

## New category of aviation-drones- challenges for privacy

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# Drones and data protection-search for legal framework

Opinion of the European Data Protection Supervisor – November 2014

Commission Communication-A new era for aviation – 2014

Article 29 DATA PROTECTION WORKING PARTY – Opinion 01/2015 on Privacy and Data Protection Issues relating to the Utilisation of Drones



# New Privacy Rules at the EU level for all sectors

## 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, GDPR)

1. More obligations imposed on businesses and financial sanctions
2. GDPR - technologically neutral
3. Enters into force in all EU member states and will be applied directly from 25 May 2018
4. Concepts of personal data, data controller, processor remain unchanged however further obligations are added
5. Reduction of administrative barriers

## 2 years to adjust to the new EU Regulations

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### Privacy by design

Are you taking into account privacy and data protection requirements when projecting and developing new business processes and systems?

### New rights

Do you know how will you comply with the new rights of data subjects, such as „the right to be forgotten”, „the right to data portability”, „the right to object to profiling”?

### Data breaches

Will you be able to notifying the data protection authority about data breaches within 72 hours?

# SANCTIONS for not - protecting personal data

## Risks of non-compliance

1. Financial risk;
2. Reputational risk;
3. Criminal sanctions including imprisonment and restrictions on freedom lasting up to 3 years;
4. Financial penalties applicable from 25<sup>th</sup> May 2018.

## Selected Data Protection Risks in Drone Sector

1. Drones can carry multiple devices allowing the processing of personal data;
2. Drones, when flying, collect a huge amount of data, even if individuals are aware that a drone is in the area it is difficult to know which data processing equipment are on board, for what purposes they are being collected and by whom;
3. Drones usually collect data without prior consent;
4. Data Controller has a legal obligation to inform data subjects about collection and processing of their personal data – frequently there is no link between drones' operator and subject of personal data;
5. Problem with identification of the drone that is collecting personal data – operator and the company he/she is working for.



# The challenges identified for Privacy in Drone Sector

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How to identify?



How to inform?



How to inspect?

How to sanction?



# Steps to be taken before operating a drone

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## Article 29 Data Protection Working Party Recommendations

- Check if the national law allows operating drones and verify the need for a specific authorization from the CAA and ANSA;
- Clarify the roles of possible different actors: as far as the processing is not carried out directly by the controller, ensure that the processing is governed by a **contract** or **legal act binding the processor to the controller** and that processor acts only on instructions from the controller;
- Evaluate the data protection impact taking into account the purpose of the operations and the type of drones (dimension, visibility) and the specific combinations of sensing **technology on-board**; identify the most suitable legal basis (**consent of the data subjects, performance of a contract, legal obligation, legitimate interest**) and the possible need to notify/consult the competent DPAs according to national data protection law;
- Choose the most proportionate technology on-board and adopt all suitable **measures of privacy by default**: set services and products in such a way as to avoid the collection and/or the further processing of unnecessary personal data;



# Steps to be taken before operating a drone

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## Article 29 Data Protection Working Party Recommendations

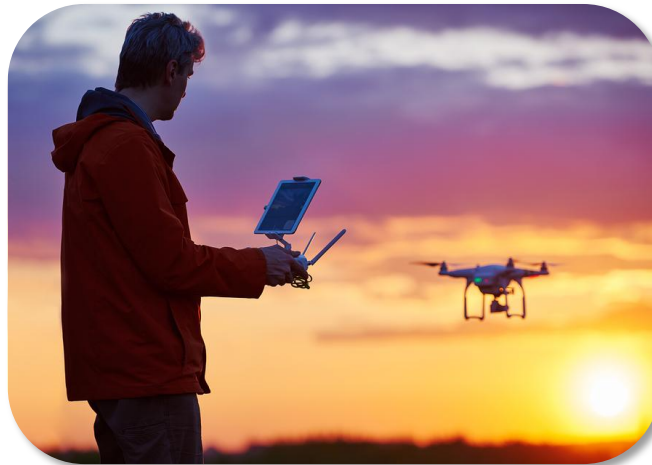
- Find the most appropriate way to **give advance notice** to those who can be impacted by the data processing: inform through signposts or information sheets in case of visual operation in a specified area;
- In case of an event, inform public **by means of social media**, newspapers, **leaflets** or posters; give clear information always on the relevant website: the information notice should contain a clear indication of the **controller** and the **purposes of the processing** and should give data subjects clear and specific indications for exercising **the right to access** visual and non-visual records concerning them;

# Steps to be taken before operating a drone

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## Article 29 Data Protection Working Party Recommendations

- Take all the appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the data to be protected, in particular, to prevent any unauthorised processing also during the "transmission,, phase;
- Delete or anonymise any unnecessary personal data soon after the collection or as soon as possible;



## Regulators' Cooperation:

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### DPA Objective:

- Help with compliance with data protection rules;
- Work with CAA on potential solutions for the sector;
- Examples of cooperation: French DPA/CNIL and French CAA;
- Polish Example – ULC/GIODO –Campain -Lataj z głową/Fly with Sense-Piotr Ołowski, Paweł Szymański

### Important vocabulary for compliance with data protection rules:

Lawfulness

Purpose Limitation

Limited Retention

Data Accuracy

Security

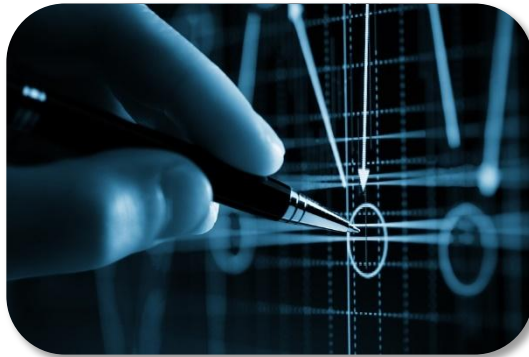
Data Subject Rights

# New concepts in data protection

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*Privacy by Default*

*Privacy by Design*



# Thank you for your attention

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