



Laga Newsflash

What to do when there is a personal data breach

Recent media coverage indicates that more than **27,000 personal data breaches** have been notified to European Data Protection Authorities (DPAs) since the EU General Data Protection Regulation (GDPR) entered into force six months ago. Belgium accounts for 300 of these breaches.

Personal data breaches are a lingering risk in all companies. The risk ranges from an email being sent to the wrong addressee, the loss of a USB device, to a large scale cyberattack resulting in the disclosure of customers' personal data.

Sanctionable statutory obligations apply when **preventive measures** fail and a company faces a personal data breach. Reacting adequately and swiftly is thus of paramount importance.

The data controller must **first evaluate** whether the personal data breach is likely to result in a risk to the rights and freedoms of the persons whose personal data were affected. This could, for instance, be the case when credit card data are compromised, or when other (sensitive) personal data are possibly abused (e.g. records of personnel sick leave, etc.).

If such a risk exists, the data controller must **notify the personal data breach to the DPA within 72 hours** after detecting it. In cases of high risk, the data controller must also **inform the persons affected** by the data breach, without undue delay.

The risk of sanction for non-compliance is not theoretical, as demonstrated by recently publicised cases, which highlight

that DPA's do not take personal data breaches lightly. Fines of up to 4% of the company's annual turnover or 20 million euros (whichever amount is higher) can be imposed by DPAs under GDPR rules.

Laga's Data Protection team is readily available to help companies in determining the right course of action when facing a personal data breach. The team can also assist in setting up internal procedures to prevent potential personal data breaches.

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