

EDBF and EU GDPR (General Data Protection Regulation)

By Claudio Schermi inspired by an Arthur Cox Group Briefing report and other GDPR documents

The European Dragon Boat Federation is the governing body for Dragon Boat in Europe.

We have members, athletes, race officials, officials and supporters.

As a result we hold the personal data of many individuals as well as information relating to volunteers.

Data is a key asset for sports organisations the maintenance and growth of which is crucial to the ongoing development and success.

Sporting organizations of all levels need to be aware of the upcoming General Data Protection Regulation, which comes into force on 25 May 2018.

This year's GAISF General Assembly featured a section dedicated to helping International Federations (IFs) get to grips with the latest General Data Protection Regulation (GDPR). The new reform, which is described as the most important change in data privacy regulation for 20 years, has implications for every International Federation which stores data on individuals whether they are athletes, officials or fans. (<https://gaisf.org/gaisf-general-assembly-offers-insight-into-gdpr>).

This new EU regulation is set to radically change the way that all organisations manage individuals' personal data with the biggest reform in data protection law for over 20 years. It is crucial that all sporting organisations have taken or are planning to take appropriate measures to ensure compliance with the Regulation as there are huge potential fines for organisations which don't comply in the case of serious breaches.

The GDPR applies to any data controllers or data processors, so it covers organisations who collect any personal data from members, employees, fans or athletes. "Controllers" of personal data are organisations that decide how and why personal data is processed. "Processors" of personal data are those who process data on the controller's behalf. Some of the key changes that are implemented by GDPR include:

- » **Record keeping:** - Organisations will be required to keep records of the data they process, why they process it, for how long they process it and the legal basis on which they process it.
- » **Notification of breaches:** – Data breaches that impact on privacy will have to be notified to the Office of the Data Protection Commissioner (the "ODPC") and any individuals that are affected within 72 hours of the occurrence of the breach. Failure to report a breach could result in a fine as well as a fine for the breach itself.
- » **Transparency:** - The GDPR sets out the information that must be given to data subjects at the point of collection of the data. Data capture forms and privacy policies of sports organisations will need to be updated in order to fall in line with the minimum transparency requirements of the GDPR. Individuals must be told about what personal data is processed, why it is processed, the lawful basis for processing it, how long it will be retained for, who, if anyone, it might be shared with and what measures will be implemented to protect it. The time to respond to an access request has been reduced from 40 days to within one month. Controllers will not be able to charge for processing an access request unless they can demonstrate that the cost will be excessive.
- » **Accountability:**- The General Data Protection Regulation (GDPR) introduces a new principle to data protection rules in Europe: that of accountability. The GDPR requires that the controller is responsible for making sure all privacy principles are adhered to. Moreover, the GDPR requires that each organization should be able to demonstrate compliance with all the principles.

STEPS TO TAKE NOW:

1. **Access.** The first step toward GDPR compliance is to access all EDBF data sources. Most of our data are within the IDBF registration platform and the regulation requires organizations to prove that we know where personal data are. Access to all data sources is a prerequisite for building an inventory of personal data so we can evaluate the EDBF privacy risk exposure and enforce wide privacy rules.
2. **Identify.** The next step is to inspect them to identify what personal data can be found. EDBF needs to be able to extract, categorize and catalog personal data elements to meet the May 2018 deadline for GDPR compliance.

3. **Govern.** EDBF should have the required level of control. The EDBF should be able to define what personal data means and then GDPR compliance and privacy rules should be documented and shared across EDBF.
4. **Protect.** Once the personal data inventory and governance model are established, it will be the time to set up the correct level of protection for the data. The easiest way to protect data privacy is actually to press the delete button, keeping only the data EDBF needs to run championships.
5. **Audit.** The fifth step in the journey to GDPR compliance involves auditing.

The further step is to understand if the EDBF needs to have a **Data Protection Officer (DPO)**.

The EDBF core activities do not involve processing of sensitive data on a large scale, regular and systematic monitoring of individuals. In that respect should be underlined that the EDBF store data not for the purpose of behavioural advertising. And the EDBF is not a public administration.

We believe that DPO it is NOT mandatory for EDBF, but it could be recommended.

Anyway, EDBF should take the following steps at this point to ensure that we are in a good position prior to the implementation of the GDPR.

- » Review the privacy policy and fair processing notices of the EDBF to ensure that the transparency requirements are appropriately satisfied. Consider whether an appropriate system is in place such that a data access request/exercise of a right of erasure can be dealt with quickly and satisfactorily.
- » Ensure that the EDBF has appropriate systems in place in the event of a data protection breach.
- » Carry out a data audit to figure out what, how and why data is held by the EDBF and to determine what the lawful basis and purposes of holding that data are.
- » Consider if consent is required and, if so, how consent is obtained from the data subject, especially if it is being transferred or hosted outside of the EDBF handle requests within the new consent.

Please note that each purpose of processing needs a separate information to be provided and a separate consent, and data subjects must be given an easy way to withdraw their consent at any time.

Important issues to be considered are: **childrens' consent, right to be forgotten/right to erasure, right to data portability, sensitive data, third party processors.**

The EDBF Senior Vice President, Peter Jarosi, proposal, based on the experience of Hungarian Dragon Boat Federation, should be immediately approved and recommended to all National Federations/Associations in membership within the EDBF:

"I accept that on a Dragon Boating and Recreational event organized by the European Dragon Boat Federation (EDBF) or by someone else under EDBF's control, either the European Dragon Boat Federation or its party in charge of this activity, for its own interest, can record my personal data, take pictures and voice recording.

I accept that the European Dragon Boat Federation can publish, replicate these pictures and voice recording or use them in another way, and together with my personal data it can store them, following the legal rules, for a time period determined by the law or until my written withdrawal of this acceptance.

I understand and accept that in the case of recording of mass and public appearances, my approval is not required in order to take and use the picture, videos and the sound recording."

Claudio Schermi

President

European Dragon Boat Federation

References:

How can sports clubs and organisations prepare for the new General Data Protection Regulation (the "GDPR")?

By Arthur Fox group briefing Sports Law/Technology and Innovation

<https://gaisf.org/gaisf-general-assembly-offers-insight-into-gdpr>