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PROJECT GROUP ON DATA PROTECTION
(CJ-PD)

Law on personal data security
1990

SLOVENIA

L A W
on personal-data security

1. GENERAL PROVISIONS

Art.1

This Law regulates the security of personal data contained in data files and their protection; records needed for personal data security and their protection; as well as individual's rights including the protection of the latter, and certain restrictions related to it; transfer of personal data beyond state border, and supervision of the fulfilment of the provisions as stated.

Art.2

Personal- data security includes rights, principles and measures designed to prevent any illegal and unjustified encroachment upon human personality; his/her personal and family life on the grounds of gathering, processing, storage and transfer of personal data and their use. Personal-data protection includes legal, organisational and appropriate logically technical procedures and measures, aimed at eliminating the possibility of unauthorised or unregistered access to the premises; hard - and soft - ware; random or intentional unauthorised data destruction, modification or loss; as well as unauthorised access, processing and transfer of these data, and their exploitation.

Art.3

Data files with personal data may be established, kept and maintained solely on a legal basis or personal consent of individuals to whom these data refer.

Art.4

Foreign citizens have on terms of reciprocity the same rights ensuing from data security, as the active ones.

Art.5

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

1. personal data any piece of data with reference to the properties, condition or relationships of individuals, regardless of its form;
2. individual any person in physical terms that is or may be determined, and to whom a piece of data is applied (data subject);

3. data file - file containing - in whole or part - personal data (e.g. register, data base), kept by some automated data-processing means (or classical means) for file-keeper's (or other user's) purposes, i.e. tasks insuring form his field of activity as defined;

4. file-keeper is a subject authorised (through law or written consent of the individual(s) concerned) to establish, keep and maintain as well as supervise data files containing personal data; and for this very purpose to gather, process, store and transfer personal data as contained, and to use them;

5. user of data (data or file user) - is a subject different from file-keeper himself, authorised (through law or individual written consent) to use personal data.

2. PERSONAL DATA SECURITY

Art.6

The file-keeper may, authorised through law or written consent of the individual(s) concerned, gather, process, store and transfer personal data. The file-keeper may entrust another legal or physical subject related to data-gathering, processing, storage and transfer. The legal or physical subject as defined in the previous paragraph, may only take over services covering the needs of gathering, processing, storage and transfer of personal data - within customer specifications - and may not himself use these data for any other purpose. Mutual rights and obligations are to be defined contractually - in written form - and should also include conditions and measures designed for personal-data security and protection.

Art.7

Personal data are gathered directly from the individual to whom these refer. There are cases - legally determined - when personal data may also be gathered from other persons or existing files. The law has to specify persons or files - as stated in the previous paragraph - from which personal data or whole files may previous paragraph - from which personal data or whole files may be acquired. If there is no exception to the law, the individual to whom data refer should in advance be informed of the fact that data referring to him will be acquired from an existent data file.

Art.8

Personal data may be gathered, processed and transferred solely for legally specified purposes, or purposes ensuing from individual(s) consent; in no way should they be used in a way not compatible with the purposes. The provision mentioned above also applies to any cases of combining personal data acquired from diverse data files.

Art.9

Personal data may only be stored and used for as long as there exists the need (purpose) for it - because of which data have been gathered, processed and stored. Once this purpose (as stated above) is fulfilled, personal data are erased from file, unless the law specifies otherwise (e.g. natural and cultural heritage).

Art.10

The file-keeper may transfer personal data to other users only when the latter are legally authorised to use them, or upon written demand or consent of the individual(s) to whom these data refer. Users from the previous paragraph of this Article may not - themselves - transfer personal data thus acquired to other persons; they may use them solely for purposes specified by and conforming with this Law. In cases when users want to get access to personal data for statistical, scientific&research, educational or other similar purposes, the former may be granted access to data required, without - for that matter - any identification of individuals concerned. The file-keeper should keep records of each instance of personal-data transfer (ensuing from paragraphs one and three), in order to be able to provide evidence - at whatever later stage, when necessary - as to which personal data have been given, to whom and for what purpose.

3. PROTECTION OF PERSONAL DATA

Art.11

Personal-data protection includes legal, organisational and appropriate logically-technical procedures and measures aimed at:

- protecting the premises, hard - and system soft-ware;
- protecting application SW used in personal-data processing;
- ensuring safe transfer of personal data;
- denying unauthorised access to equipment used for personal-data processing, and files themselves;
- providing the possibility of finding out when certain data were used or entered into the file(s); by whom and at what period of data storage.

Art.12

Procedures and measures as described in the previous paragraph, are determined in their internal acts by file-keepers and other subjects involved - conforming with this Law - in data-gathering, processing, storage, transfer and usage.

4. DATA CATALOGUES AND CATALOGUE OF FILES

Art.13

The file-keeper is to keep all files clearly classified in the data catalogue - observing the law - with respect to:

1. the name of the file,
2. the file-keeper and his headquarters,
3. the legal basis of tile establishment,
4. the categories of individuals to whom personal data - kept in the file(s) - refer,
5. the kinds of personal data kept in the file,
6. the legal basis of personal data-gathering,
7. the mode of personal data-gathering,
8. the purpose of data-gathering, processing and storage; personal data use; and legal basis of purpose of use,
9. the time limits of personal data use and storage,
10. the restriction of individuals' rights applying to data in the file(s), and the legal basis of restrictions,
11. the users of personal data contained in the files,
12. the fact whether personal data are carried (transmitted) abroad, and - in such a case - to which state, to whom and on what lawful basis.

Art.14

Data stated under preview paragraph are made accessible by the file-keeper to the republican administrate organ - legally authorised to hold a catalogue of files (the common catalogue of files), in 15 days' term prior to the establishment of data file, or any entry of personal data not yet contained. The file-keeper will keep the republican organ (under preview paragraph) informed of any data change (under preview Art.), in 5 days' term after it has occurred. The republic organ from the first paragraph will publish a catalogue of data files, observing the mode and periods - as well as the methodology - prescribed by the law.

5. INDIVIDUAL'S RIGHTS

Art.15 The republican administrative organ competent for keeping the catalogue of files, is obliged to allow access to/insight into the catalogue, and to have his/her own copy of data contained.

Art.16

The file-keeper is obliged - upon demand of the individual concerned:

1. to allow insight to any individual, into data in the file referring to him/her, as well as to get a copy of them;
2. to let any individual have his/her own copy from data file

referring to him/her;

3. let any individual have, conforming with paragraph 4 of Art. 10 of this Law, a list of subjects to whom data referring him/herself were given at a certain period. The file-keeper is obliged to allow insight and to have a copy of data to any individual - in conform. with point 1 of preview paragraph - immediately, or in seven days' delay after having received his/her demand (or let him know, in the same delay, the reasons for which he/she will have to be denied data in sight and copy). Data copy under point 2, and list under point 3 - first paragraph - have to be transmitted to the individual concerned in 15 days' delay after having received his/her demand (or he/she has to be informed, in the same delay, of the reasons for which he/she will have to be denied data copy or list). The copy as mentioned under point 2 of paragraph 1, may solely be used for the purpose of personal data-security implementation (which has to be noted on the copy). The cost arising from individual demand is covered by the file-keeper, while the cost of data copy and list by the applicant himself.

Art.17

The file-keeper is obliged - upon individual demand:

1. to complete or correct data proved - by the individual concerned - to be incomplete, incorrect or not updated;
2. to erase any data found - by the individual concerned - to be gathered nonconforming with the provisions of this Law. In case the file-keeper has been informed of the personal data in question as incomplete, incorrect or not up to date, he is obliged - without delay - to make whatever correction or completion necessary, and to let the individual know of it. Any completion, correction or erasure of data (under first paragraph) has to be performed by the file-keeper without delay (or the individual concerned has to be informed, in 15 days' delay, of the reasons for which the file-keeper will make no data change or completion). The file-keeper has - without delay - to inform the users of (original) personal data of any completion, correction or erasure made. All completion/correction/erasure of data eventually made does not exempt the file-keeper from possible penal and material responsibility.

6.INDIVIDUAL RIGHTS PROTECTION

Art.18 Any individual finding his rights to be violated may - conforming with this Law - demand legal protection. Application(s) may be put in at any time during the violation(s).

Art.19

Any application put in, stating violation of Art.17 of this Law, may contain the demand that the court - before arbitration access to the data in dispute.

Art.20

The application case is not one of a lawsuit (hence the proceedings to follow).

Art.21

The court procedure itself is an urgent one.

Art.22

The public is excluded from the proceedings.

Art.23

Given the circumstances of the case, the court may decide on the application made without seeking statement of the opposite party, if there is sufficient evidence contained in the application.

Art.24

In case - damage has been caused to an individual, due to misuse of data referring to him/her - according to the provisions of this Law he/she may place a claim for it.

7.RESTRICTIONS OF INDIVIDUAL RIGHTS

Art.25

The rights of individuals - relative to personal data security may only exceptionally be restricted, in legally prescribed cases, and in scope necessary for a specific purpose because of which restriction has been introduced. Irrespective of the preview paragraph, no restriction whatsoever can be imposed on the right to data file insight, as well as the right to put in an application to claim legal protection.

8. CARRYING PERSONAL DATA ABROAD

Art.26 The file-keeper may allow personal data to be carried (transferred) abroad, and transmitted to foreign users on condition that the state-recipient has - guaranteed - full protection of personal data, including foreign citizens. Relevant official certificates are issued by the republican administrative organ competent for international cooperation. The condition from preview paragraph fulfilled; personal data may be transmitted to foreign users on the basis of international contracts and agreements, as well as agreements on scientific, business, technical, cultural or similar cooperation. Irrespective of paragraph 1 and 2, personal data transmission across state border, to foreign users, is allowed solely with written consent of the individual concerned. Any

personal data transmission across state border is register in accordance with the provisions of Art. 13 and 14 of this Law

Art.27

Irrespective of the provisions under Art. 26 of this Law, carrying out and transmission of personal data to foreign users are not allowed in cases specified by the Law.

Art.28

The file-keeper may transmit to federal organs and organisations - as well as users in the other republics - those personal data only which are determined by federal law or inter agreement, with due protection of these data under federal or republican law. Irrespective of the provision from preview paragraph, personal data may only be transmitted to federal organs and organisations - as well as users in the other republics - with written consent of each individual concerned.

Art.29

Any individual finding the transmission of data referring him/herself, to either foreign users or federal organs and organisations (as well as users in the other republics), as harmful to his rights, may put in an application (claim) ensuing from Art. 18 of this Law.

9. INSPECTION

Art.30

Inspection over the implementation of the provisions of this Law is performed by the republican organ competent for the social system of information. The republican organ (from preview paragraph) is in charge of: - the lawfulness of gathering, processing, storage, transmission and use of personal data, - the implementation of procedures and measures aimed at personal data security (as specified by intern. acts of subjects from Art. 12 of this Law), - the implementation of the provisions of this Law with respect to data/file catalogue(s), as the registration of the transmission of data to users, - the implementation of the provisions of this Law, relative to the carrying out of data across state border and their transmission to foreign users.

Art.31

In the course of his inspection, the republican inspector in authority is entitled to: - examine the documentation referring to the gathering, processing, storage, transmission and use of personal data, as well as their carrying out across state border and transmission to foreign users, - examine the contents of data/file catalogue(s), - examine the

documentation and the acts regulating personal data protection, - to inspect the premises where data are gathered, processed, transferred and used (including computer and other equipment), - to verify the protective measures and their implementation. The republican inspector himself is obliged to keep personal data, learnt in the course of his duty, as official secret.

Art.32

The republican inspector is entitled to - by written order:

1. set a term within which all irregularities as stated have to be eliminated,
2. interdict further gathering, processing, storage transmission and use of personal data, to subjects mentioned under Art. 12 of this Law - who have not secured full respect of the measures and procedures aimed at personal data protection,
3. interdict (further) carrying out/transmission of personal data across the border to foreign users (in discord with the provide of this law). any complaint against the above order - as issued - under point 2 and p. 3 of the first paragraph, will not withhold its execution.

10. LAW EXECUTION AND SANCTIONS

Art.34

Fines from 20.000,00 to 50.000,00 YUD will be imposed on the keeper in case of violation(s):

1. if he is found to be in the possession of a data file - without legal justification or written consent of the individual to whom personal data refer (Art.3);
2. when gathering, processing, storing and transmitting personal data without legal justification or written consent of the individual concerned (first paragraph of Art. 6);
3. when separate operations related to personal data-gathering, processing, storage and transmission have been transferred to another legal or physical subject without prior agreement conform, with paragraph 3 of Art.6 of this Law;
4. when gathering/acquiring personal data from other persons or existent data files contrarily to the law - or with out prior consent of the individual concerned (Art. 7);
5. when gathering, processing, storing or transmitting personal data for purposes not allowed by the law, or written consent of the individual concerned; or when using personal data in ways not compatible with the purposes as described (Art. 8);
6. when not erasing personal data after having achieved the purpose of data-gathering, processing and storage (Art 9);
7. when transmitting personal data to unauthorised users first paragraph of Art. 10), or when transmitting data to them in a personal - identifying form (third paragraph of Art. 10), or when transmitting data without later possibility of verification (to whom, for what purpose...fourth paragraph

of Art. 10);
8. when failing to secure file with data legally specified (Art. 13), or to provide data necessary to data file catalogue (Art. 14); 9. when in violation of the individual's rights (Art. 16 and 17 of this law), or falling short of the obligations ensuing from the above-mentioned articles; 10. when carrying personal data across the state border in breach of the provisions of Art. 26 and 27 of this Law. Fines from 1000,00 to 5000,00 will be imposed on the person responsible of the file-keeper in case of violation(s) stated under preview paragraph.

Art. 35

Fines from 20.000,00 to 50.000,00 will be imposed on the user of data when re-transmitting personal data to other persons, or when using them for purposes not conforming with this Law (second paragraph of Art. 10). If the data-user is an individual, he will be - in case of violation as described under preview paragraph - fined from 1.000,00 to 5.000,00. The person responsible of the legal subject will be fined 1.000,00 to 5.000,00 when found in violation as described under first paragraph

Art. 36

Legal or physical subject found in abuse of its authority - as contained in the agreement under paragraph 3 of Art. 6 of this Law - will be fined 20.000,00 to 50.000,00. The person responsible of the legal subject will be fined 1.000,00 to 5.000,00 when found in violation as described under preview paragraph.

Art. 37

The file-keeper or another subject will be fined 20.000,00 to 50.000 when found to be gathering, processing, storing, transmitting or using personal data according to this Law, without prior determination of procedures and measures aimed at personal data protection - in his internal acts (Art. 12). The person responsible of the file-keeper or another subject - found in violation as described under preview paragraph will be fined 1.000,00 to 5.000,00.

Art. 38

The person responsible of the republican administrative organ, competent for data-file catalogue-keeping, will be fined 1.000,00 to 5.000,00 when found in violation of the individual's rights to have insight into data-file catalogue, or to have copy of data contained in there (Art. 15).

12. TEMPORARY AND FINAL PROVISIONS

Art. 39

File-keepers and other subjects as described under Art. 12 of his Law, determine the procedures and measures to use at personal-data protection, in their intern. acts in six months delay from the enactment of this Law.

Art. 40

File-keepers have to make clear - from data catalogues data for each file, as specified under Art. 13 of this Law, simultaneously with catalogue establishment.

Art. 41

The establishment and keeping of existent data files for the purposes of gathering, processing, storage, transmission and use of personal data contained - are to conform with provisions of this Law in one year's delay from its enactment.

Art. 42

The Law is enacted the eighth day after its publication in the Official Journal of Republic Sloven.

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