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PROJECT GROUP ON DATA PROTECTION
(CJ-PD)

**Act on Protection of Personal Data
in Information Systems**

of April 29, 1992

CZECHOSLOVAKIA

A c t
of April 29, 1992
on Protection of Personal Data in Information Systems

The Federal Assembly of the Czech and Slovak Federative Republic has passed the following Act:

Part One
Field of Application

Art. 1

This Act shall govern the protection of personal data, particularly the duties connected with the protection of information during the operation of information system dealing with personal data and the responsibility of the operator of information system and other natural and juristic persons who shall participate in the activities connected with the operation of such information system.

Art. 2

This Act shall also apply to the information systems established by a special act ¹.

Part Two
Definition of Some Terms For the Purpose of this Act

Art. 3
Information

Information relating to a certain person means personal

1) E.g. Act Nr. 244/1991 Coll. on Federal Security Information Service
Act Nr. 445/1991 Coll., on trade business (Trade Act),
Act Nr. 563/1991 Coll., on book keeping,
Act Nr. 47/1990 Coll., on the Federal Assembly elections, in the wording of the successive legal regulations.

data.

Art.4

Information system

Information system means a working complex securing purposive and systematic collection, processing and storing of information and making accessible the same. Any information system includes an information basis, technical and programme means, technology, procedures and staff.

Art.5

Operation of Information System

The operation of information system means provision of activities focused on information collection (assembling), processing of the information at its input, storing the information in data basis, processing of information for internal purposes or for information services. The operation may include all or only some of the above mentioned activities.

Art.6

Information Service

Information service means performance of activities serving to supply of information from information system connected, as a rule, with the processing of information stored in the information system.

Art..7

Information Processing

Information processing means

- a) the adjustment of information in terms of technical procedure or content of information,
- b) the automated processing including operations fully or partly performed by automated means, particularly storing of

information and data, performance of logistic or arithmetic operations with information and data, their adjustment and erasion,

- c) the incorporation of information into a collection of information without its physical change or without modification regarding its content or the incorporation of another communication which may be specified to serve to other purposes than provision of information service.

Art.8

Liquidation of Information

The liquidation of information means its erasion or physical breakdown in such a manner that the information cannot be reassembled again or it means the material destruction of the physical carrier to which it has been bound.

Art.9

Participants in Information Exchange

The participants in information exchange mean the operator of the information system (hereinafter referred to as "operator" only), user of information services and information mediator (hereinafter referred to as "mediator" only).

Art.10

Person in Question

The person in question means the individual natural person being referred to by the information.

Art.11

Operator

(1) The operator means natural or juristic person securing the information processing or provision of information services and acting in respect to other natural and juristic persons as

bearer of rights and obligations in relation to the operation of information system.

(2) The following persons shall not be deemed to be operators:

- (a) natural persons who within the scope of their labour or similar relation come in contact with information being subject of operation of a particular information system;
- (b) juristic persons performing activities during the operation of information system on the basis of a contract concluded with the operator.

Art.12

User

The user means a natural or juristic person using information acquired from an information system or requesting such information within the scope of information services granted by an information system.

Art.13

Mediator

The mediator means a natural or juristic person ascertaining, collecting, processing or supplying information for the operator or user.

Art.14

Appropriate Method of Information Collection

The appropriate method of information collection means ascertaining the information which is not formed for another purpose, not covered by another activity and which does not breach citizens' rights and freedoms.

Art. 15

Published Information

The published information means information introduced to the public by means of mass communication media or electronic information services accessible to the public.

Part Three

Obligations in Connection with the Operation of Information System

Art. 16

It is possible to operate an information system which deals with information regarding the personality and privacy of the person in question, his racial origin, nationality, political attitudes and membership in political parties and movements, his relation to religion, his criminality, health, sexual life and property relations only in the event that this is governed by a special act or with the approval of the living person in question having possibility to express his will to such purpose. If the condition of approval cannot be met, the information may only be disposed of under the presumption that the human dignity, personal honour, fair reputation of the person in question are preserved and his good name is protected.

Art. 17

The operator shall be obliged

- a) to operate the information system in accordance with the purpose it has been established for,
- b) to acquire information adequate, in terms of its extent, to the purpose for which the system has been established, particularly to avoid collection of redundant data,
- c) to verify whether the information being subject operated by the information system is accurate and to update the same if

- necessary,
- d) to mark the inaccurate or not verified information in the information system in an appropriate manner,
 - e) not to store untrue information in the information system,
 - f) to prevent channelizing information and information systems serving to various purposes, unless a special act provides otherwise,
 - g) to gain information for information systems in a suitable manner; to gain information under presumption of another purpose or by another activity is admissible if this is specified by a special act,
 - h) to store information enabling the identification of the person in question only during a period reasonable for the purpose of the information system, unless a special act provides otherwise,
 - i) to secure protection of information and the whole information system against incidental or unauthorized destruction, incidental damages as well as against unauthorized access to or processing of the same,
 - j) to stipulate the rights and obligations of natural and juristic persons having access to information system,
 - k) to implement precautions that after termination of the labour or similar relation between a natural person and the operator the information being subject of operation of the particular information system may not be used by such person; in addition he shall be obliged to implement similar precautions against persons fulfilling their duties with the operator and being in contact or who may come in contact with information which is subject of operation of the particular information system,
 - l) to furnish any person in question free of charge once a year and against a reasonable reimbursement whenever required with a report on information stored in the information system, unless a special act provides otherwise.

Art. 18

- (1) When discontinuing the operation of information system

the operator shall be obliged to implement measures securing the information which is subject of operation of the information system not to be misused.

(2) In the event of breach of the obligation under Para 1 the legitimate person shall be entitled to enforce his claim to satisfaction, removal of defects, handing over groundless enrichment from the person who has gained such enrichment and in addition the claim under Art.20, Letters d) and e).

Art.19

(1) The mediator is obliged to:

- a) verify whether the mediated information is accurate;
- b) properly mark the inaccurate or not verified information and to remove the inaccuracy if possible;
- c) gain information for information systems in a suitable manner; to gain information under presumption of another purpose or by another activity is admissible if this is specified by a special act.
- d) ensure the protection of mediated information against incidental or unauthorized destruction, incidental damages as well as against unauthorized access to or processing of the same.

(2) In the event of mediation of information both for the user and operator the mediator shall be obliged to store the information acquired in connection with the mediation activity only for a period indispensably necessary and in the scope of the operator's authorization.

Art.20

In the event of breach of obligations of the operator under Art.17 hereof the legitimate natural person shall be entitled against the operator to:

- a) refrain from such action, to remove defects, to hand over groundless enrichment to the person to the detriment of whom the enrichment has been gained and to give satisfaction

(apologies, corrections) at the cost of the operator to the person who has been injured by breach of the obligations. The claim to receive satisfaction shall not originate in case of breach of obligation under Art.17, Letters d), and e) unless the operator has broken his obligation under Art.17, Letter c) or he submits evidence that the information has been operated within the limits given by the approval of the person in question or if it is a published information.

- b) liquidate the information; this claim originates, if the operator has broken his duties under Art.17, Letters a), b), d), e), g), and h). In addition, such claim originates in case of an information system operating published information, if it is evidenced, that this information has been published without authorization or it has been corrected;
- c) supplement the information which has been inserted into the information system with the approval of the person in question or if it is a published information;
- d) pay a reasonable reimbursement, if the person's right to preservation of human dignity, personal honour, fair reputation are preserved and his good name is protected, unless the breach is inflictible by present civil-law and commercial-law institutes;
- e) block the access to information during the dispute (litigation), unless the organ appropriate for making decision in such dispute decides otherwise; the claim concerns only the information being subject of the dispute.

Art.21

The mediator shall be responsible for activities he performs for the operator or user within the limits of the operator's responsibility.

Art.22

(1) Within their labour or similar relation or within the scope of their public or other function (e.g. sworn expert,

auditor etc.), natural persons or other persons coming into contact with information being operated by appropriate information system (hereinafter referred to only as "liable persons") shall be obliged to keep secrecy of such information and must not enable access to them by other persons without approval of the operator nor use them for themselves, unless a special act provides otherwise.

(2) The obligations under Para 1 continue after the completion of the labour or similar relation between the liable person and the operator or after such liable person ceases to perform his function.

(3) In the event of breach of obligations under Para 1 hereof the legitimate person shall be entitled to require from the liable person the following:

- a) to refrain from such actions, to remove defects, to hand over groundless enrichment and to give him satisfaction (apologies, corrections) at the cost of the liable person;
- b) to liquidate information which has been made accessible or used in an unauthorized way;
- c) to pay reasonable reimbursement, if the liable person, due to the fact that he has not met such obligations, has caused detriment particularly of intangible character which cannot be inflicted by institutes of civil or commercial law and which cannot be connected with the fulfilment of other claims under this Para;
- d) to prevent the access to information during the dispute, unless the organ authorized to decide has set down otherwise; such claim refers only to information affected by dispute.

(4) Have such obligations been broken by the liable person who has been in labour or similar relation to the operator, the operator shall be liable to reimbursement under Para 3, Letter c) hereof and to give satisfaction under Para 3, Letter a) hereof.

(5) If anybody gains information from information system due to his illicit action, the provisions of Para 1 and 3 shall apply to him by analogy.

Art.23

Disputes following from the application of rights and obligations under this Act shall be settled by court.

Part Four

Registration of Information System and Inspection
of Information System Operation

Art.24

Organs established by a special act shall be competent to perform registration and inspection of the information system operation.

Art.25

Application for Registration

(1) The organ under Art.24 hereof shall keep files of the registered information systems for the period of their operation. The files shall be accessible for the public and officially published by this organ at December 31 of each year.

(2) The operator shall be liable to inform the organ under Art.24. without any unnecessary delay, on the termination of the information system operation together with the date at which the information system operation shall terminate. This does not apply to information systems which are not subject of registration obligation.

Art.26

The duty of registration shall be applied only to information systems disposing of information under Art.16, unless they serve exclusively for internal requirements of the operator; exceptions regarding this duty shall be specified by a special act. The registration shall not be applied to information systems

disposing exclusively of published information.

Part Five
Transitory and Final Provisions

Art.27

The information system established after the date this Act has come into effect can be operated only after fulfilment of the conditions under this Act; its operator shall be obliged to apply for registration within three months after the act has come into effect by which the organ under Art.24 hereof has been established.

Art.28

The Government of the Czech and Slovak Federative Republic may exceptionally stipulate the terms of operation of an already working information system being at variance with this Act for a period of not more than three years after this Act has come into effect. This does not affect the obligation of the operator to apply for registration with the organ under Art.24 hereof within the period of three months after the act has come into effect by which this organ has been established.

Art.29

This Act shall come into effect on the date of its declaration.