



Report

# Impact of the General Data Protection Regulation and the national personal data protection legislation on the copyright infrastructure

Data protection & copyright infrastructure

Lexia Attorneys Ltd

Report

# Impact of the General Data Protection Regulation and the national personal data protection legislation on the copyright infrastructure

Data protection & copyright infrastructure

Lexia Attorneys Ltd

**Julkaisujen jakelu**

Distribution av publikationer

**Valtioneuvoston  
julkaisuarkisto Valto**

Publikations-  
arkivet Valto

[julkaisut.valtioneuvosto.fi](https://julkaisut.valtioneuvosto.fi)

**Julkaisumyynti**

Beställningar av publikationer

**Valtioneuvoston  
verkkokirjakauppa**

Statsrådets  
nätbokhandel

[vnjulkaisumyynti.fi](https://vnjulkaisumyynti.fi)

Ministry of Education and Culture

CC BY-NC 4.0

ISBN pdf: 978-952-263-781-9

ISSN pdf: 1799-0351

Layout: Government Administration Department, Publications

Helsinki 2022 Finland

## Report:

## Impact of the General Data Protection Regulation and the national personal data protection legislation on the copyright infrastructure

## Data protection &amp; copyright infrastructure

<b>Publications of the Ministry of Education and Culture, Finland 2022:38</b>	<b>Subject</b>	Culture
<b>Publisher</b>	Ministry of Education and Culture	
<b>Author(s)</b>	Lexia Attorneys Ltd	
<b>Group author</b>	Department for Art and Cultural Policy	
<b>Language</b>	English	<b>Pages</b> 37

**Abstract**

This report examines how and to what extent collective management organisations (CMO) are able to process personal data in the copyright operating environment, which is becoming increasingly digitalised.

The status of the CMOs was examined from the perspective of the General Data Protection Regulation and the focus was on the right of the CMOs to supply personal data to the ISNI database and other copyright management portals. The roles of the CMOs under the General Data Protection Regulation and the grounds for processing personal data relevant to the topic are also discussed in the report.

With regard to the application of the data protection legislation, the General Data Protection Regulation and the national Data Protection Act apply to the processing of the data on authors and works. Disclosing personal data to third parties and publishing it online are also considered processing of personal data. Thus, the right of the CMOs to supply data on authors and works to databases must be assessed from the perspective of what is permitted under the data protection legislation.

**Keywords** data protection, personal data, copyright, copyright infrastructure, permanent identifiers, ISNI, portals, metadata

<b>ISBN PDF</b>	978-952-263-781-9	<b>ISSN PDF</b>	1799-0351
<b>Reference number</b>	VN/15421/2022		

**URN address** <http://urn.fi/URN:ISBN:978-952-263-781-9>

## Selvitys:

Tietosuoja-asetuksen ja kansallisen henkilötietojen suojaa koskevan  
lainsäädännön vaikutus tekijänoikeusinfrastruktuuriin

## Tietosuoja &amp; tekijänoikeusinfrastruktuuri

<b>Opetus- ja kulttuuriministeriön julkaisu 2022:38</b>		<b>Teema</b>	Kulttuuri
<b>Julkaisija</b>	Opetus- ja kulttuuriministeriö		
<b>Tekijä/t</b>	Lexia Asianajotoimisto Oy		
<b>Yhteisötekijä</b>	Kulttuuri- ja taidepolitiikan osasto		
<b>Kieli</b>	Englanti	<b>Sivumäärä</b>	37

## Tiivistelmä

Toimeksiantona oli selvittää, millä tavoin ja kuinka laajasti tekijänoikeusjärjestöt voivat käsitellä henkilötietoja tekijänoikeuksien digitalisoituvassa toimintaympäristössä.

Tekijänoikeusjärjestöjen asemaa tarkasteltiin yleisen tietosuoja-asetuksen näkökulmasta, ja selvityksen kohteena oli erityisesti tekijänoikeusjärjestöjen mahdollisuus luovuttaa henkilötietoja ISNI-tietokantaan ja muihin tekijänoikeuksien hallinnointiin liittyviin portaaleihin. Selvityksessä otettiin kantaa myös tekijänoikeusjärjestöjen tietosuoja-asetuksen mukaisiin rooleihin ja aihealueen kannalta soveltuviin henkilötietojen käsittelyperusteisiin.

Tietosuojalainsäädännön soveltamisen osalta voidaan todeta, että kun kyse on henkilötiedoiksi katsottavista tekijä- ja teostietojen käsittelystä, tulevat tietosuoja-asetus ja kansallinen tietosuojalaki sovellettaviksi. Henkilötietojen käsittelyä on myös niiden luovutus kolmannelle taholle ja julkaiseminen verkossa. Näin ollen tekijänoikeusjärjestöjen mahdollisuutta luovuttaa teos- ja tekijätietoja eri tietokantoihin on arvioitava tietosuojalainsäädännön edellytysten näkökulmasta.

**Asiasanat** tietosuoja, henkilötiedot, tekijänoikeus, tekijänoikeusinfrastruktuuri, pysyvät tunnisteet, ISNI, portaalit (tietotekniikka), metadata

<b>ISBN PDF</b>	978-952-263-781-9	<b>ISSN PDF</b>	1799-0351
<b>Asianumero</b>	VN/15421/2022		

**Julkaisun osoite** <http://urn.fi/URN:ISBN:978-952-263-781-9>

**Utredning:****Inverkan av dataskyddsförordningen och nationella lagstiftningen om skyddet av personuppgifter på upphovsrättsinfrastrukturen****Dataskydd & upphovsrättsinfrastruktur**

<b>Undervisnings- och kulturministeriets publikationer 2022:38</b>		<b>Tema</b>	Kultur
<b>Utgivare</b>	Undervisnings- och kulturministeriet		
<b>Författare</b>	Lexia Asianajotoimisto Oy		
<b>Utarbetad av</b>	Kultur- och konstpolitiska avdelningen		
<b>Språk</b>	Engelska	<b>Sidantal</b>	37
<b>Referat</b>			
<p>Uppdraget var att utreda på vilket sätt och i vilken omfattning upphovsrättsorganisationerna kan behandla personuppgifter i upphovsrättens digitaliserade verksamhetsmiljö.</p> <p>Upphovsrättsorganisationernas ställning granskades ur den allmänna dataskyddsförordningens perspektiv. Utredningen gällde i synnerhet upphovsrättsorganisationernas möjlighet att lämna ut personuppgifter till ISNI-databasen och till andra portaler som hänför sig till förvaltningen av upphovsrätter. I utredningen tog man också ställning till upphovsrättsorganisationernas roller enligt dataskyddsförordningen och till de grunder för behandling av personuppgifter som är lämpliga med avseende på temat.</p> <p>När det gäller tillämpningen av dataskyddslagstiftningen kan det konstateras att dataskyddsförordningen och den nationella dataskyddslagen blir tillämpliga när det är fråga om behandling av sådana uppgifter om upphovsmän och verk som ska betraktas som personuppgifter. Behandlingen av personuppgifter omfattar också utlämnande av personuppgifter till tredje part och publicering av dem på nätet. Upphovsrättsorganisationernas möjlighet att lämna ut uppgifter om upphovsmän och verk till olika databaser ska således bedömas utifrån förutsättningarna enligt dataskyddslagstiftningen.</p>			
<b>Nyckelord</b>		dataskydd, personuppgifter, upphovsrätt, upphovsrättsinfrastruktur, dataskyddsförordningen, permanenta identifikatorer, metadata, ISNI, portaler (nättjänster)	
<b>ISBN PDF</b>	978-952-263-781-9	<b>ISSN PDF</b>	1799-0351
<b>Ärendenummer</b>	VN/15421/2022		
<b>URN-adress</b>	<a href="http://urn.fi/URN:ISBN:978-952-263-781-9">http://urn.fi/URN:ISBN:978-952-263-781-9</a>		

## Contents

<b>1</b>	<b>Introduction</b>	<b>7</b>
1.1	Background	7
1.2	Legislative framework	8
1.3	Issues discussed in the report	9
<b>2</b>	<b>Impact of the General Data Protection Regulation and the national personal data protection legislation on the copyright infrastructure</b>	<b>10</b>
2.1	Data protection and copyright infrastructure	10
2.2	Background to the report	11
2.2.1	Status of collective management organisations and the Act on the Collective Management of Copyright (1494/2016)	11
2.2.2	Copyright Act (404/1961)	12
2.2.3	ISNI	13
2.2.4	General Data Protection Regulation (EU) 2016/679	14
2.2.4.1	General information	14
2.2.4.2	Key terms	15
2.2.4.3	Legal bases for processing personal data	17
2.2.4.4	Processing personal data of minors	22
<b>3</b>	<b>Key questions and conclusions presented in the report</b>	<b>23</b>
3.1	Question 1 – Consent of the author as basis for processing personal data	23
3.2	Question 2 – Applicability of an existing basis for processing	27
3.3	Question 3 – Data collected on behalf of several entities	27
3.4	Question 4 – Sharing of personal data and questions of liability	29
<b>4</b>	<b>Summary</b>	<b>31</b>
	<b>Appendices</b>	<b>33</b>
	<b>Sources</b>	<b>36</b>

# 1 Introduction

## 1.1 Background

In spring 2022, the Department for Art and Cultural Policy of the Ministry of Education and Culture (hereafter the 'Ministry of Education and Culture') commissioned the Lexia Attorneys Ltd to write a report titled 'Impact of the General Data Protection Regulation and the national personal data protection legislation on the copyright infrastructure'.

The General Data Protection Regulation (EU) 2016/679<sup>1</sup> of the European Union entered into force on 25 May 2016 and the EU Member States started applying the piece of legislation on 25 May 2018. The General Data Protection Regulation has been supplemented with the national data protection act (Data Protection Act 1050/2018), which contains provisions specifying the regulation. The General Data Protection Regulation applies to both public and private sectors and, as a rule, all personal data processing falls within the scope of the regulation. It contains provisions on the rights of the data subject and the obligations of the controller and the processor. The data protection legislation also has a bearing on other areas of legislation such as the Copyright Act because the impacts of personal data protection must be taken into account in the copyright infrastructure and its development.

The aim of this report is to promote the development of the digital services provided by collective management organisations for copyright (CMOs) and to consider how and to what extent person-related metadata can be processed in an increasingly digitalised operating environment. 'Personal data' means any information relating to an identified or identifiable natural person. 'Processing' means the process as a whole: collecting, storage, use, transfer, disclosure and publication of personal data. In general, the results produced by this report are intended to support similar needs more broadly in view of the functioning of the copyright system. However, it must be remembered that the obligations that actors must meet under the General Data Protection Regulation depend on their roles.

The report is part of a more extensive effort to develop Finland's copyright infrastructure. During its EU Presidency in 2019, Finland highlighted the need to develop the copyright infrastructure *i.e.* the practices of entering data on works and authors, including identifiers, standards and data sharing formats.

---

<sup>1</sup> 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



The ISNI project is an essential part of the report. The project has been launched to create a system in which certain CMOs operating in Finland would supply details of actors in the creative sector they keep in their own customer registers to the National Library of Finland, which acts as the national ISNI Registration Agency. The National Library of Finland would then relay the information to the international ISNI database. The aim of the project is to create ISNI identifiers for the customers of CMOs that would facilitate the unambiguous identification of the authors and help to ensure that the copyright remuneration is paid to the right recipients, especially when the recipients are located in foreign countries. The purpose of the report is to support this project in clarifying the bases for personal data processing. Gramex, Kopiosto, Kuvasto, Sanasto and Teosto have joined the project, which is coordinated by the National Library of Finland.<sup>2</sup>

This report will be published on the [website](#) of the Ministry of Education and Culture and it can be freely used. The report has been prepared on general level and each actor must produce its own assessment of personal data processing and its applicable legal bases and consider the applicable limitations and features specific to each actor.

## 1.2 Legislative framework

As a general rule, the following legislative framework has been used as a basis for this report:

- General Data Protection Regulation (EU) 2016/679 ([General Data Protection Regulation](#)) and the national data protection act supplementing it (1050/2018) ([Data Protection Act](#))
- Act on the Collective Management of Copyright (1494/2016) ([Act on the Collective Management of Copyright](#))
- Copyright Act (404/1961) ([Copyright Act](#))

Information protected under the Trade Secrets Act (595/2018) is not discussed in this report because the report only covers the application of data protection in the copyright system.

---

<sup>2</sup> Read more about the project on the website of the National Library of Finland: [The adoption of ISNIs in Copyright Management Organizations](#).

## Issues discussed in the report

The Ministry of Education and Culture has prepared the following questions that this report aims to answer:

1. What are the bases for the processing and sharing personal data besides the consent of the author? Can the author's consent (a requirement for publishing or making a work public under the Copyright Act) constitute a legal basis for data processing under the General Data Protection Regulation when mentioning the author's name (and the use of identifiers identifying the author) in connection with the work or in the management of the rights to the work?
2. Do the legal basis and purpose related to the processing of the personal data of customers of CMOs also justify the public use of the ISNI identifier without a separate consent from the customer? The privacy statements of the five major CMOs are listed at the end of this report.
3. When information is collected on behalf of several actors to a portal supporting the operation the copyright system, should the legal bases for processing be presented for the collection, storage and sharing of personal data separately for each party involved? Can the process be streamlined?
4. What personal data can be shared with other parties if the aim of the processing is to improve metadata quality and to facilitate the unambiguous identification of a person (for example, with the help of an ISNI identifier)? What are the responsibilities of the individual CMOs as controllers and on what basis is personal data processed when data protected as personal data is shared?

## 2 Impact of the General Data Protection Regulation and the national personal data protection legislation on the copyright infrastructure

### 2.1 Data protection and copyright infrastructure

When the data protection legislation and the copyright legislation are discussed side by side, it is essential to note that there are major differences between the terminology used in these two legislative frameworks even though the words used may be the same. This is, for example, the case when we are talking about consent and its legal nature. When a natural person gives their consent in a context defined in the copyright legislation, the author gives their consent to the publication of the work, and the author's name is used in connection with the work to enforce and protect the copyright. When we are talking about consent in connection with the data protection legislation, consent is defined differently and a natural person gives consent to the processing of their personal data for a specific purpose and the consent must meet specific requirements laid down in the law. Thus, as a rule, consent does not have the same meaning in these two legislative frameworks and it cannot be assumed that the consent given within the framework of the copyright legislation would, as such, be legally valid within the framework of the data protection legislation.

The differences between these two legislative frameworks are also reflected in the division of the copyright infrastructure into publishable and non-public metadata. There is no such classification in the data protection legislation and such classification does not change the legal status of personal data. In the General Data Protection Regulation, personal data is only divided into personal data and special categories of personal data. As a rule, the processing of the special categories is prohibited unless there are applicable exemptions. From the perspective of the data protection legislation, publication of information is one way of processing personal data and there are no separate provisions on this. When personal data is published, it must be determined whether the publication is in line with the original purpose of use and what the legal basis for the processing is.

The report has been written from the perspective of the CMOs and consideration has also been given to the special features pertaining to the processing of the ISNI identifier. The findings of the report may be freely used by anyone interested.

## 2.2 Background to the report

### 2.2.1 Status of collective management organisations and the Act on the Collective Management of Copyright (1494/2016)

Collective management organisations are organisations established by copyright holders or federations representing them. They are structured as associations and their activities are based on contracts or powers of attorney granted by the copyright holders. There are currently seven collective management organisations in Finland: Audiovisual Producers Finland - APFI; Finnish Composers' Copyright Society Teosto ry; Gramex - The collective management organisation for recorded music in Finland; Copyright organisation for creative work Kopiosto ry; Visual Arts' Copyright Society Kuvasto ry; Finnish literary copyright society Sanasto ry; and Avate Audiovisual authors and performers in Finland ry, which represents actors' interests. Collective management organisations grant licences for the use of protected material, collect remunerations for such use, and remit them to rightholders in accordance with the Act on the Collective Management of Copyright.<sup>3</sup>

The objective of the Collective Management Act (1494/2016) is to protect the right to autonomy on the part of copyright holders pertaining to copyright and rights related to copyright, promote the viability of copyright markets, and ensure that collective management respective to copyright and rights related to copyright is expedited responsibly, effectively and transparently with regard to copyright holders and users.

The Collective Management Act contains provisions on the supervision of the rights and interests of copyright holders in the collective management organisation; as well as the supervision of member rights, powers of decision and interests in the collective management organisation, together with the administration of copyright remunerations.

As CMOs have the obligation to manage the copyrights or rights related to copyright, copyright categories or types of work or other protected subject matter as bodies

---

<sup>3</sup> The Act on the Collective Management of Copyright (Collective Management Act) is based on directive 2014/26/EU of the European Parliament and Council on the collective management of copyright and rights related to copyright, as well as the licensing of rights in internal markets for online use covering several states with regard to musical compositions. The act entered into force on 1 January 2017.

designated by and directly or indirectly authorised by rightholders. This obligation exists regardless of the European Union Member State in which the collective management organisation is established, the rightholder's nationality, or the European Union Member State in which the rightholder resides or is established. Unless the collective management organisation has justified grounds for refusing to manage the rights as mandated, it has a duty to manage such rights provided that such a duty falls within its purview.

However, the Collective Management Act does not contain specific provisions on the processing of personal data even though it is clear that carrying out the tasks laid down in the Collective Management Act requires the processing of personal data.

### 2.2.2 Copyright Act (404/1961)

Copyright means the author's exclusive right to decide on the use of a literary or artistic work that the author in question has created. In principle, other parties do not at the outset have any right to use the work without the author's permission. Copyright only protects the personal expression of the work, and the work must exceed the threshold of originality, meaning that it must be sufficiently independent and original. Copyright is automatically afforded to any author of an original work and it does not require registration or notification. In Finland, copyright is in effect throughout the author's lifetime and for 70 years from the end of the year in which the author died. The author may transfer their rights to a third party but moral rights may only be transferred to a limited extent.

Under Section 3 of the Copyright Act, when copies of a work are made or when the work is made available to the public in whole or in part, the name of the author shall be stated in a manner required by proper usage. The author has the right to be named in a manner required by proper usage when the work is used (right of paternity).

Under Section 7 of the Copyright Act, the principle of assumed authorship applies. The person whose name or generally known pseudonym or pen name is indicated in the usual manner on the copies of a work or when the work is made available to the public, shall be deemed to be the author, unless otherwise demonstrated.

Under Section 8 of the Copyright Act, a work shall be considered to have been made public when it has lawfully been made available to the public. A work shall be regarded as published when copies thereof have, with the consent of the author, been placed on sale or otherwise distributed to the public.

In other words, processing of the author's personal data is required under the Copyright Act even though the Act does not contain separate provisions on personal data processing.

### 2.2.3 ISNI

ISNI (International Standard Name Identifier) is a 16-character identifier for actors' public identities. It is based on ISO 27729 standard and it is used by numerous libraries, publishers, databases and rights management organisations around the world. ISNI is an international identifier that can be used to unambiguously identify persons and organisations associated with any creative work (such as writers, composers, visual artists, performers, producers and publishers). Issuing each author with a unique ISNI identifier is the responsibility of the ISNI International Agency Ltd (ISNI-IA).

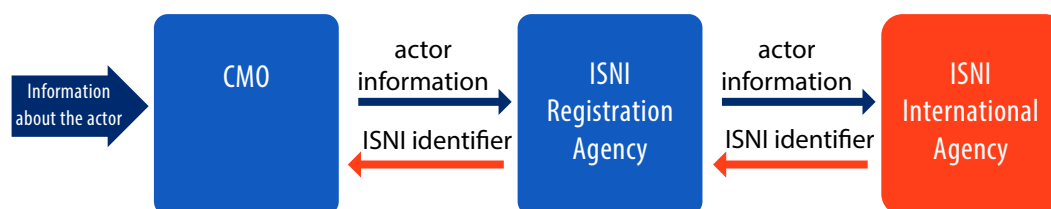
The ISNI organisation has specified the information required for the ISNI identifier. Not all information is mandatory but the information supplied for the identifier must be sufficiently comprehensive. Individuals must supply the following information for the ISNI identifier: name and any previous names, name variations and spellings, details of the works, year of birth and the country the author is associated with.<sup>4</sup> It should be noted that the assessment of the information required for the ISNI identifier has not been carried out from the perspective of the General Data Protection Regulation. This means that the data requirements are not grouped in accordance with the regulation.

In addition to the ISNI International Agency, the ISNI organisation also comprises a variety of different members and other organisations supplying data to the database. The National Library acts as the ISNI Registration Agency in Finland and it also supplies data to the database. Provisions on the status and tasks of the National Library of Finland are contained in section 70(1) of the Universities Act (558/2009). There are also provisions on the tasks of the National Library in the Act on Collecting and Preserving Cultural Material (1433/2007).

The figure below describes the flow of information between copyright societies, the ISNI Registration Agency and the ISNI International Agency.

---

4 See Appendix 1, Information required for ISNI identifier.

**Figure 1.** Continuous ISNI process and the flow of information.<sup>5</sup>

## 2.2.4 General Data Protection Regulation (EU) 2016/679

### 2.2.4.1 General information

The application of the General Data Protection Regulation began in May 2018. In many respects, it follows the main principles laid down in the Personal Data Act and the Personal Data Directive used as a basis for the Act.

From the perspective of this report, it is essential to understand a number of key points of the regulation. The General Data Protection Regulation is based on the principle that there must be a legal basis for the processing of personal data. These bases are listed in Article 6 of the regulation. Before any processing of personal data, the bases for the processing must be specified. In this report, the bases for the processing are discussed in more detail below.

The principles laid down in Article 5 of the regulation must also be taken into account when personal data is processed. The principles of purpose limitation and data minimisation defined in Article 5(1)(b) and (c) are the most important principles from the perspective of this report on data protection and copyright infrastructure. Purpose limitation means that all personal data must be collected for specified, explicit and legitimate purposes. The purpose of the processing must be specified before the processing of personal data. Purpose limitation guides the processing of the personal data in all processing throughout the data life cycle. Personal data can also be processed for such other purposes that are compatible with the original purpose. Thus, purpose limitation and its impacts must also be taken into account in the disclosure of data.

The principle of data minimisation means that personal data must be adequate, relevant and limited to what is necessary in relation to the purposes for which the data is

<sup>5</sup> Figure 1 was prepared by the National Library of Finland.

processed. Personal data can be considered necessary for the purposes of the processing when the data is adequate and relevant and not too extensive for the purpose for which it has been collected and for which it will be processed at a later stage.<sup>6</sup> The principle of minimisation also guides the necessity assessment because even though specific personal data would in principle be needed for a specific purpose, the processing of the data should nevertheless be minimised. In practice, collection of personal data should be minimised and the processing of specific personal data is only permitted if the aims of the processing cannot be achieved by other means.<sup>7</sup> The necessity requirement should not be confused with information considered useful, which, as stated above, cannot be collected under the General Data Protection Regulation. This also applies to the ISNI identifier and thus, only information that is needed for the purpose in question may be processed even if from the perspective of the database, a larger amount of useful information was available.<sup>8</sup>

#### 2.2.4.2 Key terms

From the perspective of this report, it is essential to discuss the key terms used in the General Data Protection Regulation.

##### Personal data

Personal data is all data pertaining to an identified or an identifiable person. Identification may also take place indirectly by combining data. Personal data includes, for example, the name, phone number and facial image of a natural person.

The concept of personal data is given a broad interpretation and information that can be attributed to a specific person with the help of additional information is also considered personal data. Thus, such information as the pseudonymised<sup>9</sup> personal data referred to in the data protection legislation that can be attributed to a specific person with the help of additional information, is considered personal data. Under recital 26 of the General Data Protection Regulation, to identify a natural person, account should be taken of all the means reasonably likely to be used, such as singling out, either by the controller

---

6 Government proposal to Parliament for the Personal Data Act and certain related acts (HE 96/1998 vp, detailed rationale).

7 Guidelines 4/2019 on Article 25 Data Protection by Design and by Default, adopted on 13 November 2019.

8 See Appendix 1: Information required for the ISNI identifier

9 In pseudonymisation, personal data is processed in such a manner that the data can no longer be attributed to a specific person without additional information. Such additional information must be stored carefully and kept separated from personal data.



or by another person to identify the natural person directly or indirectly. To ascertain whether means are reasonably likely to be used to identify the natural person, account should be taken of all objective factors, such as the costs of and the amount of time required for identification, taking into consideration the available technology at the time of the processing and technological developments. The regulation cannot be applied to anonymous information (information on the basis of which the data subject cannot be identified). Data can only be considered anonymous if the identification is irrevocably prevented.

For this reason, it can be considered that personal data is extensively processed by CMOs. The information processed for the ISNI database can also be considered as personal data, at least for the most part, which means that the General Data Protection Regulation applies to this data.

The General Data Protection Regulation also applies to publicly available and published personal data. Even if the personal data is collected from public sources, it remains personal data and the processing of the data must be based on legal grounds, the rights of the data subject must be exercised and the processing principles taken into account.

It should, however, be noted that under recitals 27, 158 and 160 of the General Data Protection Regulation, the regulation is not applied to deceased persons. Thus, authors that have died but hold valid copyrights fall outside the scope of the data protection legislation and the data can also be relayed more extensively for the needs of the ISNI database.

### Controller and processor

The controller is a person or an organisation that determines the purpose for which personal data is processed and the means in which it is processed. The controller may be an employer processing data on its employees, a hospital processing patient data or an online store. A CMO may also act as a controller when it collects and processes personal data for its own purposes. This report is based on the assumption that with regard to the information intended for the management of the copyrights they process, CMOs act as independent controllers in accordance with their own privacy statements.

A processor is a party that processes personal data on behalf of the controller. Thus, a processor does not process personal data for its own purposes and does not decide on the manner in which personal data is processed but acts in accordance with the instructions received from the controller. A processor may, for example, be a party providing a CMO with a cloud service that does not process the data for its own purposes but only provides a platform for the organisation.

In addition to the provisions on a processor and a controller, the General Data Protection Regulation also contains provisions on a joint controller. When at least two controllers jointly determine the purposes and means of processing, they are referred to as joint controllers. They must determine their respective responsibilities under the arrangement in a transparent manner. An example of an arrangement involving joint controllers is the National Library of Finland, which acts as the ISNI Registration Agency in the international ISNI organisation in cooperation with ISNI-IA and other Registration Agencies.<sup>10</sup>

## Processing

Processing of personal data means all types of collection, storage, use, publishing, transfer and disclosure of personal data. All measures concerning personal data, from the planning of the processing to the deletion of personal data, are considered personal data processing. A collective management organisation processes personal data when maintaining a database of authors and works and when remuneration for the use of the works. The controller processing personal data must ensure that the processing is in accordance the law. Before personal data is disclosed to third parties, the party disclosing the data must ensure that the recipient has the right to process the personal data in question. For example, when supplying data to the ISNI database, a CMO must ensure that the organisation has the right to process the data in question.

### 2.2.4.3 Legal bases for processing personal data

Personal data may only be processed on lawful grounds. The processing basis must be specified before the processing. The bases for processing determine the rights of the data subject in relation to the controller.

Under Article 6 of the General Data Protection Regulation, personal data can be processed on the following legal bases:

- consent of the data subject
- legal obligation of the controller
- protection of vital interests
- a task carried out in the public interest or the exercise of public authority
- contract
- legitimate interests of the controller or a third party.

---

10 ISNI Privacy Policy, paragraph 6.1 [ISNI Privacy Policy](#), 18 June 2022.

Protecting vital interests as a basis for processing personal data is outside the scope of this report and for this reason it will not be discussed in this report in more detail.

### Consent of the data subject

Personal data can be processed on the basis of the consent given by the data subject. The consent must be a voluntary, specific, informed and unambiguous indication of the data subject's agreement to the processing of personal data relating to the data subject in question for an explicit purpose. The data subject must be able to withdraw the consent after which personal data can no longer be processed on this basis.

When consent is used as a basis for processing personal data, it should be noted that when consent is requested, the purpose for which the data is collected must be specified. Consent must be requested for each purpose separately, which means that if personal data is to be processed for different purposes, the data subject must be able to choose the purposes for which they wish to give consent. Specifying the consent is also essential for ensuring accountability as the controller must be able to show that it has received the consent of the data subject. The controller must be able to show that the consent to processing of personal data has been given and that the consent meets all legal requirements.

If the data subject withdraws the consent they have given, the processing of personal data must be terminated to the extent that the processing has been based on consent. Personal data processed on the basis of consent must be deleted after the withdrawal unless there are other legal grounds for retaining the data for processing. In the case of the ISNI identifier, this would mean that the data concerning the author processed on the basis of the consent should be deleted from the database.

### Public interest

With regard to the ISNI-related personal data processed by CMOs, it should also be considered whether the processing of such data could be based on public interest under Article 6(1)(e) of the General Data Protection Regulation. Moreover, Article 89 of the regulation contains provisions on additional grounds that can be considered when data is processed on the basis of public interest. Under Article 6(2) of the General Data Protection Regulation, EU Member States can issue more detailed provisions on processing based on public interest by specifying the special requirements for data processing and other measures to ensure lawful and fair processing. Such process must have a basis in Union

or Member State law. However, the regulation does not require a separate law for each individual data processing situation.<sup>11</sup>

More detailed provisions on the processing of personal data on the basis of public interest are laid down in Section 4 of the national Data Protection Act. The Section in question has four paragraphs and Subsection 1, Paragraph 4 could be applicable for the purposes of this report. Personal data can be processed under this paragraph to carry out a task in the public interest, if the processing of research material and cultural heritage material containing personal data and the processing of personal data included in their metadata for archiving purposes is necessary and proportionate to the aim of public interest pursued and to the rights of the data subject.

Under the Government proposal for the Data Protection Act, archiving in public interests usually involves at least the organisation of material, definition of metadata and combination of data. In the preparatory documents of the proposal, there are specific references to organisations storing cultural heritage material such as libraries and archives. The scope of the provision is not limited to public authorities as it also covers private actors. In the preparatory documents of the proposal, it is also specifically emphasised that in order to ensure that the ground for processing can be applied to all actors archiving material, there are no references to specific actors in section 4(1)(4) of the Data Protection Act.<sup>12</sup> However, the wording of the act limits the processing to research and cultural heritage material, and CMOs cannot be considered to process such material for archiving purposes in the manner referred to in the data protection legislation.<sup>13</sup> Moreover, the material processed by CMOs is unlikely comparable with the material referred to in the Data Protection Act. Thus, CMOs cannot process data needed for the ISNI database on the basis of section 4(1)(4) of the Data Protection Act. It should also be noted that the main task of the CMOs is to manage the copyrights of their members, which involves the interests of specific groups and not the public interest referred to in the General Data Protection Regulation.

Even though Finnish CMOs do not process personal data on the basis of public interest, the international ISNI organisation does. It processes personal data on the basis of both legitimate and public interests for archiving purposes in the manner laid down in the

---

11 Recital 45 of the General Data Protection Regulation.

12 Government proposal to Parliament for the Data Protection Act (HE 9/2018), detailed rationale.

13 Website of the Finnish National Agency for Education, [Finnish National Agency for Education Cultural heritage \(in Finnish\)](#), 3 June 2022.

General Data Protection Regulation.<sup>14</sup> From the perspective of the data subject's rights, consideration must be given to Article 17(3)(d) of the General Data Protection Regulation. On the basis of this legal provision, the controller does not need to delete personal data when it is processed for archiving purposes in public interest, scientific or historical research purposes or for statistical purposes. For this reason, the derogations and exemptions laid down in Article 89 of the General Data Protection Regulation and section 32 of the Data Protection Act play an important role in the safe processing of personal data when personal data is processed on the basis of public interest.

### Contract

Some of the CMOs conclude contracts with authors on the basis of which the organisations grant rights to use the works and ensure that royalties are paid to the authors. Provisions on using a contract as a basis for processing personal data are contained in Article 6(1)(b) of the General Data Protection Regulation. It provides that personal data of a data subject that is a party to the contract may be processed for the purpose of the performance of that contract. However, this ground for processing is fairly narrow in scope as it only allows processing on the basis of the content and objective of the contract. The author and the collective management organisation can also conclude a contract on the information processed to meet the needs of the ISNI database. The content and objective of the contract must be specified in advance as the question of whether or not personal data needs to be processed for the purpose is determined on their basis. However, it can be noted that one of the key purposes of the contract between an author and a collective management organisation is to safeguard the author's rights. This is also facilitated by the ISNI identifier, which allows unambiguous identification of the author and the payment of the copyright royalties to the right party.

### Legitimate interest

Personal data can also be processed on the basis of the legitimate interests of the controller or a third party. Before the processing, the controller must take a balance test on the basis of which the interests of the controller or a third party in relation to the interests and basic rights of the data subject are determined.<sup>15</sup> A legitimate interest may exist when there is a relevant relationship between the data subject and the controller (such as a customer relationship). For example, there may be such a relevant relationship between a collective management organisation and an author, which justifies the processing of personal data on the basis in question.

---

<sup>14</sup> ISNI Data Policy, paragraph 1.4, [ISNI Data Policy](#), 18 June 2022.

<sup>15</sup> Read more about the balance test in Section 3.1.

Personal data cannot be processed on the basis of legitimate interests when the data subject's rights override the interests of the controller or a third party. Such a situation may arise, for example, when the data subject is a child. On the other hand, the interest of the controller may be considered almost compelling, but the processing of personal data in this situation is not explicitly regulated by law. This can be considered to be the case with such matters as copyrights because under the copyright legislation, data on authors considered as personal data must be processed.

The data subject may object to the processing of their personal data on the basis of legitimate interests and in such cases, the processing of the data subject's data must be terminated to the extent that the processing is based on the grounds in question. A situation in which the controller has compelling and justified reasons for processing that overrides the interests and rights of the data subject is an exception to the right to object. In that case, the legitimate interests of the controller override the data subject's right to object. The balance between the right to object and the controller's legitimate interests should also be weighed from the perspective of the copyrights containing personal data. This also applies to the information stored in the ISNI database. In other words, the author can, on the basis of legitimate interests, object to the processing of personal data in question by notifying the ISNI organisation of the matter.<sup>16</sup> In that case, the processing of the data cannot continue on the basis of legitimate interests unless the controller has compelling and justified reasons to continue the processing.

### Processing of personal data for journalistic purposes or for the purposes of academic, artistic or literary expression

In this connection, attention should be drawn to Article 85 of the General Data Protection Regulation and Section 27 of the Data Protection Act supplementing it, which contain exemptions or derogations concerning the exercise of the freedom of expression. These exemptions or derogations only apply to the processing of personal data when personal data is processed for journalistic purposes or for the purposes of academic, artistic or literary expression. However, these terms are not specified in the recitals of the General Data Protection Regulation or the preparatory documents of the Data Protection Act.<sup>17</sup> However, it is stated in the Government proposal for the repealed Personal Data Act that the processing of personal data for the purposes of artistic or literary expression could, for example, include the collection and recording of personal data and its use as background material for the script of a film or a play or for writing a book.<sup>18</sup> In other words, this would

---

16 ISNI Privacy Policy, paragraph 14.1, [ISNI Privacy Policy](#).

17 Government proposal to Parliament for legislation supplementing the General Data Protection Regulation of the EU, HE 9/2018, detailed rationale for section 27.

18 Government proposal to Parliament for the Personal Data Act and certain related acts, HE 96/1998, detailed rationale for section 2.

not be a question of processing data on authors but personal data contained in a work of art.

When it is a question of personal data processed for journalistic purposes, the principle of data minimisation, bases for processing, consent or provisions on certain data subject's rights do not apply for example.

It can be concluded that the activities of the CMOs are not of journalistic nature within the meaning of the regulation or activities falling under the scope of the exemptions or derogations, and that the General Data Protection Regulation applies to the processing of data on authors without any exceptions.

#### 2.2.4.4 Processing personal data of minors

Personal data of minors (children aged under 18) may also be processed in the copyright environment because a copyright is created for a child in the same manner as for adults and the personal data of children may be processed to manage copyrights when a child is a customer of a collective management organisation.

A child has the same data protection rights as an adult and the personal data of children must be protected particularly well because children are not necessarily aware of the risks or consequences concerning the processing of personal data, proper safeguards or their own rights. Especially when legitimate interests are used as a basis for processing personal data, protection of the rights of the data subject is a key consideration because personal data may not be processed if the interests or rights of the data subject override the interests of the controller or a third party. Such a situation often arises when the data subject is a child. Thus when the interests of the controller or a third party are weighed against the interests and fundamental rights of a child, particularly serious consideration must be given to the risks and consequences that the processing may pose to a child.

As children need special protection, all information and communication on data processing directed at children must be in a clear and simple language so that children can understand it. It should also be noted that the right to have one's data erased (the right 'to be forgotten') is particularly relevant to children. When determining their own data processing practices, CMOs should give particular consideration to how personal data of children is processed and how their rights as data subjects are ensured.

The background to the report and relevant legislation are discussed above. The chapter below aims to present conclusions to the questions prepared by the Ministry of Education and Culture.

## 3 Key questions and conclusions presented in the report

### 3.1 Question 1 – Consent of the author as basis for processing personal data

This section attempts to provide an answer to the following questions posed by the Ministry of Education and Culture:

*What are the bases for the processing and sharing personal data besides the consent of the author? Can the author's consent (a requirement for publishing or making a work public under the Copyright Act) constitute a legal basis for data processing under the General Data Protection Regulation when mentioning the author's name (and the use of identifiers identifying the author) in connection with the work or in the management of the rights to the work?*

As presented above, there are six different bases for processing personal data in the General Data Protection Regulation. The most relevant bases for processing and transferring ISNI data of CMOs through the national ISNI Registration Agency to the ISNI database include the author's consent, contract between the author and the collective management organisation or, alternatively, legitimate interest.

As to consent, consideration should be given to the data protection policy of the ISNI International Agency,<sup>19</sup> according to which the parties producing data for the database must ensure that, unless the data is already in the public domain, the author has consented to using the data for the needs of the ISNI database.<sup>20</sup> On this basis, the author's consent must also be taken into account as a basis for processing data for the needs of the ISNI database, where applicable. However, the policy would not seem to necessarily require the use of consent as a basis for processing if the information on the author is publicly available. As the General Data Protection Regulation also applies to public personal data, this requirement can be interpreted as meaning that when there

---

19 The data protection policy is a document produced by the organisation based on data protection legislation, in which the organisation describes its data processing methods and principles.

20 ISNI Data Policy, paragraph 2. [ISNI Data Policy](#), 19 June 2022.



is an appropriate basis for processing and publishing the data required for the database, a separate author's consent is not required for transferring the data to the database. However, if consent is used as a basis for processing, the requirements laid down in the General Data Protection Regulation must be adhered to so that the validity of the consent is ensured. In that case, the consent must be unambiguous and specified for the purpose in question.<sup>21</sup>

The author's consent to the publication of the work does not meet the requirements for consent laid down in the General Data Protection Regulation, as the consent in question has not been given to the processing and publication of personal data for the needs of the ISNI database. If valid consent is to be obtained, the author's consent must be requested separately for the purpose in question (the needs of the ISNI database and publication). From the perspective of the management of the consent, it should be remembered that the party concerned must be able to withdraw the consent and that withdrawing the consent must be as easy as giving it. The controller must later be able to show that it has obtained valid consent from the data subject.

When disclosing personal data, the party acting as the controller must ensure that the data recipient has the right to process the personal data in question. The assessment must be carried out separately for each data type, especially from the perspective of minimisation and necessity. If it cannot be ensured that such a right exists, the data cannot be disclosed. Even if it is concluded that processing for the ISNI database is justified from the perspective of the General Data Protection Regulation, the collective management organisation must also in its assessment prior to the disclosure comment on the possibility that ISNI will publish the personal data on line.

The use of a legitimate interest as a basis for processing requires a balance test,<sup>22</sup> in which the interests of the controller are weighed against the interests of the data subject. If the controller has determined that a legitimate interest is the most appropriate basis for processing, it must first be assessed whether that interest is compatible with EU and national regulation. The processing of ISNI data kept by CMOs and its supply to the ISNI database can be considered a legitimate interest as the enforcement of copyright is based on both EU and national legislation.

---

21 Recitals 32 and 43 of the General Data Protection Regulation.

22 For more information on the balance test, visit the website of the Office of the Data Protection Ombudsman: [Controller's legitimate interests | Office of the Data Protection Ombudsman](#).

The legitimate interest in question must also be clearly stated so that its relationship with the interests and rights of the data subject can be assessed. In other words, the data subject must understand the interest in question. There must be an immediate and real need for safeguarding the interest and the need cannot be imaginary or speculative.

After this, it must be assessed whether the interest can be safeguarded without the processing of personal data. If the interest can be safeguarded without the processing of personal data, a legitimate interest cannot be invoked. In practice, this means that CMOs must consider whether copyrights can be managed internationally without the processing of personal data.

If the personal data must be processed, the next step is to determine whether the interests of the controller or a third party override the rights of the data subject. The balancing test is carried out to assess among other things, the benefits of the processing of personal data and, on the other hand, what harm would arise if the data would not be processed. If, for example, the processing is necessary to safeguard fundamental rights or to perform a statutory task and the processing is proportionate for these purposes, the interest may be justified.

It should be noted that legitimate interests may also arise when the processing is close to a context to which other bases for processing can be applied, but the processing does not directly fall within the scope of these grounds for processing. Therefore, the contract between a collective management organisation and an author on the management of copyright serves as a justification for processing ISNI data on the basis of a legitimate interest even if this is not explicitly stated in the contract.

It also matters whether the controller's right to process personal data to safeguard a legitimate interest is recognised in EU or national law or other regulation. The status of CMOs and the National Library of Finland is recognised in such pieces of legislation as the Collective Management Act and the Universities Act. It can also be said that copyright legislation could not be enforced without the processing of personal data.

The impacts on the data subject must also be assessed; the processing must not be unpredictable and unexpected from the data subject's point of view. Secondly, it must be assessed whether the data subject is likely to oppose to the processing of their data. This would give some indication of whether the data subject has been able to anticipate the processing. Especially when the data subject is a child or belongs to any other vulnerable population group, the effects of the processing must be assessed from the perspective of these persons.

The processing of the personal data on authors held by CMOs (including the supply of such data to the ISNI database) is unlikely to come as a surprise to the data subject, as in the international context, the ISNI identifier facilitates the management of rights. When the copyright holder is a minor, the effects must be assessed separately in the balancing test. However, minors also have the right to receive compensation for the works they have produced, as well as the right to have their name appropriately mentioned when the work is used.

Finally, when a legitimate interest is used as a basis for processing, it must be ensured that additional data protection safeguards are in place. This means such tools as encryption and anonymisation, and measures to protect the data from being used for other purposes. Pseudonymisation referred to in the data protection legislation can also be considered an additional data protection guarantee.

The data subject must be informed of the processing taking place on the basis of a legitimate interest and of the right to object to it. If the data subject objects to the processing of their data, the need for processing must be reconsidered. The processing of the personal data of the data subject may only be continued after the request to object if it can be shown that there is a compelling and justified reason for the processing which overrides the interests and rights of the data subject, or the processing is necessary to establish, present or defend a legal claim. When personal data of the author is processed on the basis of a legitimate interest and the data subject objects to the processing, the collective management organisation must show that there is still a compelling and justified reason for the processing to continue.

If the processing takes place on the basis of a legitimate interest, it is important to keep the privacy statement up to date for data subjects and to meet all other obligations laid down in the data protection legislation, such as the carrying out of the balance test and documentation. In other words, there is no automatic justification for using the legitimate interest as a ground for processing but it should rather be built in advance through the balance test.

As a conclusion: in the copyright context, the author's consent does not constitute a direct basis for processing referred to in the General Data Protection Regulation. However, this does not rule out processing on the basis of consent, but the consent for the processing of personal data for a specific purpose must be requested separately. Other bases for processing, such as a contract and a legitimate interest, can also be used. When data is being disclosed, the purpose and necessity must be assessed separately for each data type. Personal data that is not needed for the purpose in question should not be disclosed.

### 3.2 Question 2 – Applicability of an existing basis for processing

This section attempts to provide an answer to the following question posed by the Ministry of Education and Culture:

*Do the legal basis and purpose related to the processing of the personal data of customers of CMOs also justify the public use of the ISNI identifier without a separate consent from the customer? The privacy statements of the five major CMOs are listed at the end of this report.*

Under the General Data Protection Regulation, the 16-character ISNI identifier is personal data and it is used worldwide to identify authors and to distinguish between authors with the same name. This is a purpose of use that cannot be fully realised without the information being published on line. Unless the information is published, the author can only be identified to a limited extent. Public use of ISNI data in the context of collective copyright management can be considered compatible with the original purpose. Thus, copyright societies may also process their customers' data, such as the ISNI identifier, on the basis of a contract, consent or legitimate interest for public use, provided that the specific features of each basis for processing are taken into account as set out above. When information is published, particular attention should be paid to the principle of data minimisation. Even if an ISNI identifier were publishable, the need to publish other personal data must be considered separately.

### 3.3 Question 3 – Data collected on behalf of several entities

This section attempts to provide an answer to the following questions posed by the Ministry of Education and Culture:

*When information is collected on behalf of several actors to a portal supporting the operation the copyright system, should the legal bases for processing be presented for the collection, storage and sharing of personal data separately for each party involved? Can the process be streamlined?*

The General Data Protection Regulation is based on the principle that each controller is responsible for the lawfulness of the processing of personal data. CMOs act as independent controllers of the data they process and thus they should independently assess the processing bases they use for the entire life cycle of the data processing

(collection, storage and disclosure). The activities of CMOs are in many respects similar and the way in which they process personal data may be based on the same grounds for processing and on the same purpose. CMOs can therefore use each other's material to determine the most appropriate grounds for processing, but each controller is nevertheless responsible for the processing of the data. This means that each organisation is responsible for providing the data subject with transparent information and for requests for the exercising of the data subject's rights as well as adequate information security.

It is also possible that CMOs and other actors with a presence in the portal are joint controllers for the portal as laid down in Article 26 of the General Data Protection Regulation. When at least two parties jointly determine the purposes and means of the processing, they are referred to as joint controllers. A joint controllership is assessed through the actual activities and not solely on the basis of a formal analysis. The assessment may, for example, be based on the use of a shared information system if the system is used together for a jointly defined purpose.<sup>23</sup>

Joint controllers must determine, by mutual arrangement and in a transparent manner, their respective responsibilities for complying with the obligations laid down in the General Data Protection Regulation. Joint controllers must determine the actual roles and relationships of each controller in relation to the data subjects, for example, who responds to requests concerning data subjects' rights. The main aspects of the division of responsibilities must be accessible to data subjects.

Each of the joint controllers must also have a legitimate basis for processing data for the purposes of the joint register. Moreover, a joint controllership does not automatically mean that the other joint controller can process the personal data in question for other purposes. When data is shared between joint controllers, the controllers receiving the data must ensure that they do not process the data in a manner that conflicts with the purposes for which the data was originally collected by the disclosing controller.<sup>24</sup>

If CMOs and other actors using the portal conclude that they act as joint controllers for the portal, the parties' responsibilities and obligations must be established in accordance with Article 26 of the General Data Protection Regulation. When the bases for processing are determined, it should be remembered that the bases impact the data subject's rights, and when the portal is used, the need for the data supplied to the portal must also be

---

23 EDPB Guidelines 07/2020 on the concepts of controller and processor in the GDPR, Version 1.0, Adopted on 02 September 2020, pp. 16–20.

24 EDPB Guidelines 07/2020 on the concepts of controller and processor in the GDPR, Version 1.0, Adopted on 02 September 2020, p. 42.

taken into account from the perspective of data minimisation. Data subjects must also be informed of all relevant matters in a transparent manner.

### 3.4 Question 4 – Sharing of personal data and questions of liability

This section attempts to provide an answer to the following questions posed by the Ministry of Education and Culture:

*What personal data can be shared with other parties if the aim of the processing is to improve metadata quality and to facilitate the unambiguous identification of a person (for example, with the help of an ISNI identifier)? What are the responsibilities of the individual CMOs as controllers and on what basis is personal data processed when data protected as personal data is shared?*

Each controller must at least assess the prerequisites for disclosing personal data from the perspective of the bases for processing, purpose limitation and data minimisation. Processing of the disclosure may be based on the author's consent, a contract or a legitimate interest. Consent can be used especially if the two other bases for processing do not permit the disclosure. However, data that is unnecessary for the purpose of use cannot in principle be processed, even if consent is given. The principle of data minimisation means that personal data must be adequate and relevant and limited to what is necessary in relation to the purposes for which the data is processed. The need assessment must be carried out separately for each data type, such as the name and ISNI identifier.

When independent CMOs acting as controllers want to disclose information to each other or other parties, the disclosing organisation must ensure that the receiving party has the right to process the personal data subject to the disclosure. It should also be determined whether the data disclosure is compatible with the original purpose of the personal data in question; did the data subject understand when collecting the data that their personal data can be disclosed to the third party in question or did the disclosure come as a complete surprise to the data subject. For this reason, the data subject must be informed of the data disclosure in the privacy statement. If the data subject is aware of the disclosure and it is compatible with the original purpose, the data can be disclosed.

The assessment of the data disclosure and its results depend on the data being disclosed, the original purpose of the data, the bases for data processing, and the purpose for which the data is being disclosed. For example, disclosing data to develop the activities of another controller or to enhance the quality of the data on the basis of legitimate interests

may not be possible, as the balance test weighs the interests and legal protection of the data subject against the benefits sought. However, it can be noted that the closer the processing purpose of the receiving party is to the original purpose when processing the data, the more likely it is that the disclosure can be carried out.

If the disclosure cannot be carried out on the basis of a legitimate interest, it may be possible on the basis of the data subject's consent and a contract, if the personal data to be disclosed can be considered necessary for the purpose in question.

After receiving the personal data, the controller must ensure that it processes the data in accordance with data protection regulations. It must also take into account the obligation under Article 14 of the General Data Protection Regulation to provide transparent information when no information has been obtained directly from the data subject. Under paragraph 3a of the Article, the controller that has received the data must provide information to the data subject within one month of obtaining the personal data.

If it would emerge that the data is processed in violation of the General Data Protection Regulation or is subject to a data breach while the receiving collective management organisation acts as the controller, this organisation in question would be held responsible. The collective management organisation that has disclosed the personal data would not be responsible for these events if the disclosure has taken place in accordance with data protection legislation. However, the responsibility of the organisation that disclosed the personal data can be assessed in terms of whether the data disclosure has taken place in accordance with the law. For example, if there have not been any suitable bases for processing regarding the disclosure, the collective management organisation that disclosed the personal data has been in breach of the General Data Protection Regulation.

## 4 Summary

The aim of the report has been to provide collective management organisations (CMOs) with a clearer basis to process and disclose personal data to the ISNI database or other CMOs, taking into account the provisions of the General Data Protection Regulation. In accordance with the privacy statements of CMOs, the starting point was that each collective management organisation acts as the controller of the personal data it processes. In certain situations, the parties can also act as joint controllers. The disclosure of data to the database maintained by an ISNI organisation usually takes place as a disclosure between two controllers.

In practice, CMOs can process the data on the basis of the author's consent, a contract between the collective management organisation and the author, or the legitimate interest of the controller or a third party. Consent is used as a basis for processing, especially when other processing bases do not allow disclosure or other processing of personal data. However, not even consent can be used as a basis for extending the processing to personal data considered manifestly unnecessary. A CMO can choose the processing basis best suited for its own use. Different bases may apply to different information and uses.

CMOs process personal data for the management of copyrights and ensure that the remuneration for the use is paid to the authors. It is therefore important to be able to identify and distinguish each individual actor from each other. One way to distinguish between actors with identical names is to use the ISNI identifier. If the processing requires the disclosure of personal data, the party disclosing the data must assess whether the disclosure is compatible with the original purpose of the data and whether the party receiving the personal data has the right to process the personal data in question. The assessment must be carried out separately for each recipient and the types of data that can be disclosed must also be determined. Only the data that is needed may be disclosed.

Irrespective of whether the processing is based on consent, a contract or a legitimate interest, the collective management organisation acting as the controller must meet the accountability obligation laid down in the General Data Protection Regulation by documenting the bases for processing and the processing measures based on it before the processing begins.

Finally, the General Data Protection Regulation does not prevent the disclosure or publication of data on authors and works for purposes compatible with the original purpose. However, the provisions laid down in the General Data Protection Regulation must be taken into account in the processing. Providing transparent information on the



processing is a key consideration, as it ensures that data subjects receive a comprehensive and clear picture of the processing of personal data as a whole. In this way, any disclosure of personal data to different parties will not come as a surprise to the data subject.

# Appendices

## Information required for the ISNI identifier

Not all information is mandatory, but the information must be comprehensive. The details considered highly recommended by the ISNI organisation are marked with an asterisk. The data required for the ISNI identifier has not been determined on the basis of the General Data Protection Regulation, which means that the data necessity grouping does not follow the necessity assessment contained in the regulation.

### Persons:

- first name(s) and last name, any previous names and other name variations and/or spellings\*
- year of birth\* and place of birth
- any artist names or pseudonyms\*
- country or countries associated with the author (place of residence, place of business, etc.)
- occupation
- local information system record number
- sector(s) in which the author works or has worked
- the instrument or sound field used by the person
- any other standard identifiers (such as ORCID or VIAF)
- online sources of information (such as Wikipedia, homepage); \*mandatory if there is no information about the publications associated with the author
- key publications associated with the author\*.

**Table 1.** List of metadata related to persons collected by CMOs

	Data stored in the databases of CMOs	Personal data	Is the data necessary/ mandatory for ISNI identifier
PERSONAL DETAILS	first name	x	x
	last name	x	x
	personal identity code	x	
	name changes (previous name)	x	x
	alternative name (different spelling, nicknames)	x	x
	artist names/pseudonyms	x	x
	date of birth	x	x (year of birth)
	date of death	x	
	place of residence (address)	x	
	country (associated with the author)	x	
	citizenship	x	
	gender (can also be concluded from the personal identity code)	x	
	author's website or other similar websites	x	x online sources of information (such as Wikipedia, homepage)
	memberships in artists' organisations	x	
	types and forms of art in which the author is engaged	x	
	title/professional title (Kuvasto: provided by the customer); classification of author data (Teosto: C (composer), A (lyricist) or CA (both)); author type (Gramex: artist/producer) and author roles (Kopioisto: director, editor, illustrator; provided by customers)	x	
	email	x	
	phone number	x	
PERSONAL IDENTIFIERS	information system ID	x	x
	IPN number (Gramex)	x	
	IPI number	x	
	ISNI identifier	x	
WORK INFORMATION	work information associated with the author (at least 1)	x	x

Processing of each data type can be based on consent, a contract or a legitimate interest. Information that is not needed for the purpose in question should not be disclosed.

## Sources

### Legislation

General Data Protection Regulation (EU) 2016/679

Act on the Collective Management of Copyright (1494/2016)

Copyright Act (404/1961)

Data Protection Act (1050/2018)

### Preparatory work

Government proposal to Parliament for the Personal Data Act and certain related acts (HE 96/1998 vp)

Government proposal to Parliament for the Data Protection Act (HE 9/2018)

### Guidelines

EDPB Guidelines 4/2019 on Article 25 Data Protection by Design and by Default

EDPB Guidelines 07/2020 on the concepts of controller and processor in the GDPR

### Literature

Laki tekijänoikeuden yhteishallinnoinnista: kommentaari ja käsikirja. Martti Kivistö and Valtteri Niiranen. Edita Publishing, 2021.

Uusi tietosuojalainsäädäntö. Alma Talent. Päivi Korpisaari, Olli Pitkänen and Eija Warmalehtinen. Alma Talent, 2018.

## Data and privacy policies

ISNI Data Policy ([ISNI Data Policy](#))

ISNI Privacy Policy ([ISNI Privacy Policy](#))

Privacy policy of Gramex ([Privacy policy of Gramex](#))

Privacy policy of Kopiosto ([Privacy policy of Kopiosto](#) )

Privacy statement of Kuvasto ([Privacy statement of Kuvasto](#))

Privacy policies of Sanasto ([Privacy policies of Sanasto](#))

Privacy Policy of Teosto ([Privacy Policy of Teosto](#))

## Websites

Website of the National Library of Finland The adoption of ISNIs in Copyright Management Organizations. ([National Library of Finland](#))

Website of the Finnish National Agency for Education ([Finnish National Agency for Education Cultural heritage \(in Finnish\)](#))

Website of the Office of the Data Protection Ombudsman ([Office of the Data Protection Ombudsman](#))



MINISTRY OF EDUCATION AND CULTURE  
FINLAND

P.O. Box 29 FI-00023 Government, Finland  
Tel. + 358 295 16001 (switchboard)  
[okm.fi/en](http://okm.fi/en)

ISSN 1799-0351 PDF  
ISBN 978-952-263-781-9 PDF