

## (UNOFFICIAL TRANSLATION)

# LAW ON PERSONAL DATA PROTECTION

## Consolidated text

### I. GENERAL PROVISIONS

#### Article 1

This Law shall regulate the protection of personal data as fundamental freedoms and rights of the natural persons, and especially the rights to privacy as related to the personal data processing.

#### Article 2

The terms used in this Law shall have the following meaning:

- 1) "Personal data" shall be any information pertaining to an identified or identifiable natural person, the identifiable entity being an entity whose identity can be determined directly or indirectly, especially as according to the personal identification number of the citizen or on the basis of one or more characteristics, specific for his/her physical, mental, economic, cultural or social identity;
- 2) "Personal data processing" shall be every operation or a sum of operations performed on personal data, automatically or otherwise, such as: collection, recording, organizing, storing, adjusting, or altering, withdrawing, consulting, using, revealing through transmitting, publishing or making them otherwise available, aligning, combining, blocking, deleting or destroying;
- 3) "Personal Data Collection" shall be a structured group of personal data available in accordance to specific criteria, regardless whether it is centralized, decentralized or dispersed on a functional or a geographical basis.
- 4) "Personal Data Subject" shall be any natural person to whom the processed data refer;
- 5) "Controller of the Personal Data Collection" shall be any natural person or legal entity, a state administration body or other body, who, independently or together with others, determines the purposes and the ways of personal data processing (hereinafter: controller). When the purposes and the ways of personal data processing are determined by law or any other regulation, the same law, i.e. regulation determines the controller or the special criteria for his/her selection;
- 6) "Personal Data Collection Processor" shall be a natural person or a legal entity or a legally authorized state administration body processing the personal data on the behalf of the controller;
- 7) "Third Party", shall be any natural person or legal entity, a state administration body or other body, which is not a personal data subject, a controller, a Personal Data Collection Processor or any person who, under a direct authorization by the controller or by the Personal Data collection processor is authorized to process the data;
- 8) "User" shall be any natural person or a legal entity, a state administration body or other body, to whom the data are disclosed.
- 9) "Consent of the personal data subject" shall be freely and explicitly given statement of will, of the personal data subject whereby (s)he agrees to the processing of his/her personal data for previously determined purposes;
- 10) "Special categories of personal data" shall be personal data revealing the racial or ethnic origin, the political views, religious or other beliefs, membership in a trade union and data relating to the health condition of the people, including genetic data, biometric data or data referring to the sexual life;
- 11) "Third country" shall be country not being European Union member or not being member of the European Economic Space.

#### Article 3

This law shall be applied:

- to entirely or partly automated personal data processing and
- to other processing of the personal data which are part of an existing collection of personal data or are intended to be part of a collection of a personal data.

#### Article 3-a

Personal data protection shall be guaranteed without discrimination based on his/her nationality, race, color of the skin, religious conviction, ethnical belonging, sex, language, political or other convictions, material status, birth background, education, social background, citizenship, place or type of residence or other personal circumstances.

#### Article 4

The provisions of this Law shall not be applied on the personal data processing provided by natural persons, exclusively due to personal activities or home activities.

The provisions referred to in chapters VI, VII and VIII of this Law shall not be applied on the personal data processing for the purpose of protecting the interests of state security and defense of the Republic of Macedonia.

#### Article 4-a

The provisions referred to in Article 6, 7, 11, 12, 13, 14, 16, 22 and from 27 to 36 of this Law shall not be applied on processing the personal data performed exclusively for the purpose of:

- literature and art expressing and
- professional journalism in accordance with the ethical rules of this profession.

The provisions of this Law shall not be applied to processing of personal data carried out for the purpose of professional journalism, only in the case when the public interest prevails over the private interest of the subject of personal data.

#### Article 4-b

The procedures envisaged with this Law, shall be conducted in accordance with the provisions from the Law on General Administrative Procedure, unless otherwise determined by this Law.

#### Article 4-c

Each organ of the state administration, a public institution, an institution or other legal entity that keeps official registers, publicly available collections of data or other data collections shall be obliged without compensation on a request of the Directorate for Personal Data Protection (hereinafter: the Directorate) to submit data from the registers and data collection for needs of the procedures that are being kept in accordance with this Law.

#### Article 4-d

The Directorate can request to be given aid by the state administration body competent for internal affairs during the implementation of the executive decision, provided that there is physical resistance or such resistance is expected to happen, as well as in other cases determined by law.

In the cases referred to in paragraph 1 of this Article, the state administration body competent for internal affairs shall be obliged to give aid.

## II. PERSONAL DATA PROCESSING

#### Article 5

Personal data shall be:

- processed justly and pursuant to law;
- collected for specific, clear and legally determined purposes and processed in a manner pursuant to those purposes. Further data processing for historic, scientific or statistical research shall not be considered as not being in compliance with the primary purposes for the data collection, provided that the appropriate protection measures have been undertaken in accordance with law;
- appropriate, relevant and not too extensive in relation to the purposes for collecting and processing;
- accurate, complete and, where necessary, updated, whereby all proper measures for deleting and correcting the inaccurate or incomplete data shall be undertaken, considering the purposes for which they have been collected or processed and
- stored in a form which enables identification of the personal data subject, not longer than necessary to meet the purposes for which the data have been collected for further processing.

After expiration of the preservation period, the personal data may only be processed for historical, scientific and statistic purposes.

The policy for protection of the privacy, personal and family life of the personal data subject from their unauthorized use, shall be applied when personal data are used for the purposes referred to in paragraph 2 of this Article, and in as short term as possible the data shall be made anonymous.

The controller shall be responsible for the quality of the personal data in accordance with paragraph 1 of this Article.

#### Article 6

Personal data processing may also be performed:

- upon previously obtained consent of the personal data subject;
- for executing the agreement where the personal data subject is contracting party or upon the request of the personal data subject prior to his/her accepting of the agreement;
- for fulfilling the legal obligation of the controller;
- for protection of the life or the essential interests of the personal data subject;
- for exercising activities of public interest or an official authorization of the controller or data being revealed to a third party or
- fulfillment of the legitimate rights of the controller, of a third party or a person to whom the data have been disclosed, unless the freedom and the rights of the personal data subject shall prevail such interests.

The controller shall prove the existence of the consent of the personal data subject, referred to in paragraph 1 line 1 of this Article.

#### Article 7

Personal data processing that refers to criminal acts, pronounced sentences, alternative measures and security measures for committed criminal acts may be performed by pursuant to law.

#### Article 7-a

The processing of the personal data contained in judicial decisions shall be conducted under the conditions determined by law and in the manner prescribed by the regulations adopted on the basis of that Law.

#### Article 7-b

The provisions of this Law shall be applied to the processing of personal data if the controller is established in the Republic or has his/her authorized representative with head office in the Republic of Macedonia.

The provisions of this Law shall be also applied if the controller is not established in the Republic or does not have his/her authorized representative with head office in the Republic of Macedonia, but the equipment he/she uses for personal data procession is located in the Republic of Macedonia, unless the equipment is used only for transit through the territory of the Republic of Macedonia.

In the case referred to in paragraph 2 of this Article, the controller shall be obliged to appoint an official representative with head office in the Republic of Macedonia, who shall be responsible for personal data protection in accordance with this Law.

The provisions of this Law shall be also applied when the controller shall be established on the territory of another state where the national law of the Republic of Macedonia is applied on the basis of international public law.

### III. PROCESSING OF SPECIAL CATEGORIES OF PERSONAL DATA

#### Article 8

Processing of special categories of personal data shall be forbidden.

As an exception to paragraph 1 of this Article the processing of special categories of personal data may be performed:

- on the basis of an explicit consent of the personal data subject given for processing such data, unless a law envisages that the prohibition for processing such data may not be withdrawn by a written consent of the personal data subject;
- if it is necessary for carrying out specific rights and obligations of the controller in the field of labor law, to the extent and with adequate guarantees determined by the laws in this area;
- when it is necessary for the protection of the essential interests of the personal data subject or of other person physically disabled to give consent or lacking the capacity to give consent;
- if the processing is carried out in the framework of the activities of institutions, associations or any non-profit institutions for political, religious, trade-union or other purpose, provided that the data processing refers exclusively to their members or natural persons with whom regular contact regarding their aims are held, such data, as well, shall not be disclosed to third parties without the consent of the personal data subject;
- when the processing refers to data which the personal data subject has publicly disclosed;
- when it is necessary for the purpose of determining or meeting individual legal interests;
- when it is necessary for the purpose of acquiring, exercising and protecting the rights of the personal data subject in a procedure with competent bodies;
- if it is needed for the purposes of medical prevention, diagnosis, treatment or management of a public health institution and is carried out by a person whose profession is to provide medical protection under oath of secrecy to the data revealed to him/her during the performance of his/her profession and
- proper measures for protection due to exercising activities of public interest determined by law or decision of the Directorate.

#### Article 9

The personal identification number of the citizen may only be processed:

- upon prior explicit consent of the personal data subject;
- for the purpose of fulfilling rights and obligations of the personal data subject or controller, determined by law and
- other cases determined by law.

The controller shall be obliged to ensure the personal registration number of the citizen not to be unnecessarily visible, printed or taken over from personal data collection.

#### Article 9-a

The provisions of this Law shall be applied as well to the personal data processing by video surveillance, unless otherwise determined by another law.

The controller who performs the video surveillance shall be obliged to display a notification. The notification has to be comprehensive, visible and displayed in such a manner to enable the personal data subjects to acquaint the performance of video surveillance.

The notification referred to in paragraph 2 of this Article shall contain information:

- that video surveillance is being performed,
- about the name of the controller performing the video surveillance and

- for the manner of getting information regarding the place and period of preserving the videos of the video surveillance system.

The personal data subject shall be informed about the personal data processing, pursuant to Article 10 and 11 of this Law, if a notification has been displayed in accordance with paragraphs 2 and 3 of this Article.

The controller may solely perform video surveillance in an area necessary for fulfilling the aims of its setting.

The videos made while performing video surveillance shall be preserved until fulfilling the purposes of its performance, yet not exceeding 30 days, unless longer period is envisaged by another law.

#### Article 9-b

The controller may perform video surveillance in the official or business premises if necessary for:

- protection of the human life and health;
- property protection;
- protection of the life and health of the employees due to the job nature or
- provision of control over the entry and exit from the official or business premises.

The controller shall be obliged to regulate the manner of performing the video surveillance by special act.

The controller shall obligatory notify the employees for the performance of video surveillance in the official or business premises.

It is prohibited to perform video surveillance in dressing rooms, fitting rooms, toilets and bathrooms, elevators and other similar areas.

The Director of the Directorate shall prescribe the form and the content of the act referred to in paragraph 2 of this Article.

#### Article 9-c

For the purpose of performing video surveillance in single and multiple quarters buildings, it shall be necessary to obtain a written consent of all owners, that is lessees of the quarters.

It is prohibited to transmit the video surveillance videos in the single and multiple quarters buildings on cable television (public or internal network), via the internet or via other electronic means for data transfer.

It is prohibited to record the video entrances in personal apartments of other owners, that is lessees.

### IV. RIGHTS OF THE PERSONAL DATA SUBJECT

#### Article 10

When the data are collected from the personal data subject, the latter must be informed on:

- the identity of the controller and of its authorized representative in the Republic of Macedonia, if any;
- the purposes of the processing;
- the users or categories of users of personal data;
- the compulsoriness of responding to questions;
- possible consequences of not responding and
- existence of the right to access and the right to correct his/her personal data.

The controller shall not inform the personal data subject if (s)he has already been introduced to the matters listed in paragraph 1 lines 1 to 6 of this Article.

#### Article 11

When the data are not collected from the personal data subject, the controller shall, at the time of recording the personal data or if disclosure of the personal data to a third party is envisaged, no later than the time when the data are firstly disclosed, inform the personal data subject on:

- the identity of the controller and of his/her authorized representative in the Republic of Macedonia, if any;
- the purposes for the processing;
- the data categories;
- the users or categories of users of the personal data and
- the existence of the right to access and the right to correct the data referring to the personal data subject.

The controller shall not inform the personal data subject if (s)he has already been introduced to the matters referred to in paragraph 1 lines 1 to 5 of this Article.

As an exception to Paragraph 1 of this Article, the controller shall not have an obligation to inform the personal data subject about the processing of personal data for historical, scientific and statistic purposes, if:

- the same is impossible or quests for disproportionate effort or costs or
- the collection or disclosure of the personal data has been determined by law.

## Article 12

The personal data subject may request from the controller to inform him/her:

- whether his/her personal data are being processed;
- on the purposes and legal base for personal data processing and the users or categories of users to whom the personal data are being disclosed;
- the logic of automatic processing, in case a decision has been made on the automatic processing affecting the personal data subject.

The controller shall be obliged to respond to the personal data subject referred to in paragraph 1 of this Article, within 15 days as of the day of accepting the request.

Should the controller have responded to the request of the personal data subject referred to in paragraph 1 of this Article, (s)he shall not have the obligation to respond again to a same or similar request of the said subject, if in the meantime changes in his/her personal data have not occurred, except if six months have passed as of the day of submitting the prior request to the new request.

## Article 13

When the personal data are being processed in accordance with Article 6 paragraph 1 lines 5 and 6 of this Law, the personal data subject shall have the right to request for freezing his/her personal data processing.

Should the request in the cases referred to in paragraph 1 of this Article be grounded, the controller shall be obliged to freeze further processing of the personal data.

## Article 13-a

The personal data processing for the purpose of direct marketing shall be allowed only if the personal data are being processed in accordance with Article 6 paragraph 1 of this Law, unless otherwise determined by other law.

The personal data subject shall have the right, at any period, for free and by using simple means to withdraw the consent for processing his/her personal data for direct marketing.

## Article 14

Upon the request of the personal data subject, the controller is obliged to supplement, amend, delete or prevent the use of the personal data, if they are incomplete, incorrect or not updated and if their processing is not in conformity with the provisions of this Law.

In case when the controller shall determine that the personal data are incomplete, incorrect or not updated, (s)he is obliged to supplement, amend or delete them, regardless of whether the personal data subject has submitted a request for amending the personal data.

For the performed supplement, amendment or deletion of personal data, as pursuant to the paragraph 2 of this Article, the controller shall be obliged within 30 days from the day of accepting the request, to inform in written the personal data subject, the personal data users or third parties to whom the personal data have been disclosed to, unless it is not possible or it quests for disproportional effort or costs.

## Article 15

The rights of the personal data subject, determined in the provisions of Articles 10, 11, 12, 13 and 14 of this Law, may be restricted in special cases when their application shall endanger the fulfillment of the obligation of the controller envisaged by law, in regard to:

- protection of the security and defense of the state;
- detection and prosecution of the perpetrators of criminal acts;
- protection from infringement of ethic rules of a certain profession;
- protection of important economic or financial interests of the state,
- protection of important economic or financial interests of the European Union and
- protection rights and freedoms of the personal data subject or of the rights of the natural persons.

## Article 16

The controller shall not act upon the request of the personal data subject as pursuant to Article 12 of this Law, when authorized in accordance with law and if the personal data are processed exclusively for the scientific research purposes, or if they have been collected exclusively for defined statistical purposes and are kept for a period not exceeding the one necessary for the sole purpose of creating statistical data.

## Article 17

*Deleted* <sup>2</sup>

## Article 18

A natural person or citizen's association where the natural person is a member, can submit a request to the Directorate for confirming violation of the right, provided that he/she considers that a certain right guaranteed by this Law has been violated by the controller of the processor.

The Directorate shall decide whether during the procedure shall disclose the personal data of the submitter of the request to the opposite party.

For the violation of the right referred to in paragraph 1 of this Article, the personal data protection inspector shall conduct an inspection procedure and shall decide in accordance with the provisions referred to in Chapter IX-a of this Law.

## Article 18-a

*Deleted* <sup>3</sup>

## Article 19

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## Article 20

The expenses referred to in Article 10, 11 and 12 of this Law shall be covered by the controller, unless otherwise stipulated by law.

## Article 21

The controller shall be liable for any damage caused to the personal data subject by the personal data processing or by other activity, carried out contrary to the provisions of this Law, unless he/she proves that the damage did not arise due to his/her fault.

The subject of the personal data shall exercise the right to damage compensation caused by the processing of personal data or other activity carried out contrary to the provisions of this Law, by submitting a claim for damage compensation to the competent court.

## Article 22

Court or other decision which result with legal effect against a person or significantly concerns the said person, cannot be based solely on automatic processing of data intended for defining the profile or assessing certain aspects of his/her personality without prior confirmation by an authorized person.

Paragraph 1 of this Article shall not be applied, if decision has been adopted:

- during conclusion or fulfillment of an agreement, while the person has been enabled to expose his/her opinion or the decision has been reached in accordance with the request of the said person or
- in accordance with separate law.

# V. SECRECY AND PROTECTION OF PERSONAL DATA PROCESSING

## Article 23

In order to provide secrecy and protection of the processing of the subject's personal data, the controller and processor have to apply proper technical and organizational measures for protection of accidental or illegal damaging of the personal data, or their accidental loss, change, unauthorized disclosing or approach, especially when the processing includes transmission of data over a network and protection of any kind of illegal forms of processing.

The personal data referred to in Article 8 and 9 of this Law, may be transferred via electronic telecommunications network only if specially protected by proper methods, therefore not being readable in the transfer process.

The measures referred to in paragraph 1 of this Article have to provide degree of protection of the personal data appropriate to the risk during the processing and the nature of the data being processed.

The controller and processor shall be obliged to adopt and apply documentation containing description of the technical and organizational measures for providing secrecy and protection of the personal data processing.

The director of the Directorate shall prescribe the contents of the documentation referred to in paragraph 4 of this Article, as well as the application of proper technical and organizational measures supposed to be undertaken in order to provide secrecy and protection of the personal data processing.

#### Article 24

Only the person with authorization from the controller or processor, including the processor himself, may provide personal data processing.

The persona referred to in paragraph 1 of this Article shall mandatory:

- be introduced with the principles for personal data protection prior to accessing the personal data;
- perform personal data processing in accordance with the directions received from the controlled, unless otherwise regulated and
- preserve the personal data as confidential, as well as the measures for their protection.

#### Article 25

The controller and processor shall be obliged to keep records for persons authorized for providing personal data processing, containing:

- name and surname of the authorized person;
- date of issuance, expiry date, as well as scope of authorizations for approach to the personal data and
- access manner.

#### Article 26

The controller may transfer matters of his/her scope of work, related to the personal data processing, to the processor.

The internal rights and obligations of the controller and processor have to be regulated by an agreement, in written form, obligatory containing:

- the obligation of the processor to act solely in accordance with directions received from the controller and
- the obligation as well for the processor to undertake technical and organizational measures to provide secrecy and protection of the personal data processing.

In the agreement referred to in paragraph 2 of this Article the manner of testing of the procedures of the processor during the processing of the personal data shall be mandatorily determined.

#### Article 26-a

The controller shall be obliged to appoint a personal data protection officer who shall perform the following activities:

- participate in the adoption of decision related to the processing of personal data, as well as the exercise of the rights of entities over their personal data,
- monitor the harmonization of the law and the regulation adopted thereunder, referring to the procession of the personal data, as well with the internal regulations for protection of the personal data and the documentation for technical and organizational measures for the purpose of ensuring secrecy and protection during personal data processing,
- draw up the internal regulations for personal data protection and the documentation for technical and organizational measures for the purpose of ensuring secrecy and protection of during personal data processing,
- coordinate the control of the procedures and guidelines determined in the internal regulations for the personal data protection and the documentation for technical and organizational measures for the purpose of ensuring secrecy and protection of during personal data processing,
- propose training to the employees in connection with the personal data protection, and
- perform other activities determined by law and the regulations adopted thereunder, as well with the internal regulations for personal data protection and the documentation for technical and organizational measures for the purpose of ensuring secrecy and protection of during personal data processing.

The controller shall not have an obligation to appoint a personal data protection officer, provided that he/she does not notify the Directorate in accordance with Article 28 paragraph 1 lines 2 and 3 of this Law.

## VI. CENTRAL REGISTER OF PERSONAL DATA COLLECTIONS AND PRIOR APPROVAL

#### Article 27

Prior to initiating the personal data processing, the controller shall be obliged to notify the Directorate.

The notification referred to in paragraph 1 of this Article shall contain the following:

- 1) the title of the personal data collection;
- 2) title i.e the personal name of the controller and his/her head office, i.e. address, as well as the name and the address of his/her representative, if any;
- 3) purpose or purposes of the processing,
- 4) legal basis for the establishment of a personal data collection;
- 5) category or categories of the personal data subjects and personal data i.e categories of personal data referring to him/her or them;
- 6) the users or the categories of users to whom the personal data may be given for use;
- 7) time period for keeping the personal data;

- 8) transfer of personal data to other states, and
- 9) general description that shall enable primary assessment of the properness of the undertaken technical and organizational measures for personal data protection and their processing.

The controller may initiate the personal data processing being subject of the notification, after obtaining the confirmation letter for the performed notification referred to in paragraph 2 of this Article.

The controller shall be obliged to notify the Directorate for any change contained in the notification referred to in paragraph 2 of this Article, within 30 days as of the day of the change.

The director of the Directorate shall prescribe the form and content of the notification Form, as well as the manner of notifying referred to in paragraph 1 of this Article.

## Article 28

The controller shall not be obliged to notify the Directorate in accordance with Article 27 of this Law, if:

- the personal data are part of the publicly available collections based on a law;
- the personal data collection refers to at most ten employees with the controller or
- the processing refers to personal data of member of associations founded for political, philosophical, religious or trade-union purposes.

The controller referred to in paragraph 1 of this Article shall be obliged to respond to the request of a natural person for submitting the data referred to in Article 27 paragraph 2 points 1, 2, 3, 4, 5, 6, 7 and 8 of this Law, within 15 days as of the day of receiving the request.

## Article 29

Solely upon previously obtained approval from the Directorate the following personal data shall be processed:

- personal identification number of the personal data subject;
- data regarding the racial or ethnical origin of the personal data subject;
- genetic data, except if the data processing is no performed by experts for the needs of the preventive medicine, medical diagnosis or nurture and therapy of the personal data subject and
- biometric data, necessary to confirm the identity of the personal data subject.

The approval referred to in paragraph 1 of this Article shall be also necessary in the case when the personal data processing is performed in accordance with Article 8 paragraph 2 line 1 and Article 9 paragraph 1 line 1 of this Law.

The approval referred to in paragraph 1 of this Article, shall not be necessary in case when the personal data processing is determined by law.

The request for obtaining the approval referred to in paragraph 1 of this Article shall contain the data listed in Article 27 paragraph 2 of this Law.

## Article 29-a

In the cases referred to in Article 29 paragraph 1 of this Law, the Directorate director shall adopt a decision within 60 days as of the day of submitting the request for obtaining an approval.

Against the decision of the Directorate's director a file can for initiation of an administrative dispute before a competent court can be lodge within 15 days as of the day of decision acceptance.

## Article 30

The Directorate shall keep electronic Central Register of personal data collections (hereinafter: Central Register).

The Central Register shall contain data of the notifications received in accordance with Article 27 of this Law and the approvals issued pursuant to Article 29 of this Law.

The Central Register shall be updated after the receiving of the notification by the controller or ex officio.

The data of the Central Register shall be public, except for the data referred to in Article 27 paragraph 2 point 9 of this Law.

# VII. TRANSFER OF PERSONAL DATA TO OTHER COUNTRIES

## Article 31

The personal data transfer to other countries may be carried out only if the other country provides adequate degree of personal data protection.



The Directorate shall evaluate the level of protection provided by the other country, on the basis of:

- the nature of the data;
- the purpose and duration of the proposed operation or processing operations;
- the country where the data shall be transferred;
- governing of the law and
- safety measures existing in the said country.

The provisions referred to in paragraphs 1 and 2 of this Article shall not be applied to the countries members of the European Union and the countries members of the European Economic Space.

If the European Commission shall determine that the third country does not provide proper level of protection regarding the transfer or category of personal data transfer, after receiving the notification in accordance with Article 27 of this Law, the Directorate shall issue a determination for prohibition of personal data transfer.

If the Directorate shall assess that the determined third country fails to provide proper level of protection regarding the personal data transfer, it shall immediately notify the European Commission and impose the controller to freeze the data transfer.

If the European Commission shall determine that the third country towards which the personal data transfer was aimed pursuant to paragraph 5 of this Article, provides proper level of protection, the Directorate shall notify the controller for recalling the freezing of the transfer, implemented pursuant to paragraph 5 of this Article.

If the European Commission shall determine that the third country towards which the personal data transfer was aimed, pursuant to paragraph 5 of this Article, fails to provide proper level of protection, the Directorate shall issue a determination for the controller to prohibit the data transfer towards that country.

## Article 32

If the state where the data are to be transmitted does not provide appropriate degree of personal data protection, the controller shall not transfer the personal data.

## Article 33

As an exception to the Article 31 paragraphs 1 and 2 of this Law, the personal data transfer may be performed in the following cases:

- if the personal data subject is explicitly consent to the data transfer ;
- when the transfer is necessary for the purpose of implementing the contract between the personal data subject and the controller or realization of the pre-agreed measures undertaken as a response to the personal data subject's request;
- the transfer is necessary for signing or realization of the contract concluded in the interest of the personal data subject, between the controller and a third party;
- the transfer is necessary for protection of the public interest or for the public safety;
- the transfer is necessary for determining or meeting individual legal interests;
- the transfer is necessary for protection of the life or the essential interests of the personal data subject and
- the transfer is performed out of publicly available personal data collections or personal data collections available to a person who shall render his/her legal interest probable, in a scope determined by law.

The personal data transfer in other countries, which fail to provide at least the same level of personal data protection as in the Republic of Macedonia, may be performed after prior approval from the Directorate, under the condition to have provided proper guarantees for protection of the personal data, rights and freedoms of the personal data subject.

The Directorate for personal data protection shall inform the European Commission and the supervision bodies for personal data protection of the member-countries of the European Union, regarding the approval for personal data protection being issued in accordance with paragraph 2 of this Article.

## Article 33-a

In the cases referred to in Article 31 and 33 of this Law, the Directorate director shall adopt a decision within 30 days as of the day of submitting the request for obtaining an approval for personal data transfer.

Against the decision of the Directorate's director a file can for initiation of an administrative dispute before a competent court can be lodge within 15 days as of the day of decision acceptance.

## Article 33-b

The Directorate's director shall prescribe the form and the content of the form for recording the performed personal data transfer in other states, as well as the manner of keeping the records.

# VIII. REVEALING PERSONAL DATA TO USERS

## Article 34

The controller shall reveal the personal data to a user upon the user's written request, if needed for performing matters within legally determined competencies of the user.

The request referred to in paragraph 1 of this Law can be submitted by electronic means in accordance with law.

The written request referred to in paragraph 1 of this Article has to contain the reasons, legal basis for usage of the personal data and personal data category being requested.

Revealing personal data, the processing of which, i.e. usage by a user, may not be performed in accordance with the provisions referred to in Article 6 and Article 8 paragraph 2 of this Law, shall be prohibited, and if as well the purpose of requesting the personal data is against Article 5 paragraph 1 line 2 of this Law.

The personal data processed in scientific and research and statistical purposes may not be revealed to the user in a form which enables identification of the person to whom the personal data refer.

In the cases referred to in paragraph 1 of this Article, the Controller shall be obliged to keep separate records on the personal data which are revealed for usage, for the user of personal data and the reason for the revealing these personal data to the user.

### Article 35

The personal data referred to in Article 34 of this Law may be used solely for the period necessary for the realization of the specified purpose.

After the expiration of the period referred to in paragraph 1 of this Article, the personal data must be deleted, unless otherwise regulated by a law.

### Article 36

The provisions of this Law for revealing personal data for usage shall refer to the personal data exchange between the state bodies, unless otherwise regulated by a law.

## IX. ESTABLISHMENT AND COMPETENCIES OF THE DIRECTORATE FOR PERSONAL DATA PROTECTION

### Article 37

For the purpose of supervising the lawfulness of the undertaken activities while processing and protecting personal data, a Directorate for personal data protection shall be established on the territory of the Republic of Macedonia as an individual and independent state body with the capacity of legal entity.

The Directorate is managed by a Director, appointed and dismissed by the Assembly of the Republic of Macedonia upon the proposal of the Commission for Election and Appointment Matters of the Assembly of the Republic of Macedonia, through an open announcement.

The director of the Directorate shall be appointed for a period of five years, with a right to be re-appointed, but no more than twice.

The director of the Directorate has his/her deputy, appointed and dismissed by the Assembly of the Republic of Macedonia, upon the proposal of the Commission for Election and Appointment Matters of the Assembly of the Republic of Macedonia, through an open announcement, for a period of five years.

The deputy director shall replace the director of the Directorate in cases of his/her absence or when due to illness or other reasons shall be prevented from executing his/her function, with all his/her management authorities and responsibilities.

Both the director and the deputy-director of the Directorate shall be liable for their work and the work of the Directorate, at the Assembly of the Republic of Macedonia.

The head office of the Directorate shall be in Skopje.

### Article 38

Director may be elected a person fulfilling the following conditions:

- to be a citizen of the Republic of Macedonia;
- to have at least five years of work experience in legal matters;
- to be an established lawyer and
- not to have penalty imposed, i.e. not to be imposed misdemeanor sanction prohibition to act in his/her profession, activity or duty.

A person fulfilling the conditions referred to in paragraph 1 of this Article, may be elected deputy director.

The function director, i.e. the deputy-director, may cease upon a dismissal or in case of death.

The function director, i.e. deputy-director, shall terminate upon the following grounds:

- his/her request,
- permanent loss of the ability to perform the function,
- fulfillment of the conditions for old-age pension in accordance with a law,
- unconditional sentence for a period of at least six months, imposed by legally valid decision, for criminal act,
- when (s)he shall cease to fulfill any of the conditions listed in paragraph 1 lines 1 and 4 of this Article and
- unprofessional and reckless working.

#### Article 39

Prior to taking the office, the director, i.e. the deputy-director, shall declare and sign a ceremonial statement before the President of the Assembly of the Republic of Macedonia, stating as follows:

"I hereby state that I shall perform the function of a director diligently, impartially and responsibly, I shall protect the right to personal data protection and I shall respect the Constitution and the Laws of the Republic of Macedonia."

#### Article 40

The function of a director, i.e. deputy-director shall be incompatible with the performance of other public functions or professions.

#### Article 41

The Directorate shall have the following competencies:

- prepare and adopt by-laws referring to personal data protection,
- develop policies and give directions related to personal data protection,
- perform inspection supervision in accordance with the provisions of this Law,
- assess the equitability and legality of the personal data processing,
- keep a Central Register,
- issue prior approval for personal data processing in accordance with the provisions of this Law,
- issue prohibition to the controller for further processing of the personal data,
- issue an approval for personal data transfer in other countries,
- give opinion on the draft regulations in the field of personal data protection,
- give opinion on drafts codes of conduct referring to the personal data protection,
- conduct misdemeanor procedure through the Commission for deciding on a proposal, in accordance with law,
- act upon the requests of the supervision bodies in the field of personal data protection of other countries, related to the performance of their activities on the territory of the Republic of Macedonia,
- perform training for the interested controllers, i.e. processors,
- achieve international cooperation in the field of personal data protection and participate in the work of the international organizations and institutions for personal data protection and
- perform other activities determined by law.

The costs for training referred to in paragraph 1 line 14 of this Article, shall be covered by the controllers, i.e. processors.

The amount of the costs referred to in paragraph 2 of this Article, shall be determined by the director of the Directorate within the framework of the actual costs necessary for implementation of the training.

The by-laws adopted by the director of the Directorate shall be published in the "Official Gazette of the Republic of Macedonia".

#### Article 41-a

The director of the Directorate for Personal Data Protection shall:

- represent the Directorate;
- organize and provide legal and efficient performance of the activities and assignments in the Directorate;
- adopt determinations in accordance with a law;
- adopt regulations being authorized for and
- perform other activities within the competence of the Directorate, and in accordance with law.

#### Article 42

The Director shall submit annual report on the work of the Directorate for the previous calendar year, to the Assembly of the Republic of Macedonia at latest until the end of May the current year.

When necessary and upon the request of the Assembly of the Republic of Macedonia, the director shall submit additional reports.

The Directorate shall publish the annual report referred to in paragraph 1 of this Article, on its website.

#### Article 43

The director, deputy-director and the employees in the Directorate are obliged to keep as a secret the data which they have come across during their work, as well as during their mandate, i.e. their employment in the Directorate, and upon the termination of their mandate, and which are considered personal data or classified information in accordance with law.

## IX-a. INSPECTION SUPERVISION

### Article 44

Inspection supervision over the implementation of this Law and the regulations adopted on the basis of this Law, shall be performed by the Directorate via the inspectors for personal data protection (hereinafter: inspectors).

The inspectors shall have the following titles:

- inspector,
- senior inspector, and
- chief inspector.

A civil servant who meets the requirement for the title junior associate with passed trainee examination or an associate in accordance with the Law on Civil Servants can be appointed as an inspector.

A civil servant who meets the requirements for the title advisor or head of unit in accordance with the Law on Civil Servants can be appointed as a senior inspector.

A civil servant who meets the requirements for the title head of department in accordance with the Law on Civil Servants can be appointed as a chief inspector.

The inspectors, performing the inspection supervision, beside the general employment conditions, shall meet the following special conditions: hold university degree in the field of law or information sciences and have working experience of at least two years, one of which related to personal data protection matters.

### Article 44-a

The official capacity of the inspector shall be proved with an identity card.

When conducting the inspection supervision, the inspectors shall be bound to show their identity card. The identity card referred to in paragraph 1 of this Article, shall be issued and withdrawn by the director of the Directorate. The director of the Directorate shall prescribe the Form, the form and content of the identity card, as well as the manner of its issuance and withdrawal.

### Article 44-b

The inspection supervision may be on regular basis, irregular basis and as control type.

Regular inspection supervision shall embrace supervision of the implementation of this Law and the regulations adopted based on this Law, and shall be performed according to annual program adopted by the director of the Directorate in the end of the current year, for the year following.

Irregular inspection supervision shall be conducted based on initiatives submitted by a state administration body, legal entity or natural persons, as well as in the case when the inspector considers there is violation to the provisions of this Law. The irregular inspection supervision shall be also conducted in the cases when a request has been submitted in accordance with Article 18 of this Law.

The control inspection supervision shall be conducted upon the expiration of the deadline stipulated within the determination for removal of the stipulated deficiencies.

The director of the Directorate shall prescribe the manner of conducting the inspection supervision.

### Article 44-c

The controller, that is the processor shall be obliged to enable the inspector while performing the inspection supervision the following:

- enter any premises where personal data are being processed and conduct an inquiry in their processing;
- request for written or oral explanation and call and interrogate persons regarding the personal data processing;
- request for an inquiry in the documentations and any other data regarding the personal data processing;
- examine the equipment for personal data processing and the equipment where the personal data are being preserved, with an authorized representative of the controller, i.e. processor;
- use technical equipment intended for taking photographs;
- request to prepare an expert analysis and opinion related to the conducted inspection supervision and
- use the communication devices of the controller, i.e. processor due to meeting the goals of the same.

As an exception to paragraph 1 of this Article, the inspector may enter the home of the natural person, controller, that is processor processing the personal data, according a procedure determined by law.

## Article 45

For the conducted inspection supervision the inspector shall compose minutes containing findings regarding the situation. The minutes shall be delivered to the controller, that is processor within 30 days as of the day the inspection supervision has been conducted.

The controller, that is the processor within three days as of the day of minutes acceptance can add notes.

After the expiry of the time period referred to in paragraph 2 of this Article, the inspector shall adopt a decision for removal of the determined violations, thereby stipulating:

- completion, update, correction, revealing or provision of personal data secrecy;
- implementation of additional measures for personal data protection and organizational measures for securing secrecy and protection during the personal data processing;
- prohibition for further personal data processing;
- freezing of the personal data transfer in other countries;
- provision of data and their transfer to other entities,
- block, deletion or annihilation of the personal data,
- deassembly, transfer or removal of equipment, devices, installations and systems used for data processing,
- deadline for adoption of the regulations in accordance with the provisions of this Law, and
- deadline for violation removal.

Complaint for initiating an administrative dispute with the competitive court may be filed against the determination referred to in paragraph 3 of this Article, within 15 days as of receiving the determination.

## Article 45-a

If during the performance of inspection supervision, the inspector determines that a violation referred to in Article 49 paragraph 1 points 3, 14, 15, 17, 18 and 19 this Law has been performed, he/she shall be obliged to compose a minutes wherein the perpetrated irregularity shall be determined with an indication for removal of it thereon within eight days with simultaneous presentation of an invitation for the purpose of implementation of education of the controller, that is processor wherein the irregularity has been established during the performance of the inspection supervision.

The form and the content of the invitation for the purpose of education, as well as the manner of implementation of the education shall be prescribed by the director of the Directorate.

The education shall be organized and implemented by the Directorate within a time period not longer than eight days as of the day of enforcement of the inspection supervision.

The education can be implemented for more determined same or generic violations for one or more controllers, that is processors.

If in the scheduled term the person or the entity being subjected to the education, does not report at the education, it shall be considered that the education is implemented.

If the controller, that is processor being subjected to the education reports to the scheduled education, and finishes it thereon it shall be considered that they are educated in regard to the determined violation.

If the inspector, during the implementation of the control supervision determines that the determined violations referred to in paragraph (1) of this Law have been removed, he/she shall adopt a conclusion to stop the procedure of the inspection supervision.

If the inspector, during the implementation of the control supervision determines that the determined violations referred to in paragraph (1) of this Law have not been removed, he/she shall submit a request before a initiation of a misdemeanor procedure before a Misdemeanor Commission.

The Directorate shall keep records for the conducted education in a manner prescribed by the director of the Directorate.

## Article 46

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## Article 47

If during the inspection supervision, the inspector shall confirm violation of this or other law, (s)he shall submit a request for initiating misdemeanor procedure.

The request for initiating misdemeanor procedure shall be submitted to the Commission for deciding upon a misdemeanor.

## Article 47-a

If the controller, i.e. processor, has a deadline for acting upon this Law stipulated by a determination, (s)he shall be obliged to notify the Directorate whether (s)he has acted upon the said matter after the expiration of this deadline.

For the conducted control supervision minutes shall be composed wherein the inspector shall note that the controller, that is the processor :

- fully acted upon the decision,
- partially acted upon the decision, and
- did not act upon the decision.

In case of failure or partially acting upon the decision, the inspector shall initiate a misdemeanor procedure in accordance with this Law and the Law on Misdemeanors.

The inspector shall have the right, to conduct control supervision of the controller, i.e. processor, within 15 days after the expiration of the deadline stipulated for removal of the confirmed violations by the determination referred to in Article 45 paragraph 3 of this Law.

## IX-b. FINANCING OF THE DIRECTORATE

### Article 48

The funds for the work of the Directorate shall be provided from the Budget of the Republic of Macedonia and other sources in accordance with law.

The funds profited from the training referred to in Article 41 paragraph 1 line 14 of this Law, shall be incomes of the Directorate.

## X. MISDEMEANOR PROVISIONS

### Article 49

Fine in the amount of Euro 1.000 in Denar counter-value shall be imposed for misdemeanor on the legal entity- controller:

- 1) acts in a manner contrary to the provisions referred to in Article 5 of this Law;
- 2) acts in a manner contrary to the provisions referred to in Article 6 of this Law;
- 3) acts in a manner contrary to the provisions referred to in Article 7-b of this Law
- 4) acts in a manner contrary to the provisions referred to in Article 9 of this Law;
- 5) acts in a manner contrary to the provisions referred to in Article 9-a paragraphs 2,3,5,and 5 of this Law;
- 6) acts in a manner contrary to the provisions referred to in Article 9-b paragraphs 1,2,3 and 4 of this Law
- 7) acts in a manner contrary to the provisions referred to in Article 9-c of this Law
- 8) acts in a manner contrary to the provisions referred to in Article 10 paragraph 1 of this Law;
- 9) acts in a manner contrary to the provisions referred to in Article 11 paragraph 1 of this Law;
- 10) acts in a manner contrary to the provisions referred to in Article 12 paragraph 2 of this Law;
- 11) acts in a manner contrary to the provisions referred to in Article 13 paragraph 2 of this Law;
- 12) acts in a manner contrary to the provisions referred to in Article 13-a of this Law;
- 13) acts in a manner contrary to the provisions referred to in Article 14 of this Law;
- 14) acts in a manner contrary to the provisions referred to in Article 24 of this Law;
- 15) acts in a manner contrary to the provisions referred to in Article 25 of this Law;
- 16) acts in a manner contrary to the provisions referred to in Article 26 paragraphs 2 and 3 of this Law;
- 17) acts in a manner contrary to the provisions referred to in Article 26-a of this Law;
- 18) acts in a manner contrary to the provisions referred to in Article 27 paragraphs 1 and 4 of this Law;
- 19) acts in a manner contrary to the provisions referred to in Article 28 paragraph 2 of this Law; 20) acts in a manner contrary to the provisions referred to in Article 29 paragraph 1 of this Law; 21) acts in a manner contrary to the provisions referred to in Article 34 paragraphs 1,2,4,5 and 6 of this Law;
- 22) acts in a manner contrary to the provisions referred to in Article 35 of this Law;
- 23) acts in a manner contrary to the provisions referred to in Article 44-c paragraph 1 of this Law, and
- 24) acts in a manner contrary to the provisions referred to in Article 47-a paragraph 1 of this Law.

Fine in the amount of Euro 350 in Denar counter-value shall be imposed to the responsible person at the legal entity or official person in a state administration bodies for a committed misdemeanor, referred to in paragraph 1 of this Article.

Fine in the amount of Euro 250 in Denar counter-value shall be imposed to the natural person –controller entity for a committed misdemeanor, as referred to in paragraph 1 of this Article.

### Article 49-a

Fine in the amount of Euro 2.000 in Denar counter-value shall be imposed for misdemeanor on the legal entity- controller:

- 1) acts in a manner contrary to the provisions referred to in Article 8 of this Law;
- 2) acts in a manner contrary to the provisions referred to in Article 23 paragraphs 1,2,3 and 4 of this Law;
- 3) acts in a manner contrary to the provisions referred to in Article 31 of this Law;
- 4) acts in a manner contrary to the provisions referred to in Article 32 of this Law,and
- 5) acts in a manner contrary to the provisions referred to in Article 33 of this Law;

Fine in the amount of Euro 600 in Denar counter-value shall be imposed to the responsible person at the legal entity or official person in a state administration bodies for a committed misdemeanor, referred to in paragraph 1 of this Article.

Fine in the amount of Euro 450 in Denar counter-value shall be imposed to the natural person –controller entity for a committed misdemeanor, as referred to in paragraph 1 of this Article.

## Article 50

Fine in the amount of Euro 1.250 in Denar counter-value shall be imposed for misdemeanor, to the natural person-processor of personal data collection, if:

- 1) acts in a manner contrary to the provisions referred to in Article 23 paragraphs 1,2,3 and 4 of this Law;
- 2) acts in a manner contrary to the provisions referred to in Article 24 of this Law;
- 3) acts in a manner contrary to the provisions referred to in Article 25 of this Law;
- 4) acts in a manner contrary to the provisions referred to in Article 26 paragraphs 2 and 3 of this Law;
- 5) acts in a manner contrary to the provisions referred to in Article 44-c of this Law, and
- 6) acts in a manner contrary to the provisions referred to in Article 47-a paragraph 1 of this Law.

Fine in the amount of Euro 350 in Denar counter-value shall be imposed to the responsible person at the legal entity or official person in a state administration body, for the misdemeanors referred to in paragraph 1 of this Article.

Fine in the amount of Euro 300 in Denar counter-value shall be imposed to the natural person– processor of a personal data collection, for a committed misdemeanor referred to in paragraph 1 of this Article.

## Article 50-a

As for the misdemeanors determined in Article 49, 49-a and 50 of this Law, the misdemeanor procedure shall be conducted and the misdemeanor sanction shall be imposed by the Directorate (hereinafter: Misdemeanor body).

The misdemeanor sanction referred to in paragraph 1 of this Article shall be conducted by the Commission for Deciding upon Misdemeanors (hereinafter: Misdemeanor Commission) formed by the director of the Directorate.

The Misdemeanor Commission shall be composed of two members and a president of the Commission.

The members of the Commission shall hold a university degree in law, and have work experience of at least one year in the related subject, one holding a university degree in law with completed judicial exam.

The mandate of the members of the Misdemeanor Commission shall last three years, with the right to be re-elected.

Beside the members of the Misdemeanor Commission, the director of the Directorate may appoint a secretary of the Misdemeanor Commission, who shall perform administrative activities for the Commission, as well as deputy-members, who as an exception, shall participate in the work of the Misdemeanor Commission in case of absence of some of the members.

The Misdemeanor Commission shall adopt a Rules of Procedure for their work.

Complaint may be lodged against the decision of the Misdemeanor body which imposes misdemeanor sanction, for initiating administrative dispute with the competent court, within eight days after receiving the decision.

## Article 50-b

A member of the Misdemeanor Commission may be dismissed:

- 1) upon the expiration of the period of his/her appointment;
- 2) upon his/her request;
- 3) by fulfilling the conditions for old-age pension in accordance with the law;
- 4) if (s)he is convicted to unconditional sentence of at least six months, by a legally valid verdict;
- 5) if (s)he is confirmed permanent disability;
- 6) if violation of the regulations for conducting the misdemeanor procedure by legally valid decision;
- 7) if (s)he fulfills the conditions coming from the operation of the Misdemeanor Commission and
- 8) if (s)he has failed to report the existence of conflict of interests in case when the Misdemeanor Commission decides.

The president of the Misdemeanor Commission shall submit a proposal for dismissing a member of the Commission in the cases referred to in paragraph 2 points 3 to 8 of this Article, to the director of the Directorate.

The Misdemeanor Commission shall have the right to deduce evidence and collect data which are necessary for determining a misdemeanor, as well as for performing other activities and shall undertake activities determined by this Law, the Law on Misdemeanors and/or other law.

The members of the Misdemeanor Commission shall be individual and independent in the operation of the Misdemeanor Commission and shall decide on the basis of their professional knowledge and individual belief.

The Misdemeanor Commission shall work in a Council, and shall decide by majority of votes of the total number of members.

The Misdemeanor Commission shall keep unique records of the misdemeanors, imposed sanctions and adopted decisions, in a manner prescribed by the director of the Directorate.

The act referred to in paragraph 7 of this Article shall as well prescribe the manner of accessing the information contained in the records.

#### Article 50-c

Before the submission of a request for initiation of a misdemeanor procedure, settlement procedure shall be conducted for the misdemeanors prescribed by this Law, in accordance with the Law on Misdemeanors.

#### Article 50-d

The misdemeanor procedure cannot be initiated or conducted, provided that two and a half years have passed since the day of the violation of a certain right guaranteed by this Law.

The misdemeanor's procedure cannot be initiated nor conducted if a year lapses from the day when the misdemeanor has been committed.

The time-barring term of the misdemeanor prosecution shall start from the day when the misdemeanor was committed.

The time barring term shall not run for the time when according to the law, the prosecution cannot commence and cannot continue.

The time-barring term shall cease with every procedural act taken for the purpose of prosecution of the perpetrator of the misdemeanor.

The time-barring term shall also cease when the perpetrator of the misdemeanor, while term of time-barring is running, commits equally serious or more serious misdemeanor.

The time-barring term shall start to run again after every cessation.

The misdemeanor sanction becomes by all means time-barred when, double the time set forth in a law stipulated for barring of the enforcement, has lapsed.

## XI. TRANSITIONAL AND FINAL PROVISIONS

#### Article 51

The Directorate shall commence the work on the day of the appointment of its director.

The Assembly of the Republic of Macedonia shall appoint a director in a period of six months after this Law enters into force.

Within 30 days from the day of appointment of the director of the Directorate, the director shall adopt the acts for organization and systematization of the working positions of the Directorate. The other by-laws envisaged by this Law, shall be adopted by the director of the Directorate within six months as of the day of his/her appointment.

#### Article 52

The natural persons and legal entities who perform personal data processing, shall harmonize their work according to the provisions of this law in a period of two years after the director of the Directorate adopts the by-laws envisaged by this Law.

#### Article 52-a

The provisions of Article 2 point 11, 31 paragraphs 4, 5, 6, 7 and 33 paragraph 3 of this Law, shall be applied as of the day the Republic of Macedonia approaches the European Union.

#### Article 53

As of the day this Law enters into force, the Law on Personal Data Protection (Official Gazette of the Republic of Macedonia no.12/94 and 4/2002) shall cease to be valid.

#### Article 54

This Law shall enter into force on the eight day of its publishing in the "Official Gazette of the Republic of Macedonia".