

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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COMMITTEE OF EXPERTS ON DATA PROTECTION

ACT NO. 63/1981

respecting Systematic Recording of Personal Data

(Information concerning Private Affairs)

~~(25 May 1981; entry into force 1 January 1982)~~

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Information Document

SECTION I

Scope of the Act

Article 1

The present Act applies to any systematic recording of data concerning private affairs, such as financial affairs of individuals, establishments, concerns or other legal persons which should reasonably and normally be kept secret. The Act applies both to recording on the part of employers, concerns, associations and establishments and under the auspices of official parties. Systematic recording of data means the gathering and recording of specific and confined data into an organised entity.

The provisions of the Act apply to information concerning private affairs pertaining to a specific part, although he be not named, if he is specified by means of identification number or registration detail which may be traced by those having a search key.

Article 2

Recording of biographical data according to Act No, 30/1956 is outside the limits of the present Act and so is recording for the benefit of genealogical research and biographical writings.

SECTION IIAuthority for Recording

Article 3

Systematic recording of data covered by Article 1 is permissible only provided such recording be a normal part of the activities of the party concerned and extends to those only who are connected with his work or sphere, such as customers, employees or associates.

Article 4

It is not permissible to record data which pertains to the nationality, race or colour of persons as well as their opinion of politics or individual political subjects and religious affairs unless special authority contained in Law exist. Recording is, however, permissible if the recorded person has furnished information or this is acquired with his consent and under

such circumstances that it cannot be obscure to him that the intention be to record this in the manner specified in Article 3. It is furthermore a condition that it be of urgent necessity for a party to record the data on account of his activities.

The provisions of paragraph (1) also apply to data concerning violations committed by persons, their sex-life and health, use of alcohol and other euphoretics and similar items of private life. Official parties, including physicians and hospitals, are, however, authorised to effect recording without the knowledge or consent of the registered person in case special authority contained in Law exist or recording be unequivocally necessary on account of the effective use of the records of Article 3.

Article 5

The gathering and recording of data which pertains to the financial status of people and legal persons or to creditability is not permissible without a professional licence granted by the Computer Committee, provided it be intended to grant others education about that subject.

It is not permissible to enter a register under paragraph 1 data other than the name of a person or a concern, domicile, identification numbers of persons or firms, position, occupation and information available in official records, without advising the party concerned. In case other items are included in a record the party shall advise the persons concerned and being specified for the first time in a record, thereof within four weeks as of the recording and explain to the latter his authority to be allowed to see a report on the subject of the recording, of Article 11.

Information relating to financial status pertaining to assessment of credit may be furnished to others by letter only. When permanent customers are involved information may, however, be granted verbally, but the name and address of the enquiring party shall then be recorded and documentation relating thereto shall be preserved for a minimum of six months.

Information in writing which is granted in accordance with paragraph 3 shall be dated and its normal time of obsolescence shall be quoted.

Article 6

It is not permissible to link up records subject to the provisions of the present Act unless there be a case of records of the selfsame recording party. Here the self same recording party refers to same concern, association or official establishment. Herein the linking up of records refers equally to mechanical and manual transfer of data between records.

The provisions of paragraph 1 notwithstanding it is permissible to link to a record information relating to a name, identification number

and address or residence although such data be obtained from the record of another party.

The Computer Committee may grant exemption from the provisions of paragraph 1 when it has been shown that this be urgent, cf Article 3 and paragraph 4, Article 16.

SECTION III

Recording of Data and Preservation thereof

Article 7

Effective measures shall be applied to prevent abuse of data or that it reach persons who are not concerned.

Recorded data which have lost their worth on account of age or for other reasons based on the part which the record is intended to play shall be deleted. Records which are constantly in use shall contain data which are correct at each given time, but obsolete information shall be deleted.

The Computer Committee may permit that copies or transcriptions from records be preserved in the National Archives or other archives' subject to further defined terms.

Article 8

In case information or assessment respecting financial status and credit has been made available for others and this has proved incorrect or misleading the party responsible in accordance with Article 5 shall be in duty bound to send correction in writing to all those having received such information from him during the past six months. The corrections shall also be sent to the recorded party. The recorded party shall also obtain a statement from the party explaining which corrections have been sent.

Article 9

In case specific records contain information which is deemed likely to be useful for foreign States, security measures shall be applied to facilitate destruction of records without delay in case of the outbreak of war or fear of eventual hostilities.

SECTION IV

Concerning the Rights of Recorded Parties

Article 10

In case a party consider data relating to his private affairs to have been entered in a specific record he may request the party responsible for the recording to see to it that the subject of the information be explained to him. It is obligatory to accede to such a request without undue delay.

In case a person consider data relating to his affairs to be written in hospital journals or other registers or records of patients and he desires to obtain knowledge of the contents thereof he shall request his family doctor or another physician who has dealt with the affairs of his home to seek this information from the party responsible for the recording. That party will advise the physician about the information in order that he may advance it to the person concerned.

The provision of paragraph 1 does not apply if the interests of the recorded party derived from his obtaining knowledge are deemed liable to be waived or other important private interests. In case this is so relating to some part of the information, but not other parts thereof, the applicant shall be advised about the portions which it is not deemed questionable to explain.

The Computer Committee may decide that records be exempted from these provisions if it may be assumed that the special ruling of paragraph 3 would entail that request for information from such records will generally be rejected.

Article 11

In case a party consider that information about him be recorded in accordance with Article 5 the recording party is in duty bound to advise him at his request of the contents of that data and the assessment which the party has delivered to others during the past six months relating to the applicant's affairs. The party is also in duty bound to explain to the recorded party which information is recorded relating to his affairs, including an assessment of his financial status.

In case a party under Article 5 has in his keeping further documentation relating to a recorded person or establishment than that to which an application refers, he is in duty bound to explain this to the applicant.

The recorded party cannot claim that he be advised of the origin of the information.

Article 12

In case a party having been adapted to a record in accordance with Article 5 desire that the recording party delete or correct an item relating to his financial status or an assessment of his creditability

he shall be in duty bound to reply thereto without undue delay and at the latest within four weeks as of the time of the receipt of the request.

In case a party responsible for recording reject a request in accordance with paragraph 1 the recorded party may within four weeks as of the receipt of a reply or within four weeks as of the completion of the respite for reply in accordance with paragraph 1 request the Computer Committee to render a decision on a requirement for the deletion of information or correction thereof. The provisions of Article 8 apply if the requirement is acceded to.

Article 13

In case a recorded party consider that data concerning himself in records to which the present Act applies be incorrect or misleading in substance he may require that the party responsible for the recording bring it into correct order or delete it.

In case a person or a spokesman of an association or establishment consider his name or that of an association etc to be entered in a record which is used for the despatch of circular letters, notices, announcements or propaganda, he may request that the name be deleted from the record concerned and it is then obligatory to accede thereto.

In case a party responsible for a record refuse to accept a requirement in accordance with paragraph 1 or 2 or has not replied thereto within four weeks, the party concerned may require that the Computer Committee stipulate whether a requirement relating to deletion or correction thereof shall be accepted.

In case the Computer Committee accept a person's requirement for correction or deletion the Committee will instruct the recording party to correct or delete the data.

Article 14

In case a dispute or doubt arise in connection with people's authority to obtain information in accordance with paragraph 1 Article 10 or 11 the matter may be submitted to the Computer Committee for resolution.

Article 15

A recording party is authorised to require a reasonable charge in respect of information granted in accordance with paragraph 1 Article 10 or 11.

The Computer Committee may lay down provisions relating to a maximum fee in this connection.

SECTION V

Data Furnished to Others than the Recorded Party

Article 16

It is not permissible to disclose data from records to which the present Act applies without the approval of the recorded party or if the recorded data has been acquired with the knowledge of the recorded party and in such a manner that he cannot be unaware of the fact that the intention were to grant others access to the data, provided that such granting of information come under the normal activities of the recording party.

It is permissible to disclose information if this cannot be traced to specific individuals or legal persons.

The provisions of Article 5 apply to the granting of information from records coming under paragraph 1 thereof. The provisions of paragraph 3 Article 10 shall furthermore be respected. Neither shall the provisions of paragraph 1 abridge those of paragraph 3 Article 7.

It is permissible to disclose data, of paragraph 1, provided this be consequent of other Laws or administrative rules. It is furthermore permissible to grant an administrative establishment information which is necessary on account of the normal activities of the establishment. Information which is subject to general secrecy according to Laws or administrative rulings.

Article 17

It is permissible to grant a physician or a dentist who has a person for treatment information from a hospital journal or its other record of patients relating to the person concerned. When a physician is concerned information may also extend to other persons, particularly to the relatives of the person concerned when this is considered of importance on account of the medical treatment of the recorded person.

Article 18

In case it be shown by an individual, concern, association or establishment that these parties stand in need of specific recorded data on account of a certain Court Case or other such legal requirements, it is permissible to furnish information to the party deriving legal advantages therefrom, provided that it be unequivocal that the need to obtain the information be more important than the regard for maintaining secrecy in respect of the data. This does, however, not apply to information which is subject to secrecy according to specific provisions of Laws or administrative rulings.

SECTION VIRespecting Computer Services

Article 19

Individuals, concerns or establishments undertaking computer services for others are forbidden to preserve or process data relating to private affairs coming under the special provisions of Article 4 or Article 5 or the exemption provisions of paragraph 3 Article 6 unless they hold a professional licence granted by the Computer Committee.

Computer service means each section of automatic data processing by means of computer technique.

A party as per paragraph 1 may not without the approval of a contracting party use information which he obtains in connection with the undertaking of a requested project for any other purpose than that of discharging the specific task which relates to the project request. He is forbidden to preserve documentation relating thereto with others or to pass this on to others. Under special circumstances, such as owing to sudden breakdown of computer outfit, a party is, however, authorised to have computer processing undertaken with another despite the fact that the latter party hold no professional licence for such processing. The documentation and the processing thereof shall, however, remain the responsibility of the party who originally accepted the task, as it pertains to the provisions of the present Act.

Article 20

The personnel of a computer service concern in accordance with Article 19 are subject to secrecy respecting the items they find out in the course of their work and they shall sign an oath of secrecy prior to commencing duty.

In case a computer service concern which is not operated by an official party work on tasks for such parties its employees are subject to secrecy relating to the items they find out in the course of the execution of the task in the same manner as the official personnel having worked on it. Under such circumstances violations by an employee in respect of the duty to maintain secrecy is subject to penalty in accordance with Article 136 of the Penal Code.

SECTION VIIGathering of Data in this Country for Computer Processing Abroad

Article 21

Systematic gathering and recording of data relating to private affairs for storage or processing abroad is forbidden. The Computer Committee may, however, permit this if special conditions apply.

A record or original documentation containing the information specified in Article 4 may not be handed over for storage or processing abroad without the approval of the Computer Committee.

Permits in accordance with paragraph 1 and 2 may be granted only provided the Computer Committee consider that the handing over of records or documentation will not to a marked extent abridge the protection provided by Law for people and legal persons on record.

After having obtained the opinion of the Computer Committee the Minister of Justice may decide, by means of Regulations, that the provisions of paragraphs 1 and 2 shall not apply to specific records or fields of information, or that the provisions do not extend to certain countries in cases where agreements respecting the rights of nations relate thereto or where consideration for international cooperation recommend this.

SECTION VIII

Respecting Supervising of the Act

Article 22

The Minister of Justice shall appoint a Committee of 3 which is called the Computer Committee in the present Act. The Committee shall be appointed for a period of four years at a time. The Committee Chairman shall be a lawyer who satisfies conditions to act as a Judge. One of the members of the Committee shall have special knowledge of computer and recording matters. He shall be nominated by the Icelandic Society for Information Processing. Reserves shall be appointed in the same manner for a period of four years at a time and they shall satisfy the same conditions as the principal members of the Committee.

A member of the staff of the Ministry of Justice shall act as Secretary to the Committee.

The Computer Committee undertake supervision of the implementation of the present Act and resolve matters in dispute as stated in the Act.

Article 23

The Computer Committee grant professional licences in accordance with Article 15 and Article 19 and permits in accordance with paragraph 3 Article 6 and paragraph 3 Articles 7 and 21.

The Minister of Justice may fix a normal fee to be paid for the granting of licences and permits in accordance with paragraph 1.

Article 24

The provisions of the present Article apply to recording activities

coming under the provisions of Article 4 or paragraph 1, Article 5.

The Computer Committee may instruct parties to cease recording or not to furnish information to others from their records on documentation, provided that the activities concerned be in conflict with the provisions of the present Act in the judgment of the Computer Committee, and also that individual items of data on record be deleted or that records be totally destroyed.

The Computer Committee may furthermore instruct a responsible recording party to delete the recording of individual items or correct this, provided that there be a case of items which it is either not permissible to adapt to a record or which the Computer Committee deem incorrect or misleading.

The Computer Committee may prohibit the application of a further specified method upon the collection of data for computer processing or in forwarding information to others, provided the Committee consider the method being applied to entail a considerable hazard of the recording or granting of information becoming incorrect or misleading or that there be a case of items which may not be adapted to a record.

The Computer Committee may instruct a party responsible for activities subject to the Act to apply special facilities to ensure that there shall be no recording of items which it is not permissible to adapt to a record or that information relating to such items shall not be granted. This also applies to items which are incorrect or misleading. The Computer Committee shall also require a responsible recording party to see to it that arrangements be made to prevent or reduce the danger of the abuse of recorded information or that it become known to people who are not concerned.

Article 25

Other authorities will not be consulted about the Computer Committee's resolutions.

Article 26

The Computer Committee may lay down rules relating to the form and substance of notifications and applications in accordance with the present Act.

In case the Computer Committee are intended to grant approval of individual activities in accordance with the present Act they are authorised to make the approval subject to conditions and a time limit.

Article 27

The Computer Committee shall publish annual reports relating to their activities. The report shall show the professional licences which the Committee have granted, rules which they have laid down and decrees which

they have pronounced. The Computer Committee's annual report shall also give an account of such other activities of the Committee with which the general public may wish to be concerned or which it is in the interest of the public to know of.

SECTION IX

Respecting Penalties for Violations of the Act

Article 28

Violations of Articles 4-6, Article 8, Article 11, paragraph 1 and Article 12 paragraph 3, Article 13 paragraph 1, Article 16 clause 2 paragraph 1 and 3, Article 19, paragraph 1 Article 20 and paragraph 1 and 2 Article 21 are liable to fines or custody unless a heavier penalty applies under another Act.

It is subject to the same penalty to neglect abiding by a resolution of the Computer Committee in accordance with paragraph 2 Article 12 and paragraph 4 Article 13.

It is furthermore subject to the same penalty not to respect conditions which are imposed in respect of permission for operations subject to the present Act or administrative rules laid down in accordance therewith and also not to heed instructions or prohibitions directed in accordance with the present Act or administrative rules laid down in accordance therewith.

In case a violation be committed in operations undertaken by a Joint Stock Company, a cooperative society or another business concern, penalty in the form of a fine may be imposed upon the association as such.

A party engaging or participating in operations specified in Article 5 or Article 19 without permission may, in addition to penalty, be deprived of the right to the operations in which he engages, provided that the violation indicate immediate danger of abuse by a person in connection with recording activities. The same applies to violation of Article 4. In other respects the provisions of paragraph 1 and 2 of Article 68 of the Penal Code apply here.

Equipment by means of which gross violations of the present Act are committed and profit derived from the violation may be confiscated by means of Judgment and the provisions of Article 69 of the Penal Code apply here.

SECTION X

Entry into Force and Implementation

Article 30

The present Act enters into force on January 1st 1982 and will be

abrogated on December 31st 1985. Professional licences in accordance with Article 5 and Article 19 and authorisations in accordance with paragraph 3 Article 6, paragraph 3 Article 7 and Article 21 shall be sought on account of activities which have been commenced prior to the entry into force of the Act within 3 months as of the entry into force.

The Minister of Justice shall have the Act revised and submit a Bill relating thereto to the Althing at the beginning of the Session in the autumn of 1984.

Article 31

The Minister of Justice is authorised to lay down Regulations relating to the implementation of the present Act.