of privacy remained largely unchanged. The Personal Data Act accommodates the constitutional reform and the EU Data Protection Directive (Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the of personal data and on the free movement of such data). The basic rights and freedom of individuals are even more strongly emphasised also in the processing of personal data.

1 September 2004

saw the enactment of the Act on the Protection of Privacy in Electronic Communications, which safeguards confidentiality and privacy in telecommunications. It seeks to clarify the rules for processing confidential identification data and to expand their scope to encompass corporate or associate subscribers. Compliance with the Act on the Protection of Privacy in Electronic Communications and any provisions issued under it is mainly supervised by the Finnish Communications Regulatory Authority. The Data Protection Ombudsman supervises the processing of location data, telephone directories and directory inquiries, compliance with provisions pertaining to direct marketing by means of automated systems and compliance with provisions pertaining to a user's special right of access to information. The Act on the Protection of Privacy in Electronic Communications repealed the Act on the Protection of Privacy and Data Security in Telecommunications enacted in 1999.

1 October 2004

saw the enactment of the Act on the Protection of Privacy in Working Life, which addresses the key data protection issues by creating various procedures for the needs of working life. The act repealed the previous, 2001 act of the same name. The factual content of the provisions in the new act are the same, but the structure has changed due to new provisions on drug testing, camera surveillance and electronic mail privacy protection. The Personal Data Act and the Act on the Protection of Privacy in Electronic Communications contain general data protection provisions, which are also applied in working life.

There are special regulations concerning the processing of personal data in other laws and acts as well. The Act on the Openness of Government Activities controls the access to public registers.

Personal data

- any information on a private individual and any information on his/her personal characteristics or personal circumstances, where these are identifiable as concerning him/her or the members of his/her family or household

Controller

- a person, corporation, institution or foundation for whose use a personal data file is set up and who is entitled to determine the use of the file

Personal data file

- a set of personal data, connected by a common use and processed fully or partially automatically or sorted so that the data pertaining to a given person can be retrieved easily and at reasonable cost

Data subject

- the person to whom the personal data pertains

Data Protection Authorities

The Data Protection Ombudsman and the Data Protection Board

The Office of the Data Protection Ombudsman is an independent authority operating in connection with the Ministry of Justice. The office is run by the Data Protection Ombudsman, appointed by the Council of State for a term of five years.

Reijo Aarnio has been the Data Protection Ombudsman since November 1, 1997. The deputy and assistant to the Ombudsman is Head of Department Mrs Elisa Kumpula. The total number of staff is 20.

The Data Protection Board consists of a chair, deputy chair and five members, who are required to be familiar with register operations. The Board is appointed by the Council of State for a term of three years.

The Operation Principle

The Objective of our Office is to maintain and promote the right to privacy, one of the basic rights of each citizen, by

- fulfilling the duties assigned to the Data Protection Ombudsman by legislation
- co-operating with data subjects and controllers and organisations representing them as well as other related bodies, aiming at preventing violation of privacy in advance
- promoting the development of, and compliance with, good data processing practices
- assisting and supporting the development and use of systems supporting and safeguarding privacy

The Values

Guidelines for the Office's operations are

- proven results and customer-oriented approach
- mutual respect and trust
- openness and commitment to the larger objectives
- readiness to change and develop

The Duties

The Data Protection Ombudsman guides and controls the processing of personal data and provides related consultation. The Ombudsman exerts power in issues related to the implementation of the right of verification and the correction of personal data. The Ombudsman also follows the general development in the processing of personal data, launching initiatives if necessary. The Ombudsman sees to the distribution of information related to the field of operation and participates in international co-operation.

General Guidance and Consultation

The primary duty of the Data Protection Ombudsman is to influence, in advance, compliance with the legislation concerning the keeping of registers. The Office of the Ombudsman provides information on the Personal Data Act, aimed at both controllers and data subjects. Moreover, the in-house experts give lectures at seminars arranged both by the Office of the Data Protection Ombudsman and other organisations. Advice is also given by telephone. The guidance and consultation relating to various data system projects is a task field which is important and constantly growing.

Guidance towards the Compilation of the Codes of Conduct

The Personal Data Act emphasises the self-steering of register keeping. Controllers and communities representing them can compile field-specific Codes of Conduct for the application of the Act and for promoting good data processing practices. The Data Protection Ombudsman provides guidance and consultation in the compilation and review of the Codes of Conduct.

Decisions

In addition to general guidance, the Data Protection Ombudsman provides controllers and data subjects with guidance and advice on request, and makes decisions pertaining to the compliance with legislation and implementation of the rights of data subjects. In matters concerning the implementation of the right of verification and the correction of personal data, the decisions of the Ombudsman are binding and subject to appeal.

Consultation and Statements for Authorities, Prosecutors and Courts of Law

The Data Protection Ombudsman must be heard in matters of preparation of legislative or administrative reforms concerning the protection of personal rights and freedoms in the processing of personal data. (Administrative reforms refer, for example, to organisational reforms influencing the

processing of personal data). In practice, this means that the Ombudsman provides statements and participates in working groups set up for the preparation and review of legislation. The prerequisites of processing personal data must be taken into account as early as possible in the course of the preparation.

The public prosecutor must consult the Data Protection Ombudsman prior to bringing charges based on violations of the Personal Data Act. Courts of law are also obliged to provide the Ombudsman with an opportunity to be heard in cases concerning related issues. In both cases, the Ombudsman provides statements.

Supervision and Inspection

Supervision is carried out through controller's statutory duty of notification, yet even notable exceptions may be accepted within the limits of the Data Protection Directive.

Inspections aim at assessing compliance with the law of data processing, guiding controllers, improving the standard of systems and preventing violations in advance.

Information

Tietosuoja is a journal specialising in data protection and data security. It is published by the Office of the Data Protection Ombudsman, the Finnish Communications Regulatory Authority, the Data Protection Board and the publisher Stellatum Oy, and it comes out four times a year.

The journal informs the public about such things as data protection norms and practices and data protection and security in electronic communication. As information and communication technology progresses, we need to consider consumer rights, confidence, security and protection of privacy. *Tietosuoja* contains information on, for instance, the level of data protection that the EU requires of its Member States or global data security threats.

The website (www.tietosuoja.fi) for the Office of the Data Protection Ombudsman is another important channel for providing information and is frequently updated.

International Co-operation

The Data Protection Ombudsman is a member of the consultative, independent working group of national Data Protection Ombudsmen provided for in the EU Data Protection Directive (Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the of personal data and on the free movement of

such data). In addition, the Data Protection Ombudsman is a member of the joint supervisory bodies included in the Europol and the Schengen agreements.

Transfer to the Data Protection Board

If measures of guidance and advice have failed to remedy a given situation, the Data Protection Ombudsman may, in certain cases, bring an act of violation to the consideration of the Data Protection Board.

Data Protection Board

The Data Protection Board processes and makes decisions on issues falling within its scope of action as stated in the Personal Data Act. At the request of the Data Protection Ombudsman, it provides regulations concerning the processing of personal data.

In addition, the Data Protection Board may grant controllers permission to process personal data, provided that certain prerequisites are fulfilled.

The Data Protection Board deals with issues that are of principal importance in the implementation of the Personal Data Act, monitors the need to develop legislation concerning the processing of personal data and issues initiatives it deems necessary.

DATA PROTECTION BOARD/MINISTRY OF JUSTICE

PO Box 25, 00023 Finnish Government
Tel. 09-160 67836 (secretary)

DATA SUBJECT

You have the right to know which files contain your data. Check the data.

You have the right to know who collects your personal data and why. You must be notified of your rights.

You have the right to require the rectification of incorrect data.

Direct marketing through e-mail and mobile phone is only allowed with your permission. Exercise your right to decline.

Your data must be protected.

Require more information before granting your permission.

Consult the Office of the Data Protection Ombudsman if necessary!

CONTROLLER

Plan the course of data processing minutely and always provide sufficient information.

Secure the standard of your system.

Do not collect unnecessary data.

Respect the rights of the data subject. Control the use of data. Rectify erroneous data independently.

Do not use the data against the purpose of the file.

Provide the data subject with sufficient information when requiring permission to file data: be open.

Consult the Office of the Data Protection Ombudsman if you need guidance in the processing of personal data!

OFFICE OF THE DATA PROTECTION OMBUDSMAN

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www.tietosuoja.fi

Advice and guidelines for the processing of personal data plus form templates available at the website **www.tietosuoja.fi**.