

# ESOMAR LEGISLATION REVIEW

POLAND: DRAFT DATA PROTECTION ACT

14 January 2014



## Country/Area:

Poland/EU

## Title of legislation:

Protection of Personal Data - draft Simplification of Conditions for Conducting Economic Activity Act

## Legislation introduced by:

Polish Ministry of Economy

## Category of legislation:

Comprehensive national data protection legislation

## Important stakeholders:

- Inspector General for Personal Data Protection

## Timeline:

- First act created 29 August 1997
- Draft amendments published 16 October 2013
- New draft framework for the draft Simplification of Conditions for Conducting Economic Activity Act was published on the Government Legislation Centre website in second half of January 2013
- Expected to be implemented in the beginning of 2014

## Link/location:

<http://legislacja.rcl.gov.pl/docs//2/181358/181362/181363/dokument87482.pdf>

## SUMMARY, AND SPECIFIC POINTS WHICH IMPACT ON MARKET RESEARCH:

**Poland follows regional trends.** The legislation holds strong similarities to other recently enacted Eastern European data protection legislations, such as in Slovakia. The rule changes are taking place in order to align the data protection regimes with the proposed European General Data Protection Regulation (EU GDPR), before it is enacted (currently predicted to be ratified end 2014). The primary regional adjustments are in the hiring and roles of data protection officers, and changing the rules on transferring data outside of the EU.

**Relaxed rules on international data transfers.** Poland does not currently recognise corporate contracts as an adequate legal basis for transferring data to third countries not pre-approved by the EU. Market research companies may face problems when personal data is transferred to other areas of the business and external clients that are across EU borders. In such cases, consent from the Polish GIODO (Inspector General for Personal Data Protection) is required, which is a bureaucratic and lengthy process. If the new legislation is enacted, the Polish GIODO's consent will no longer be compulsory for international data transfers that incorporate Standard Contractual Clauses approved by the European Commission. This is good news for international market research companies, since the new rules would considerably simplify the transfer of personal data to outside the EU.

Want further info? Contact the ESOMAR Government Affairs Team at [public\\_affairs@esomar.org](mailto:public_affairs@esomar.org)

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**✓ Data Protection Officers have defined roles and must be approved.** The appointment must now meet certain official requirements of the GIODO, and be registered. The revised tasks of data privacy officers will be outlined as the following; ensuring compliance, updating documentation required by data privacy law, educating data processors, and keeping a register of databases containing personal data.

**✓ Hiring Data Protection Officers eases reporting restrictions.** Under the current law, it is compulsory for market research companies to notify and register all data filing systems containing personal data with the GIODO. If the new law is enacted, those who appoint a Data Protection Officer only have to keep an internal, publicly available, record of the data filing systems that hold personal data. However, they must still register any systems containing sensitive personal data.

**✓ Changes due in first quarter of 2014.** The amendments are still part of draft legislation. Nevertheless, the initiative is a priority for the Polish government. The aim is to have the bill passed by the beginning of 2014 at the very latest, so it is in force before the EU GDPR. Slovakia also seeks to enforce its data protection legislation in mid-2014.

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