

THE PROTECTION OF PERSONAL DATA IN THE CONTEXT OF MODERN COMPETITIVE DANCES IN SLOVENIA

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This article examines the crossroads of dance, sports law, data protection and human rights. It outlines the data protection framework in Slovenia by analysing not only EU and national legal Acts but also specific regulations adopted by the International Dance Organisation, especially relevant for the dancers, practicing any style or category of the modern competitive dances in Slovenia or elsewhere. While these specific regulations do not provide any additional protection or added value to dancers in comparison to the general and specific laws relevant in this matter, this paper demonstrates the comprehensive and well-established nature of the legal framework that protects dancers' personal data. Principally, the article circles around the actual state dancers' data protection in Slovenia, which is presented through empirical research consisting of a cohort of the Slovenian dance clubs and studios registered under the Slovenian Dance Organisation.

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1 Introduction

This article covers and combines three very specific fields of studies, namely data protection, sports law and modern competitive dances. While the first two of these fields may be quite well-known to lawyers, many of the readers might learn about the central topic of this article – ‘modern competitive dances’ for the first time. But what exactly is dance? Some might say, dance is art¹; yet others may be certain dance is a sport.² Before delving into these particular categories and rules governing data protection of dancers, we must first articulate what ‘dance’ actually is.

Merriam-Webster dictionary defines the word dance as ‘to move one's body rhythmically usually to music’. Mackrell defines it in a thoroughly descriptive manner, saying “dance is the movement of the body in a rhythmic way, usually to music and within a given space, for the purpose of expressing an idea or emotion, releasing energy, or simply taking delight in the movement itself”.³ At the same time, the Cambridge dictionary defines dance in two different ways, ‘to move the body and feet to music’ or ‘to move quickly and lightly’. I, on the other hand, would describe dance as an art enabling one to speak without saying a word, a movement with which each breath has its own purpose and as a form of decompressing and exhausting your body all at the same time. What I am trying to establish here is that dance may have quite many definitions, meaning it is actually undefinable. Therefore, we kind of know what dance is, but we cannot articulate it or define it to detail, as there are too many factors within every choreography, dancers’ personal dance style and dance discipline that could influence each of the given definitions. So, the dilemma arises concerning how to legally regulate something when we do not really know what we are regulating?

There are two significant points. First, dance is delicately categorised in different departments and various disciplines within them, just like law. Meaning, just like we divide law into different branches, like criminal law, civil law, constitutional law, administrative law, company law, EU law and so on, dance is divided into modern competitive dances, rock and roll, standard and Latin American dances, etc. While the constitutional law may address various topics and rules connected to

¹ Whipp et. al., 2025, p. 8.

² Frisby, 2021.

³ Mackrell, 2025.

fundamental human rights and freedoms, the organisation of our government, elections and the national voting system, the modern competitive dances include many dance disciplines, such as jazz, modern, show dance, disco dance, hip hop, break dance, orient, step and more. This article will focus merely on the perspective of the modern competitive dances. Although there is no official definition of this umbrella term, the latter may draw a good-enough picture to understand what it subsumes.

Second, although each country has a national dance organisation, there are many international dance organisations across the world. Principally, all the dance clubs, studios and schools that are officially registered and compete under the national dance organisation at national competitions, do not merely compete for the result there, but also compete to qualify for the European or World championship under that one particular international dance organisation. The Slovenian Dance Organisation⁴ (hereinafter: PZS⁵) is registered under the International Dance Organisation⁶ (hereinafter: IDO).

Additionally, various international dance organisations have different rules. International dance organisations across the world and national dance organisations in each country adopt various regulations and documents that ensure (competitive) dance activities are performed in a safe manner and within a secure environment, where dancers can thrive. Because the national dance organisations are registered under a certain international dance organisation, they usually follow the regulations of the international dance organisation also on the national level. For example, the IDO prescribes strict rules on how 'revealing' the costume of a dancer can be in the kids, junior or adult categories, and the same rules apply for the national competitions under PZS.

Within this complicated scheme of Slovenian dance, this article examines the extent to which data protection is ensured for Slovenian dancers competing under the PZS and IDO within the categories of modern competitive dances. The approach for this research is threefold: theoretical, empirical and quantitative. I start with two, general

⁴ Read more about it here: Plesna Zveza Slovenije, Official website of the Slovenian Dance Organisation. Retrieved from: <https://www.plesna-zveza.si/mtp> (accessed: December 12, 2025).

⁵ PZS is short for »Plesna zveza Slovenija«, which in Slovenian means Slovenian Dance Organization.

⁶ Read more about it here: International Dance Organisation, Official website of the International Dance Organisation. Retrieved from: <https://www.ido-dance.com/> (accessed: December 12, 2025).

hypotheses: 1) data protection of dancers is not adequately ensured; and 2) most of the relevant trainers, club owners or team leaders, do not have the sufficient knowledge on the topic of data protection. In order to test these hypotheses, I sent questionnaires to every Slovenian dance club that practices modern competitive dances and carefully analysed the received data. As the starting point, the article primarily overviews the Slovenian and EU legislation on data protection as a premise on how it should be, and then showcases what standards and situations we actually see in practice.

2 Legal Framework on the Data Protection of Slovenian Dancers: From Broader to More Specific

2.1 The Fundamental Provisions and Bases for Data Protection in EU and Slovenia

Countries in Europe have fairly recently recognised the significance of the right to data protection. The first major legislation was promulgated by the Council of Europe with its Convention 108⁷ and, at the same time, but with a separate approach, the Organization for Economic Cooperation and Development (hereinafter: OECD) that provided guidelines⁸ with a very similar content.⁹ Both individually published their documents in 1981. While the European Convention on Human Rights¹⁰ (hereinafter: ECHR) might not address this right in particular, the decisions of The European Court on Human Rights (hereinafter: ECtHR) have clearly extended the protection of the right to private and family life under the Article 8 ECHR to this specific field as well (e.g., see cases: *Z v. Finland* (1997) app. no. 22009/93, *Y.G. v. Russia* (2022) app. no. 8647/12, *I. v. Finland* (2008) app. no. 20511/03).

⁷ Convention 108 + Modernised Convention for the Protection of Individuals with Regard to of Personal Data, accessible here:

https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/LIBE/DV/2018/09-10/Convention_108_EN.pdf (accessed: January 3, 2025).

⁸ Organization for Economic Cooperation and Development, OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, OECD Publishing, Paris 2002.

⁹ Turnšek, 2025, pp. 314-315.

¹⁰ European Convention on Human Rights (1950) (hereinafter: ECHR).

With the adoption of the Charter of Fundamental Rights of the EU¹¹ (hereinafter: CFR), the EU intentionally uplifted the right to the protection of personal data to the primary EU law, not only in the sense of Article 8 ECHR (or Article 7 CFR), but as an independent right:

- “1. Everyone has the right to the protection of personal data concerning him or her.*
- 2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.*
- 3. Compliance with these rules shall be subject to control by an independent authority. (CFR, Article 8)*

In parallel, the Article 38 of the Constitution of the Republic of Slovenia¹² (hereinafter: URS) delineates identical provisions. Its first paragraph prescribes the right to data protection for everyone; the second one provides that processing of personal data is regulated by law; the third paragraph provides the individual with the right to judicial protection in case of deterioration.

One's right to the protection of personal data is, therefore, a widely recognised right in the EU territory and beyond. This right extends to everyone in general at both the national and EU levels. Moreover, the right is not limited to a workplace environment and employer-employee relationship, public places or to one's domicile. It can be applied to dance competitions, dance practices, physical or mental preparations of athletes, to various sports events etc.

Before the Lisbon Treaty¹³ was implemented, when one asserted their right to data protection, the EU Courts always referred to the ECHR instead of relying upon provisions of the Data Protection Directive¹⁴.¹⁵ Intriguingly, in the following cases, namely *Satamedia*¹⁶ and *Promusicae*,¹⁷ the Court of Justice of the EU (hereinafter:

¹¹ Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012.

¹² Ustava Republike Slovenije (URS) Official Gazette RS, no. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a, 92/21 – UZ62a and 98/25 – UZ74a.

¹³ Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community. Official Journal of the European Union, C 306, 17 December 2007, pp. 1–271.

¹⁴ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281, 23.11.1995, p. 31–50 (hereinafter: Data Protection Directive).

¹⁵ González Fuster & Gellert, 2012, pp. 73-76.

¹⁶ *Tietosuojavalituslautettu v. Satakunnan Markkinapörssi OY Satamedia*, 2008.

¹⁷ *Promusicae*, 2008.

CJEU) stressed that the Data Protection Directive protects the broader right to privacy, not the more specific right to data protection, and that the right to privacy is synonymous with data protection.¹⁸

The CJEU's stance did not change until 2007 (for more than ten years after the EU implemented the Data Protection Directive), when the Court finally decided the *Bavarian Lager case*^{19, 20}. In its decision, the CJEU held that the General Court erred in applying Article 8 of the ECHR instead of the Data Protection Directive. The predecessor of the relatively young²¹ General Data Protection Regulation²² (hereinafter: GDPR), the Data Protection Directive clearly stipulated that the ECHR should only be applied when or if certain processing of personal data is completed in such a way that it falls outside of the scope of the Data Protection Directive.²³ The Data Protection Directive was therefore first considered to be based on the right to privacy pursuant to the Article 8 of the ECHR, whereas the presently valid GDPR is, deliberately, based on the right to the protection of personal data in accordance to the Article 8 of the CFR. While the GDPR stands on the pillars of this fundamental human right, its applicability is not unconditional but limited to its own scope. Article 2 sets out GDPR's material scope, stating its rules apply only to the processing of personal data (wholly or partly) by automated means and in cases where data is not attached to any automated means; it also applies to the processing of personal data, which form or are intended to form part of a filing system (GDPR, Article 2). Besides its material scope, GDPR provides the territorial scope, which is of significant importance concerning international processing of personal data. Accordingly, GDPR applies to the processing of personal data of the persons who remain at the territory of the EU and are being offered either services or goods or are being monitored by the legal entities, even to the ones established outside of the EU (GDPR, Article 3). The latter (GDPR's applicability to legal entities established outside of the EU) is called an extra-territorial effect, which is a rare characteristic that not many of the EU regulations and directives possess.

¹⁸ Turnšek, 2025, pp. 315-316.

¹⁹ *Case T-194/04, Bavarian Lager v. Commission* from 8 November 2007.

²⁰ Lynskey, 2014, p. 575.

²¹ It was accepted in 2016 and came into force in 2018.

²² 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) (Text with EEA relevance) OJ L 119, 4.5.2016, p. 1–88.

²³ *Bavarian Lager v. Commission*, 2007, para. 62.

Pursuant to the third paragraph of Article 8 of the CFR, in conjunction with the second paragraph of the Article 16 Treaty on the Functioning of the European Union,²⁴ the EU Member States must establish an independent authority to control the processing of personal data. In Slovenia, that body is the Information Commissioner of the Republic of Slovenia. Concerning dance, there is no particular figure within the PZS that is required to control the respect of privacy and data protection of dancers who compete under this organisation. Even at the international level, the protection of privacy is very poorly regulated. While the IDO has this very general Disciplinary and Ethic Committee,²⁵ there is no specific Act nor authority that is committed specifically to protecting dancers' privacy or personal data as such.

2.2 Sector Specific Legislation

2.2.1 Safeguarding and Child Protection Policy

The IDO has adopted the Safeguarding and Child Protection Policy²⁶ (hereinafter: Policy) that in summary prohibits different forms of harassment, discrimination and abuse and promotes the welfare and safety of children or dancers in general. Through four and a half out of six pages all together it lists the types and indicators of different kinds of abuse with a purpose to recognise and report any of such actions. The document indicates that within the process of reporting abuse, the confidentiality is necessary. That is the only part, where confidentiality is mentioned.

While called a Policy, that characterization is perhaps a bit misleading as it is written in a very unconventional way – without a preamble or any articles, and lacking any delineation of primary rights or obligations of dancers or third parties. As noted above, confidentiality is only mentioned within the phase of reporting and nowhere else. The Policy, therefore, is of limited benefit in protecting the privacy interests of dancers, because as written it fails to protect their right to privacy or data protection,

²⁴ Consolidated version of the Treaty on the Functioning of the European Union, OJ C 326, 26.10.2012.

²⁵ Read more: International Dance Organisation, Official website of the International Dance Organisation. Retrieved from: <https://www.ido-dance.com/ido/members-of-the-board/disciplinary-and-ethic-committee/> (accessed: December 16, 2025).

²⁶ IDO, Safeguarding and Child Protection Policy. Retrieved from: <https://www.ido-dance.com/files/ido/downloads/SAFEGUARDING-AND-CHILD-PROTECTION-POLICY.pdf> (accessed: December 8, 2025).

not even in the most serious cases of abuse. Instead, it only protects the confidentiality of the reporting process itself. Seemingly, the structure of this Policy does not adhere to the general legal rules or guidelines on data protection – neither from the national legal perspective nor from the EU law standpoint. This does not really make sense, right?

Two perspectives must be outlined. First, not all organisations are given the same financial resources, attention and support, whether from their foundation, sponsors or the government. In comparison to football or basketball leagues, dance garners much less attention from the media and sponsors, which results in smaller financial input, and consequently fewer organizing staff and resources for the events, less robust legal arrangements and documentation and so on. Accordingly, it is understandable why PZS and other smaller sports organisations have less regulations or professional policies of their own.

The second perspective we should consider is the size of a certain organisation, as smaller systems need less structure and consequently, fewer regulations. Meaning, the mechanism and the legal framework behind a dance organisation should be different with respect to a global organisation that spreads across multiple continents in comparison to the organisation of a national or even regional calibre. The structure, legal framework and indeed the whole system of a global organisation should be organised and well-structured. Consequently, IDO as a global organisation, should be better structured, equipped with professional and meticulously written documents, have more bodies or organs dealing with procedural and substantive violations etc. Publishing policy, such as Safeguarding and Child Protection Policy, with no structure, relevant parts or explanatory provisions is just unsatisfactory.

2.2.2 Code of Conduct

The IDO operates at the international and even global level, yet, it is equipped with poor regulations and rules, mainly providing the rules that only govern competitions themselves. However, there are short rules that are certainly better structured than the rest of their documents of such kind and they succinctly provide the basic values and principles that should be followed by all IDO's members. The Code of

Conduct²⁷ (hereinafter: Code) is supposedly designed to maintain a certain standard of behaviour and to protect individuals' welfare. Although the Code is only two pages long and lists fifteen fundamental values, protected under this organisation, it also addresses protecting privacy and data protection. The second point of the Code provides that *"it is important to treat everyone in a manner that makes them feel valued and respected and act in a way to protect their personal rights and maintains their privacy, dignity, and respect"* (IDO Code of Conduct, point 2). The seventh point of the Code specifically addresses protecting personal data with the following wording *"protection of personal data will be guaranteed to every individual and shall be processed lawfully and fairly"*. Given the organisation's scope and considering the number of dancers competing under it, the Code is necessary to adequately protect dance participants, especially considering the given environment in which they participate (e.g., costumes uncovering a lot of body, numerous pictures taken, mentally challenging environment, special relationships with trainers, parents, co-dancers etc.).

After all, dancers are weaker parties in the equation, especially regarding their relationships with trainers, dance clubs, and event organisers. Especially in cases of the most prosperous dancers, many event organisers want to capitalize on their name, image and likeness, and place it on the cover photo of the event's website to draw in as many competitors, clubs and the top-notch dancers as possible. At every IDO's international competition event organisers engage professional photographers who take pictures of dancers while performing. The idea is that dancers, their parents and others can purchase them. However, some of these photos are put on social media on IDO's, event organisers, or the event's social media – without prior permission or compensation paid. Coincidentally, most of these photos that end up on social media are of the most successful, well-recognised dancers. Coincidence or not? If the IDO as an established organisation itself dares to breach its own code of conduct, what is then the actual purpose of having the Code of Conduct. Similarly, dance clubs like to put their best dancer's photo on posters, brochures and other marketing platforms before the start of the next dance season. Their faces and outstanding results attract the most people. But these dancers do not receive compensation; indeed, the use of their name, image and likeness is too often non-consensual.

²⁷ IDO Code of Conduct (IDO-D-COC-2021-1-08/31), updated 2021-05-10.

When the specific regulation is written as a code of conduct or declaration – meaning, in a form of soft law – the safest option is to refer to the previously examined legal Acts and primary EU or national law. The fact the IDO does not have a specific regulation on dancers’ rights or privacy does not mean they are not entitled to such protections. Dancers are, indeed given the right to data protection, if not by any specific Act of an international or national dance organisation under which they compete that would give them special protection, like in the case of Slovenian modern competitive dances’ dancers, then by the primary and general data protection laws. While Acts of the highest order, for instance the CFR or ECHR, might seem at first blush inapplicable to individuals involved in dance, to the contrary their provisions are applicable and hold a significant weight in court. In particular, examination of the relevant legislation at the EU level demonstrates that not only Articles 7 and 8 of the CFR, but also the rules of the GDPR apply. Slovenian national legislation also enshrines dancers, just like anyone else, with the right to the protection of personal data both under Article 38 of the URS and pursuant to the secondary legislation from this field, particularly by the Data Protection Act²⁸ (hereinafter: ZVOP-2) and the Sports Act²⁹ (hereinafter: ZŠpo-1).

2.2.3 Slovenian Data Protection Act (ZVOP-2)

The concept of ZVOP-2 is as follows. It implements the GDPR into the Slovene legal system, which can be sensed from constant references to the latter. Everything that is addressed, defined or overall regulated by the GDPR, ZVOP-2 does not repeat. Moreover, it particularly addresses the matters that are regulated additionally, differently or even more strictly in comparison to the provisions of the GDPR. One such example of the article that is additionally regulated may be found in the Article 5 of the ZVOP-2, which provides the definitions of certain terms that enable better understanding and easier interpretation of this Act. Article 4 of the GDPR sets forth various definitions and as stated in the first paragraph of the Article 5 of the ZVOP-2, all the listed terms apply. However, ZVOP-2 uses some additional terms that are not defined in GDPR, but need clarifying and these are delineated within the second paragraph of the Article 5 of the ZVOP-2. Further on, Article 8 of the ZVOP-2 sets out conditions applicable to child’s consent in relation to information society

²⁸ Zakon o varstvu osebnih podatkov (ZVOP-2): Official Gazette RS, no. 163/22 and 40/25 – ZInfV-1.

²⁹ Zakon o športu (ZŠpo-1): Official Gazette RS, no. 29/17, 21/18 – ZNOrg, 82/20, 3/22 – ZDeb and 37/24 – ZMat-B.

services and, *inter alia*, provides a different age limit for the child's consent to be valid. This will be further discussed in the third chapter. Last, ZVOP-2 regulates certain questions more strictly than does the GDPR. While the GDPR merely defines the term of biometric data and addresses them within the scope of sensitive or so-called special groups of data that can be processed only if certain conditions in accordance with Article 9 of the GDPR are fulfilled, ZVOP-2 introduces further conditions and rules on methods by which this specific group of data may be processed within the meaning of Articles 80-84 of the ZVOP-2. Based on all the above, ZVOP-2 must be read in conjunction with the GDPR. Given the numerous references ZVOP-2 makes to GDPR, and even considering those instances where a particular matter within the ZVOP-2 is additionally or differently regulated than in the GDPR – whether in a whole Article, in a more limited provision thereof or even in one of the recitals – the GDPR is still the core Act that provides the basis for that particular ZVOP-2's provision.

Although ZVOP-2 touches upon some of the very specific and important questions, such as those concerning biometric data and child consent, a significant shortcoming lies in its failure to address dancers or athletes specifically. Nevertheless, these omissions should not be interpreted to mean that dancers are not protected under its provisions. On the contrary, dancers are a subset of the broader population and accordingly are protected by both ZVOP-2 and GDPR.

2.2.4 Slovenian Sports Act

ZŠpo-1 is a Slovenian legal Act that relates specifically to protecting athletes. Its Article 66 gives the authority to protect athletes' rights to the so-called Ombudsman on Athletes' Rights. Although this position is non-professional, the Ombudsman is selected by the government, works at the seat of the government throughout the time of the mandate, which lasts for 5 years, and is entitled to remuneration and rewards (ZŠpo-1, Article 66, Paras. 5, 6 and 10). When in the course of exercising their duties, the Ombudsman must remain independent and work honourably, fairly and in good faith (ZŠpo-1, Article 66, Para. 5). The Ombudsman deals with different appeals, applications, recommendations and endorsements from athletes, co-workers or staff in sport, legal representatives, those who exercise various sport programmes, public bodies and so on (ZŠpo-1, Article 66, Para. 1). Among other tasks, the Ombudsman publishes examples of good and bad practices in sport, which

is informative for the public and still respectful to the athletes' personal data and privacy (ZŠpo-1, Article 66, Para. 1). While posting such information on the official website, the Ombudsman must comply with the relevant data protection Acts, namely ZVOP-2 and GDPR. ZŠpo-1 mandates another supervisory authority, known as the Inspectorate, who is responsible for sport, and who performs the general supervision necessary to implement the whole Act and other regulations that are issued based on ZŠpo-1's (ZŠpo-1, Article 81, Para. 1).

ZŠpo-1 also regulates the collection of data in the field of sports. The two relevant Articles in this regard are Articles 76 and 77 of the ZŠpo-1. The first paragraph of Article 76 lists the personal data collections that are being managed by the Ministry responsible for Sport. Further on, the Article 76 sets forth four different registries – namely the register of professional athletes; private sports workers; professionally educated and professionally qualified workers in sports; publicly valid training programs; and the register of public sports facilities and outdoor sports areas, which is a record of infrastructure – and lists personal data that may be collected for the people that fall within each of these registries (ZŠpo-1, Article 76, Paras. 2-6). While certain data from these registries are made publicly available (see more: ZŠpo-1, Article 76, Para. 8), some other data (e.g., name and surname, gender, identification number EMŠO, domicile) are connected to the Central Population Register, which is maintained and managed by the ministry responsible for internal affairs, and so remains confidential.

Moreover, the Article 77 ZŠpo-1 relates specifically to the register of *Olimpijski komite Slovenije - Združenje športnih zvez* – OKS-ZŠZ (Eng. Olympic Committee of Slovenia, hereinafter: OKS-ZŠZ). The OKS-ZŠZ, keeps a record of registered and categorized athletes in order to register athletes and classify them into the categorization system (ZŠpo-1, Article 76, Para. 1). The collected data are also forwarded to and can be processed by different organisations, such as the National Branch Sports Schools, the Slovenian Association for Disabled Sports – Slovenian Paralympic Committee, clubs, and to athletes (ZŠpo-1, Article 76, Para. 1). Similar to the previous article, OKS-ZŠZ identifies a list of data that can be collected and with another list of data, which can be made available to the public (ZŠpo-1, Article 77, Paras. 2 and 3).

2.3 Olympic Movement's Acts

2.3.1 Athletes' Declaration

The Olympic Movement's Athletes' Declaration³⁰ (hereinafter: Declaration) is another applicable Act that applies to Slovenian dancers that compete in the category of modern competitive dances, as the PZS is a registered member of the OKS-ZŠZ. Even though this Declaration is just another Act of unbinding nature, its significance lies in the fact that, unlike the IDO documents, the Declaration lists athletes' rights as well as responsibilities. Of the twelve rights listed, the tenth provides "privacy, including protection of personal information", which is specifically connected to dancers' privacy and data protection. Considering the Declaration was written jointly by athletes and Olympic Movement representatives, inclusion of both rights – right to privacy and right to data protection – confirms their overarching importance in sport. Importantly, the Declaration encourages States as well as athletes to take charge and actually exercise the Declaration by the following words "*encouraged to develop mechanisms for effective remedies related to these rights and responsibilities, and athletes are encouraged to make use of these mechanisms*".³¹

2.3.2 Medical Code

Athletes' Declaration goes hand-in-hand with another Olympic Movement's Act called the Olympic Movement Medical Code³² (hereinafter: Medical Code). The Medical Code is a globally used Act, which applies to all the athletes, practicing sports that are registered under the Olympic Committee, and their physicians and other healthcare providers or practitioners (1.1.2 and 1.1.3 of the Medical Code). Inter alia, privacy is one of the fundamental principles on which the relationships between athletes and healthcare providers is based. While the right to privacy and confidentiality is provided as one of the five fundamental rights of the Medical Code,

³⁰ International Olympic Committee. (2018). *IOC athletes' rights and responsibilities declaration*. Retrieved from: https://www.gymnastics.sport/site/pdf/safeguarding/IOC_Athletes_rights_and_responsibilities_declaration.pdf (accessed: December 10, 2025).

³¹ *Ibid.*

³² Olympic Movement Medical Code (2024). Retrieved from: <https://stillmed.olympics.com/media/Documents/International-Olympic-Committee/Commissions/Medical-and-Scientific-Commission/Olympic-Movement-Medical-Code.pdf> (accessed: December 10, 2025).

its chapter 1.4 ‘Confidentiality and Privacy – Personal Health Data’ specifically addresses and regulates it.

Article 1.4.1 of the Medical Code defines the scope of athletes’ personal data concerning health in a way to include all data that relate to the health status of a data subject, revealing information concerning the past, current or future physical or mental health status of the data subject. Considering personal data, it refers to the relevant data protection laws – meaning, in our case to the ZVOP-2 and GDPR. Both the athletes’ sensitive health data, and personal data must be protected and kept confidential (Article 1.4.2 and 1.4.4 of the Medical Code). In particular, the Article 1.4.2. of the Medical Code provides: *“The applicable legislation and data protection laws (including, where applicable, the General Data Protection Regulation “GDPR”) concerning the confidentiality and security of personal health data must be respected at all times.”*

Athletes’ data may only be disclosed to third parties if predetermined so by law or the World Anti-Doping Code, or under the precondition that the data subject gave explicit consent (Article 1.4.3 of the Medical Code). In case of the latter, the athlete may withdraw their consent at any time (Article 1.4.3 of the Medical Code). In order for the athletes to be appropriately informed about the data processing, the Medical Code demands a special data protection notice that must be given to them (Article 1.4.6 of the Medical Code). This notice is a comprehensive document that should be written clearly so as to provide an athlete with explicit and specific details of the purposes for processing (Article 1.4.6 of the Medical Code), and which also aligns with data processing principles of the GDPR, namely with the principles of lawfulness, fairness and transparency, data minimisation, purpose limitation and accuracy (Article 5 of the GDPR). Therefore, the notice must include particular details on the data that will be processed, the means and types of processing, the legal grounds for the processing, which is usually consent, but it can also be legal obligation or other bases contained in the Article 6 of the GDPR.

3 Empirical Research “Data Protection of Youth in Modern Competitive Dances in Slovenia”

Having previously established the meaning of ‘modern competitive dances’, defined the dance organisations covered by this article and established the applicable and relevant legislation in this area, we can shift our focus to the empirical part of the

research, examining the actual status of data protection of a particular group of dancers in Slovenia.

Research was conducted in the following way. I sent out 63 emails to my cohort and 33 people responded to the questionnaire – 23 of them being only trainers; seven trainers and owners; one being only an owner and two having some other role in a dance club (one being a leader of a club and the other a president of it, which means we can count them as trainers and owners as they are still in the business of trainer but also have the final word concerning decision-making). Most of the respondents indicated they are working with dancers between the ages of 7-14 (79% of the respondents), which is unsurprising as within this age group fall two of the largest age divisions, the children' category as well as the younger juniors' category³³. In the adult category, which starts at age 17, many of the dancers end their competing dance carrier, especially the less prosperous ones. Although the respondents that deal (only or also) with young adults at the age of 18 or older comprised a bit smaller number, the percentage of them was still quite high – 59%, that is 19 of the 33 respondents. Importantly, the questionnaires were delivered to all clubs presently registered and competing under the PZS, meaning the percentage of those who completed this questionnaire is high enough to consider the final results as a statistically representative sample.

Questions number 2, 3, 4, 5 and 6, each focused on the consent of publishing content concerning dancers on social media (e.g. photos, videos, videos or photos from competitions). The results of the fifth question in particular were as follows:

Most of the respondents confirmed they usually post pictures or videos as well as the competition results of their dancers on social media. Impressively, 74% of them indicated that before doing so they request written consent from the children's parents.

³³ The age divisions are done in the following way:

- Children's category (encompasses children between ages of 7 and 12),
- Juniors' category is divided between Junior 1 or »younger juniors« (encompasses children between ages of 13 and 14) and Junior 2 or »older juniors« (encompasses children between ages of 15 and 16),
- Adults' category is also divided between the two Adults 1 (encompasses young adults between ages of 17 and 31) and Adults 2 (encompasses adults from 31 onwards).

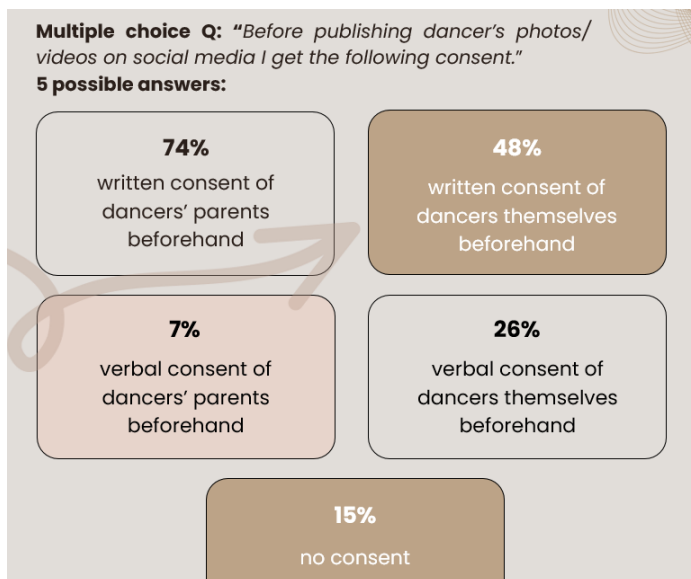


Figure 1: Consent for publishing photos/videos of dancers

Question 5: "Before publishing dancers' photos or videos on social media, I obtain..."

Source: Author's own work, based on the Questionnaire

Moreover, 48% of the respondents indicated they additionally ask for written consent from the dancer before posting such information. In accordance with the ZVOP-2, the consent for the processing of personal data of a child under the age of 15 is lawful only if given by the parent. Accordingly, where a dance trainer or other responsible person seeks and successfully secures the consent from a child that was at the time below the age of 15, such consent would be invalid. A child aged 15 or over may lawfully grant consent pursuant to the Article 8 ZVOP-2.

But still, 48% of the respondents indicated they (only or also) request the dancers' consent before posting their photos on the social media platforms. Maybe such answers were given only by the respondents who work with young adults (as previously indicated, 59% of the respondents work with dancers over the age of 18), or maybe that is not the case at all and some of the respondents who deal with kids below the age of 15 ask them for a consent just as a form of courtesy. Although asking for and receiving permission from a 13- or 14-year-old (or even younger) is nice, it lacks legal power or validity. It is questionable (indeed probably doubtful)

whether a child of such tender years could fully understand and appreciate the possible adverse consequences and damages that that could result from their photos going to the wrong hands, being wrongfully used for child pornography for example, being taken out of the context, being shared on someone else's platforms etc. Children simply lack the mental capacity to comprehend the long-term and far-reaching implications such wrongful acts might have on their lives. Consequently, the law provides them with additional protection.

In Slovenia, once a child reaches the age of 15 the law provides they have a limited legal capacity and correspondingly, they can give a valid consent (ZVOP-2, Article 8). Meaning, the decision-makers believed that starting at age 15 children are cognitively mature enough to be able to comprehend the consequences stemming from their consent to allow their trainers, dance organizers etc. to disseminate their personal data, including videos and photos of them, on social media. Pursuant to the GDPR, the age criterion is even stricter, demanding the child to be at least 16 years of age in order for their consent to be treated as lawful and valid (GDPR, Article 8).

The most troubling aspect of the survey results is that 15% of the respondents indicated they do not gather a consent at all, either from a dancer or a parent. Meaning, they process personal data, without any legal basis, and illegally according to the Article 8 of the GDPR and could be subjected to legal consequences in the form of major fines. For the better picture, when dance trainer or club owner acts in the role of the controller or processor of their dancer's personal data (e.g. when taking their picture and uploading it on social media platforms, putting their pictures on brochures or other marketing platforms), and within this role breaches Article 8 of the GDPR, they can be sanctioned with a fine reaching from 100 € up to 5.000 € in accordance with the Article 96 ZVOP-2.³⁴ In case of having a breach in the sense of processing personal data of a child without a (valid) consent, that would most probably constitute an aggravating circumstance leading to a higher fine. In fact, dance trainers or club owners could be already fined, if they violated the basic principles of processing (e.g. purpose limitation, data minimisation), including the conditions for consent, as set out in Articles 5, 6, 7, and 9 of the GDPR (ZVOP-2,

³⁴ ZVOP-2 prescribes the same sanction for breaching Articles 11., 25.-39., 42. and 43 GDPR. GDPR also prescribes sanctions, but in percentage (4%) of the total worldwide annual turnover of the preceding financial year, meaning its fines can reach a sky-rocketing numbers, but go up-to maximum 20 million € (see more in the Article 83 GDPR).

Article 97, Para. 1). The scope of such breach is set even higher than in the previous example, as the fine stretches from 200 € to 8 000€ (ZVOP-2, Article 97, Para. 1, point 1).

In many situations, these dancers are children under 15 years old. Actors in the dance industry, whether they work as trainers, owners of dance clubs or act as the team leader, have an even greater responsibility to protect the dancers' personal data if the dancers, from whom the personal data are being processed, are minors. These actors are obligated to adequately protect minor children who lack the ability to protect themselves. Because we are dealing with children (indeed a relatively large number of them), any breach of processing personal data circumventing any of the legally prescribed bases pursuant to Article 6 GDPR is considered more egregious and would consequently, in the case of inspection or Information Commissioner's supervision, result in a more robust fine as suggested above.

Importantly, dancers' data protection in particular is not regulated in a specific Act of PZS or IDO. That, however, does not mean that dancers' personal data is not protected at all. As discussed in the second chapter, in Slovenia, the protection of both, the right to personal data and privacy, is guaranteed by the highest domestic legal Act, the URS and further on substantiated with general and many sectoral legal Acts.

The Article 35 of the URS sets out the right to privacy – the right that is, in many cases, associated with private and family life, like in the case of Article 8 of the ECHR or Article 7 of the CFR. In contrast, the right to privacy pursuant to the URS is explicitly associated with personal rights, which is even more optimal for the athletes and their potential claims in these types of matters. Besides protecting the right to privacy, Article 35 of the URS also guarantees the individual's personal rights as well as their physical and moral integrity. It addresses any individual, meaning everyone, including, but not limited to athletes or dancers. The provision is so broad that it *de facto* covers any actions of interference in one's personal sphere, whether that means copying choreography or costumes, watching the training, filming the freestyle choreography on a competition or for example, using dancers' equipment or scenography without permission, etc.

As privacy is considered a broader term in a way, covering data protection merely to a certain degree, data protection is, as an independent right, guaranteed specifically by the Article 38 of the URS. It provides that the right is further on protected by law and given judicial protection. Consequently, Article 38 does not only create a fair and effective system of protection but obliges the government to adopt such laws that will equip individuals with adequate legal remedies to protect those rights. Although this might seem completely common or even obvious, not all countries and governments consider data protection as a right. For instance, in the U.S., the right to personal data is not constitutionally protected. Instead, as summarized by DLA Piper, *“United States privacy law is a complex patchwork of national, state and local privacy laws and regulations. There is no comprehensive national privacy law in the United States. However, the US does have a number of largely sector-specific privacy and data security laws at the federal level, as well as many more at the state (and local) level. In recent years, beginning with California in 2018, states have begun to introduce and enact their own comprehensive privacy laws”* (DLA Piper, n.d.). In contrast, Slovenia was the sixth country in Europe to uphold the right to data protection as a constitutional right³⁵, further on stipulating that the field is regulated by law. Even though many of the EU countries still do not consider the protection of personal data as a constitutional right, like e.g., Italy, they nevertheless apply the CFR and the ECHR, through which they incorporate it as a fundamental human right into their national systems and treat it as such.

Moreover, the legal Act that the Article 38 of the URS points to when predicting the right to data protection should be further regulated within a legal Act at the level of secondary legislation is ZVOP-2. In Slovenia, ZVOP-2 in conjunction with the GDPR covers the field of data protection in general. It does so for all individuals, different kinds of situations and activities – as long as the personal data in question pertains to an identified or identifiable individual. In contrast, regarding certain sports databases and collections, including but not limited to dance organizations or clubs, or respecting the specific protection of athletes’ rights, one must turn to the Sports Act. But how knowledgeable about the Sports Act are the main players in the dance industry, namely the people working with young dancers?

³⁵ Turnšek, 2024, p. 11.

I tried to find a legitimate answer to this question as part of my study. Question number 7 asked respondents whether they knew that processing of personal data based on a child's consent is only valid if the child has already reached the age of 15 years or more. The question was intentionally designed to be a bit provocative. The question also asked respondents to state whether they had already known about this aspect of the law; whether they knew a little about it; or, whether they knew nothing about it. To know about the age limits and consent, I believe one has to have some knowledge on data protection in general – not only in the sense that one has heard about a legal Act from this field, but rather in the sense that one was taught about certain provisions and maybe even concepts from the field of data protection. Interestingly, the results were more positive than I had hypothesized.



Figure 2: Age limits

Question 7: “Did you know that processing of personal data based on child’s consent is only valid if he or she has already reached the age of 15 years or more?”

Source: Author’s own work, based on the Questionnaire

Survey results revealed that 56% of the respondents, a solid majority, indicated that they already knew about the age limits; 40% admitted they only knew a little something about this topic; while only 4% of respondents stated they did not know anything in this connection. So, what conclusions may we draw from these findings? On the one hand, it is disappointing that among people who deal with children daily, only 44 % of them only knew a little something about or nothing about the age limits. Then again, considering the results more positively, a whopping 96% of respondents either knew of the age limits or at least knew something relative to them. This is not only positive in relation to the lawful fulfilment of their legal

obligations, but more importantly, it is beneficial for the children and young adults under their care and supervision.

The survey generated similar findings in connection to the question number 8, which asked the respondents whether they had heard about ZVOP and/or GDPR. In response to this yes or no type of question 4% of the respondents indicated they never heard of GDPR or ZVOP-2. The good news is that 96% of respondents stated they had already heard of either or both GDPR and ZVOP-2.



Figure 3: Familiarization with GDPR/ZVOP
Question 8: “Have you ever heard about the ZVOP-2 and/or the GDPR?”
Source: Author’s own work, based on the Questionnaire

These results indicate that many of the trainers, owners or team leaders of different dance clubs and studios across Slovenia are familiar with the data protection framework in Slovenia.

Furthermore, the last question challenged respondents to assess their familiarity of the substance of ZVOP and/or GDPR on a sliding scale from 1 (not knowing anything about them) to 5 (knowing at least one of the two very well). For instance, ten admitted they know a little something about them and ten of them stated they are familiarized with the parts of the Acts that are relevant for doing their jobs rightfully and lawfully. Surprisingly, three respondents answered they know at least one of these two Acts very well.

Notably, many of the trainers and even dance owners pursued their dance careers from their early ages on and did not continue their studies after finishing high school, or maybe they did, but obviously most did not choose to go to a Faculty of Law, which takes a lot of time, effort and devotion. Considering that ZVOP-2 and GDPR are very difficult legal Acts to understand even for an experienced lawyer, I am not completely convinced that a person without any legal education could fully understand either of the two. I say this for the following reasons: i) ZVOP-2 has many references to the GDPR and must always be read in conjunction with it; ii) as outlined in the introduction of this paper, data protection is governed by many different fields of law and to fully understand such a complicated field, it is beneficial to have training in law; iii) GDPR is a very young legal Act that is not informed by much case law to draw parallels with; and iv) GDPR is like a Pandora box, leaving many unanswered and open questions for the legal community. It also bears noting that it is one thing to actually know the law, and another to think you know the law. The one who thinks he knows the most is usually the one who knows the least, as such a person often does not even know what he does not know. With that, I confirm that the last question was not an objective one and the outcome follows the approach, which is my responsibility.

Critically, to obtain more accurate and objective insights concerning how well respondents know the ZVOP-2 or/and the GDPR, I should compose a series of additional, random questions about these Acts. The responses would provide me with beneficial data which would then allow me to more accurately assess the extent of the actual knowledge concerning the Acts that respondents have. That would, however, demand more than one question and the questionnaire used in my study was intentionally designed to be as short as possible to attract more participants willing to give only a few minutes of their free time to solve it. Despite the shortcomings of my questionnaire, the results that I did obtain still, in my judgment, draw a fair picture about the situation on data protection of dancers, competing in modern competitive dances, in Slovenia.

3.1 Results Summary

To conclude, dance clubs, studios and organizations in Slovenia together with their responsible persons have a certain level of knowledge and awareness about the legal requirements to protect the personal data of dancers, who are still children,

teenagers, and/or young adults. In most cases, at least according to my research results, they do gather the written consents of dancers' parents and in this way, process their personal data lawfully. While a great majority of the respondents chose the most accurate answer, 15% of the respondents indicated they do not secure any kind of consent beforehand, either from the dancers or from their parents. Additionally, when respondents were asked whether they know about the age limit, only 56% could confidently answer with a 'yes'. Others, 40% of the participants indicated they know something about this matter and 4% directly confirmed they do not have any knowledge on this topic. It is upsetting to see that such a high percentage of people working with children on a daily level are unaware of legal requirements that apply to their activities and therefore do not respect the basic principles of data protection and process data unlawfully. Even worse, some are well aware of the legal requirements and consciously decide not to respect them, and in other cases, individuals have (too) little or no knowledge on this matter and do not even know they are violating the law when taking and/or utilizing photos or videos of the dancers. Either way, such behaviour is irresponsible and negligent. Although data protection laws provide for high fines for their breach, violations still occur. And, of course, dancers (and their legal guardians) often are unaware of their rights and so we can safely assume many violations go unpunished. Dancers, especially minors, should always be provided with a safe environment to dance, make friends and grow in. Merely being aware of and understanding the data processing principles would equip the responsible persons with minimum knowledge to process data in accordance with the GDPR. Indeed, the majority of the respondents are aware of the importance of dancers' data protection, yet according to my survey results, many of them have a lot more to learn. The improvement could be achieved simply by educating people from dance industry on the topic of data protection. That could be arranged at the national level by PZS or maybe even at the international level by the IDO. Either organization could offer education on the matter for all registered trainers and/or clubs registered under it. Even individually, interested dance clubs, studios or trainers could acquire an (online) programme or consultation(s) with a lawyer. There are several possibilities, however, the dance industry needs to first show its interest to evolve in the aspect of dancers' data protection.

4 Conclusion

To sum-up, Slovenian dancers, in theory at least, are protected with an army of legal Acts that guarantee the lawful processing of their personal data and connected rights. From the fundamental human rights aspect, Article 8 ECHR, Article 8 CFR and Article 38 URS, provide strong bases for protecting one's personal data. These basic Acts have, in turn, been bolstered through various other legal Acts, both general and specific.

On the one hand, the general data protection regulations are GDPR and ZVOP-2. These Acts are always read in conjunction and together form a comprehensive legal framework on data protection in general. On the other hand, ZŠpo-1 is a more specific Act, touching upon aspects of privacy and data protection, and which applies not only to people in general, but athletes in particular. It provides athletes with an authority that accepts complaints, encouragements and recommendations in connection to their sport, sport activities or sport amenities. The so-called Ombudsman for Athletes' Rights is a significant figure for athletes, especially for those who practice an 'unpopular' sport or a sport with smaller organisation behind it, as they usually cannot provide another authority of such kind within the walls of their own sport. Although PZS falls within the means of smaller organisations, its umbrella organisation IDO does not.

IDO sets out even more specific rules, applicable for the dancers practicing modern competitive dances in particular. Its weakness lies in the fact its regulations are not very robust or detailed and consequently they are largely ineffective in protecting dancers' fundamental rights. We may, however, sense that the awareness to protect dancers from strong violations (e.g., abuse) is present and a positive aim of the decision-makers can be extracted from the text. IDO's Code of Conduct enforces the main principles under this organisation and with that, it enhances the protection of privacy and confidentiality. It also addresses data protection, which I applaud. PZS does not provide any such Act on its own but adheres to these IDO's documents.

In addition, as PZS is one of the registered members of the OKS-ZŠZ, Olympic Movement's Acts apply to the dancers of modern competitive dances as well. While both the Olympic Movement Athletes' Declaration and Medical Code are of

unbinding nature, their utility lies in the fact they set out fundamental principles and rights that should generally apply for athletes. Both documents are unfortunately written in a form of soft law; meaning they lack functional mechanisms (e.g., there is no supervisory authority, sanctions for violations). Athletes' Declaration, however, suggests States Signatories should use and implement them in their national legal system. From my point of view, these documents are great if considered as guidelines. However, when violations occur, secondary legislation, namely GDPR, ZVOP-2 and ZŠpo-1, are the most effective Acts for seeking relief as subsumed within them are the relevant articles of ECHR or CFR and URS.

Concerning practice, based on the empirical part of my research, dancers' protection of their personal data is actually guaranteed in the vast majority of clubs. Therefore, the first hypothesis I have set on the very beginning of my research, '*data protection of dancers is not adequately ensured*', has been refuted. Of course, there are certain individuals that have little to no knowledge on the matter, however, 96% of trainers, club owners and team leaders indicated they have already heard about at least one of the following, GDPR and/or ZVOP-2. Although a slightly higher percentage of those (22%) failed to confirm they ask for the written consent of dancers' parents prior to the processing of their personal data, there are certain factors that could explain this difference. Maybe these trainers work with older dancers, above 15 years of age – when viewed through this prism, obtaining a consent from the dancers directly is completely accurate and in accordance with the law. Considering that, I also conclude the second hypothesis has also been refuted '*most of the relevant trainers, club owners or team leaders, do not have the sufficient knowledge on the topic of data protection*' because more than 50% of the participants chose the correct or most optimal answer in every question posed.

In conclusion, the awareness of data protection laws among Slovenian dance teachers, dance club and studio owners and team leaders is at a surprisingly high level. Of course, there is always room for improvement, and some individuals could (and maybe should) use education on this matter, which would not only be beneficial for dancers and protection of their personal data, but for the dance clubs and club owners as well. Intriguingly, if they were met with inspection or crossed by the supervision of Information Commissioner, any kind such of violation (e.g., processing of personal data of a child without a legal basis, processing of personal

data without a valid consent or unnecessarily processing too many personal data) could earn them a high fine.

Acknowledgment

I would like to sincerely thank everyone who participated in my research and took time to fill out the given questionnaire. Without the help from nearly half of dance clubs and studios, registered under the PZS to compete in modern competitive dances from all-around Slovenia, this research would not be possible, and this article would not seize the light of day.

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