

## GDPR AND LEARNING MANAGEMENT SYSTEMS

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**ABSTRACT:** *GDPR came into force on 25th May 2018. It applies to all citizens, residents and companies of the European Union, regardless of the company's location. It is designed to protect individuals' personal data and give people in the European Union more control over how their personal information is used. Organizations must get explicit permission to collect and use an individual's data, and it must be just as easy to withdraw consent as it is to give it. Developing LMS to become compliant with the GDPR is not only about developing the tools. Schools/faculties/universities have to customize their LMS in order to use the tools properly and make sure their own practices are in line with the regulation. The purpose of this paper is to provide basic guidelines for administrators and show recommended practices on some learning management systems that have become fully GDPR compliant.*

**Keywords:** *GDPR, personal data, consent, LMS, Moodle*

### 1. INTRODUCTION

As of May 25, 2018, all companies collecting or storing personal information about anyone who lives in the European Union, must be compliant with the GDPR. The GDPR the acronym<sup>1</sup> for the General Data Protection Regulation<sup>2</sup> - a document that was finally approved by the EU Parliament on 14 April 2016 and enforced on 25 May 2018. The EU GDPR replaces the Data Protection Directive 95/46/EC and is designed to protect individuals' personal data and give people in the European Union more control over how their personal information is used. Organizations must get explicit permission to collect and use an individual's data, and it must be just as easy to withdraw consent as it is to give it. The regulation applies to companies everywhere around the world—not just in the EU. It is also important to realize that universities offering online courses, especially on learning management systems, have to become GDPR compliant.

The aim of this paper is to help course administrators and course creators on learning management systems become GDPR compliant by providing them with the basic information about GDPR, what personal data are, how to collect, store and what they are allowed to do with users' personal data<sup>3</sup>. There are many definitions of learning management systems; however, this would be the most comprehensive one: it is a software application that automates the administration, tracking, and reporting of training events. Furthermore, it should:

- centralize and automate administration
- use self-service and self-guided services
- assemble and deliver learning content rapidly
- consolidate training initiatives on a scalable web-based platform
- support portability and standards
- personalize content and enable knowledge reuse [1].

Since users on such systems leave their personal data in order to complete the course they

<sup>1</sup> Acronym is a word formed from the first letters of the words that make up the name of something.

<sup>2</sup> The official pdf of the Regulation can be found at <https://gdpr-info.eu/> as a neatly arranged website.

<sup>3</sup> The information contained within this paper is for informational purposes only and does in no way constitute legal

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enrolled in, GDPR is fully applicable and must be observed.

## **2. GENERAL PROVISIONS AND DEFINITIONS WITH REGARD TO LMS SETTINGS**

Generally speaking, GDPR is about personal data and how to protect EU citizens from both misusing and abusing their personal data from the third parties. The subject-matter of GDPR is with regard **to the processing of personal data and rules relating to the free movement of personal data** (GDRP, Art. 1).

The GDPR defines personal data as any information about a person that can be used to identify them—either directly or indirectly: a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person (GDRP, Art. 4). When we talk about sites and LMS, this definition refers to a name, an email address, account information, a photo, an IP address, and more. It even includes pseudonymous information, if it can be easily deciphered to discover a person's identity. For example, in order to enrol to an online course on Moodle, users usually have to submit the following data (required fields): username, first name, surname, and email address. The administrators can choose "email display" - this setting controls who can see the user's email address: whether the submitted email address will be hidden from everyone, allowed to be seen by everyone or allowed only to other course members to be seen. Additional information that can be submitted by a user is city/town, country, time zone, description (some text about the user him/herself which will then be displayed on the user's profile page for others to view), user picture, additional names, interests and many more (Web page, ICQ number, Skype ID, AIM ID, Yahoo ID, MSN ID, ID number, Institution, Department, Phone, Mobile phone, Address). As we can see from this list of both required and optional fields, they are all subject to GDPR because on the basis of which a person can be identified.

Material scope of this Regulation applies to **the processing of personal data wholly or partly**

**by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.**

Processing of personal data includes collecting, recording, organising, structuring, storing, adapting or altering, retrieving, consulting, using, disclosing by transmission, dissemination or otherwise making available, aligning or combining, restricting, erasing or destructing. A filing system is defined as any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis (GDRP, Art. 2). If we take the example of any LMS, personal data is collected, recorded, organized etc. for the purposes of keeping track of user's progression and in formal education it is a must that the activity is connected to the learner.

Territorial scope of GDPR refers **to the processing of personal data in the context of the activities of an establishment of a controller** (the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data) **or a processor** (a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller) **in the Union, regardless of whether the processing takes place in the Union or not** (GDRP, Art. 3). Any school/faculty/university (the controller) that conducts data processing that offer service such as online courses, whether by payment or for free to EU citizens must comply with the requirements outlined in GDPR. Although Serbia is not yet a member state, if there is a single one user on LMS from the European Union, that LMS has to become GDPR compliant.

## **4. IMPLICATIONS**

Eventhough GDPR has become one of the most controversial regulatives in the last couple of years, there are many reasons for laying down stricter rules relating to collection, sharing and processing of user personal data. There have been recently cases of misuse of users personal data, such as „The Facebook and Cambridge

Analytica Scandal<sup>4</sup>. It all contributed to the stricter implementation of GDPR. What does GDPR imply? On one hand, the most important change is for the organizations offering services. They have to become aware of the concept „personal data“, what it means, what it refers to and how the data must and must not be used. Furthermore, they must inform users in succinct, clear, plain and simple language what they need the data for and ask for consent about it. On the other hand, users themselves must be informed about the use of their data, who has their data, why they have it, where it's stored and who is accessing it, and provide consent for all this: „Consent under the GDPR must be a freely given, specific, informed and unambiguous indication of the individual's wishes. There must be some form of clear affirmative action – or in other words, a positive opt-in – consent cannot be inferred from silence, pre-ticked boxes or inactivity“ [2]. Moreover, a user has the right to withdraw his or her consent at any time and can request for his or her data to be removed or deleted when there is no compelling reason for a course to continue processing that information. A site policy can be used to collect consent for the purposes of GDPR compliance. The site policy document for any LMS should be reviewed carefully to make sure it covers all the information required by GDPR in clear and simple language.

If schools or universities collect and process personal information on minors (Under 18 in Serbia, under 16 in most member states, but some states may reduce this as low as 13 years of age), they must ensure that the consent is obtained from their legal guardian.

If schools or universities collect personal information for the purposes of marketing, they must obtain a separate consent from each user to use this data for this purpose. Consent to use the data for marketing must be separately withdrawable by the user.

If schools or universities collect personal information for the purposes of research, they must either obtain a specific consent from each user to use the data for this purpose, or completely anonymise the data before using it

for research. [3] For example, when backing up the course in Moodle, there is an option to anonymize user information which "protects user identities" by making each user anonymous.

#### 4. RECOMMENDED PRACTICE

Some LMS are already fully compliant with GDPR, some require plug-ins. Just simply installing the plugin doesn't make LMS GDPR-compliant. The administrators still need to set them up properly and make sure practices and policies of the university/faculty/school are in line with the regulation. In simple language, the administrators have to provide information to users about:

- What information is collected.
- The purpose of all processing to be performed on the user's data. Marketing must be listed separately with a separate revocable "consent".
- The identity of the data controller and contact information
- List of rights
- The period the data is stored
- The mechanism for withdrawing consent
- The mechanism for requesting corrections, or erasures of personal data
- The mechanism for requesting a record of all personal data
- List of third parties that data will be shared with (This includes integrations such as LTI, portfolios, plagiarism, repositories, authentication etc.)
- The contact details of the data protection officer for each
- The privacy policy for each
- Whether the personal data will be used for any automated decision-making process, including the significance and details of the process (e.g. analytics) [3].

#### 5. CONCLUSION

GDPR came into force on 25th May 2018. It applies to all citizens, residents and companies of the European Union, regardless of the company's location. Developing LMS to become compliant with the GDPR is not only

personalised political advertisements based on their psychological profile.

<sup>4</sup> The data analytics firm used personal information harvested from more than 50 million Facebook profiles without permission to build a system that could target US voters with

about developing the tools.

Schools/faculties/universities have to customize their LMS in order to use the tools properly and make sure you're their own practices are in line with the regulation.

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