

Unofficial Translation

DECREE ON ENACTMENT OF LAW ON PROTECTION OF PERSONAL DATA

I hereby enact the Law on Protection of Personal Data, passed by the Federal Assembly at the session of Chamber of Citizens on May 12, 1998 and at the session of Chamber of Republics on May 12, 1998.

No. 139
May 12, 1998
Belgrade

President of
The Federal Republic of Yugoslavia
Slobodan Milosevic

LAW ON PROTECTION OF PERSONAL DATA

I. BASIC REGULATIONS

Article 1

This Law governs the protection of data of an individual (hereinafter: personal data).

The protection of personal data, regardless of their form, includes acts and measures preventing illegal gathering, processing, keeping, use and exchange of personal data, and their taking out of the country.

Article 2

Personal data may be gathered, processed and used only for the purposes set forth in the Law, and for other purposes - only based on a written consent from the citizen.

Article 3

The terms used in this Law have the following meanings:

- 1) a citizen is the physical person to whom the data refer;

- 2) 2) personal data is the information contained in the collection of such data, and refer to the privacy, personal integrity, private and family life and other personal rights related to the identified person or an identifiable person;
- 3) an aggregation of personal data is an arranged collection of personal data (record, register, file and similar) regardless of the form and shape of presentation and means for preservation thereof;
- 4) a catalog of collections of personal data is the review of collections of personal data, with the description of contents and changes, as well as the means of safekeeping and accessibility thereof;
- 5) the processing of personal data is the group of manual, semiautomatic or automatic activities performed on the data for the purpose of gathering, memorizing, regrouping, changes, exchange, transfer, scanning, spreading, banning the use and erasing the data;
- 6) the control over the collection of personal data is effected by a state agency or organization, a body of local self-managing unit, a legal entity or an entrepreneur, authorized by the law or a written consent from the citizen to gather, process, keep and transfer personal data and establish, maintain and use the collection of personal data;
- 7) the user of the collection of personal data is a state agency or organization, a legal entity or an entrepreneur, authorized by the law or a written consent from the citizen to use the collection of personal data.

II. RIGHTS AND OBLIGATIONS OF BODY SUPERVISING THE COLLECTION OF PERSONAL DATA

Article 4

The body supervising the collection of personal data founds such collection solely for the needs set forth in the law or based on a written consent from the citizen.

The body supervising the collection of personal data establishes and keeps the catalog of collection of personal data. The catalog is public and accessible to all the citizens.

The obligation to process and keep personal data expires upon the cessation of the purpose for which the data had been gathered and processed, or upon the expiration of the term of existence of the collection of personal data, set forth in the law or in the written consent from the citizen.

Article 5

A citizen issues a written consent to create the collection of personal data to the body supervising the collection of personal data for the purpose of gathering and keeping such data.

The written consent described in Para. 1 of this Article, concerning persons deprived of capacity to conduct their own affairs, is issued by their guardian, and in case of minors such consent is issued by parents or adoptive parents, respectively, guardians.

Article 6

The body supervising the collection of personal data may cede the collection or a part thereof to users empowered by the law or under a written consent from the citizen.

A collection of personal data, a part thereof or individual data therefrom may be used for scientific, educational or similar purposes in the form which does not allow the identification of a citizen.

A collection of personal data, a part thereof or individual data therefrom, in the sense of Para 2 of this Article may be revealed in the form that allows the identification of a citizen under a written consent from the citizen only.

Article 7

The body supervising the collection of personal data may, in the frames of its authority, entrust the duties or part of the duties related to establishing and keeping the collection, respectively gathering, processing, keeping and revealing the personal data from the collection, to other legal entities or entrepreneurs registered for such activities.

The legal entity or entrepreneur referred to in Para. 1 of thi8s Article may perform the activities within the frames of authority of the body supervising the collection of personal data.

In the performance of entrusted duties, and within the frames of authority of the body supervising the collection of personal data, the legal entity or entrepreneur referred to in Para. 1 of this Article is not permitted to use the data from the collection.

The mutual rights and obligations of the body supervising the collection of personal data and the person referred to in Para 1 of this Article are governed by a contract, concluded in writing, which contains the conditions and measures for provisions of protection of personal data.

Article 8

The body supervising the collection of personal data defines the measures of safekeeping and protection of the data from destruction, loss, unauthorized use, changes or disclosure; measures aimed against unauthorized access to premises, equipment and technique used for processing the personal data; measures and procedures in cases of emergencies; and persons responsible for the collection of personal data.

The body supervising the collection of personal data has the duty to institute the legal, organizational and appropriate technical and technological measures and procedures for the protection of personal data.

Article 9

The body supervising the collection of personal data keeps the register of the collection.

The register of the collection contains the information on the name, legal grounds, types of personal data, way of gathering personal data, categories of citizens included in the process of gathering, users and the periods of keeping and use of personal data, purpose and duration of the collection and the person responsible, as well as the description of the data; if the duties or a part of the duties described in Article 7 of this Law have been entrusted to a different person or legal entity, the register contains the information on the address of the person, respectively the facts on the company, respectively the name and the seat of the legal entity.

Article 10

If a new collection of personal data is established, or the structure of an existing collection of personal data changed, the body supervising the collection of personal data has the duty to submit the report to the appropriate legal agency within 15 days from the date of creating of a new collection, or the date of change of the structure of an existing collection.

III. RIGHTS OF CITIZENS

Article 11

The citizen has the right to find out:

- 1) which collection of personal data contain data referring to him/her;
- 2) which data on him/her are being processed, for which purpose and on what grounds
- 3) who are the users of personal data referring to him/her, and on which grounds.

Article 12

The citizen has the right to demand from the body supervising the collection of personal data:

- 1) the information concerning the existence of a collection of personal data and a written proof (certificate) on the personal data kept on him/her;
- 2) a review of the data referring to him/her;
- 3) correction of wrong data;
- 4) deletion of data referring to him/her if the processing thereof is not in accordance with the law, respectively the contract;
- 5) ban on use of wrong, outdated and incomplete data referring to him/her;
- 6) ban on use of data from collection of data and similar databases if they are not used in accordance with the law, respectively the contract.

The body supervising the collection of personal data has the duty to act upon the citizen, s request.

The personal data, the use of which is banned based on p. 5, Para. 1 of this Article, must be distinctly marked.

Article 13

The citizen cannot exercise the rights from Articles 11 and 12, p. 1 through 4 of this Law, if such rights refer to collections of personal data kept in accordance

with the regulations on criminal records and regulations on records dept in the field of security of Federal Republic of Yugoslavia.

Article 14

If a collection of personal data had been created based on the written consent of a citizen, at the withdrawal of such consent the body supervising the collection of personal data has the obligation to delete the data from the collection within 15 days from the date of such withdrawal.

In case of the citizen's death, the personal data from the collection of personal data gathered based on the written consent from the citizen are kept in accordance with that consent, and the personal data from the collection of personal data gathered in accordance with the law for at least one year.

In the case described in Para. 2 of this Article, the body supervising the collection of personal data has the obligation to ensure the use and protection of the data gathered in the collection of personal data in accordance with the law for at least one year.

In the case described in Para. 2 of this Article, the body supervising the collection of personal data has the obligation to ensure the use and protection of the data gathered in the collection of personal data in accordance with the law. His/her heirs issue the consent for use of personal data of the deceased citizen, following the legal order of heritage.

Article 15

A citizen whose rights set forth in this Law have been violated, or suffered damages as a result of use of gathered data in a way or for purposes contrary to the provisions of the Law may bring a lawsuit for damages before the court in charge.

Article 16

Personal data have to be correct, up-to date and based on credible sources, and, bearing in mind the purpose they are gathered for, complete.

Personal data are gathered in a manner that does not offend the dignity or man.

Personal data on citizens may be gathered from other citizens or taken over from the existing collection of personal data in cases set forth in the law, or under a written consent from the citizen.

The body supervising the collection of personal data is responsible for the accuracy of such data.

Article 17

From the moment of acquisition of personal data from the citizen, the body supervising the collection of personal data is responsible for their accuracy, updating and completeness, as well as for the termination of the data, the use of which is not legally permitted.

V. SPECIAL CATEGORIES OF DATA

Article 18

Personal data on racial origin, national belonging, religious and other beliefs, political and syndicate determinations and sex life may be gathered, processed and released for use only under a written consent from the citizen.

Personal data on state of health and criminal records may be gathered, processed and released for use only in accordance with the law.

VI. SUPERVISION

Article 19

The appropriate federal law administration body supervises the observance of this law.

Article 20

In the exercise of supervision, the federal law administration body is entitled to review:

- 1) The contents of the register of collections of personal data and the contents of collections of personal data;
- 2) The documents referring to gathering, processing, keeping, transfer and use of collections of personal data;
- 3) General documents issued by the body supervising the collection of personal data related to measures and procedures of protection of personal data;
- 4) Premises and equipment of importance for realization of protection of collections of personal data.

Article 21

The federal law administration body shall ban the gathering, processing, use and transfer of personal data if it finds out that conditions set forth in this Law have not been provided.

Article 22

The federal law administration body shall order:

- 1) Elimination of irregularities in protection of personal data within a certain period of time;
- 2) Deletion of the entire collection of data if it has been created, or is not used, in accordance with the law;
- 3) Change or ban on use, or deletion of personal data, if it finds that personal rights of citizens have been violated.

Article 23

The federal law administration body has the duty to file a violation report if it considers that by the violation of this law an offense has been committed.

VII. TAKING PERSONAL DATA OUT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

Article 24

Provided that the principle of reciprocity is observed, the data from the collection of personal data may be taken out of the Federal Republic of Yugoslavia, if the state the data are taken to has established the protection of personal data which encompasses foreign citizens on a level which may not be below that provided by this Law.

VII. PENAL CLAUSES

Article 25

An enterprise or another legal entity shall be fined the sum of 5,000-50,000 new dinars:

- 1) if it releases a collection of personal data, a part thereof or data therefrom to unauthorized users, or does so without the written consent for the citizen (Article 6, Para. 1);
- 2) if it releases a collection of personal data, a part thereof or data therefrom for scientific, educational or similar purposes in a form which allows the identification of a citizen (Article 6, Para. 2)
- 3) if it entrusts the duties or part of the duties related to establishing and keeping the collection, respectively gathering, processing, keeping and revealing the personal data from the collection, to a physical or legal entity not registered for such activities;
- 4) if, performing the duties entrusted with, it uses the data from the collection (Article 7, Para. 3);
- 5) if it does not define the measures of safekeeping and protection of the data from destruction, loss, unauthorized use, changes or disclosure, measures aimed against unauthorized access to premises, equipment and technique use for processing the personal data, measures and procedures in cases of emergencies, and persons responsible for the collection of personal data, or does not implement those measures (Article 8);
- 6) if it does not keep the register of collections of personal data (Article 9, Para. 1);
- 7) if the register of collections of personal data it keeps does not include the data set forth in Article 9, Para. 2 of this Law (Article 9, Para. 2)
- 8) if the body supervising the collection of personal data does not submit the report on establishing of a new collection or a change of structure of an existing collection (Article 10);
- 9) if it does not allow the citizen to review of the data, corrections, deletions or ban of the use of data, and the legal conditions set forth by the law are provided (Article 12);
- 10) if it does not delete the personal data of a citizen from the collection within 15 days from the withdrawal of the citizen's written authorization (Article 14, Para. 1);
- 11) if it gathers the personal data in a manner that offends the dignity of man.

An entrepreneur shall be fined the sum between 300-3,000 new dinars for acts from Para. 1 of this Article.

The responsible person in the state body or organization, or the body of local self-management, or an enterprise or another legal entity, shall also be fined the sum between 300-3,000 new dinars for acts from Para. 1 of this Article.

The court may pass the measure of ban on engaging in this business activity over a period from three months to one year, along with the fine, for acts from points 1,2,9 and 11, Para. 1 of this Article.

IX. TRANSITORY AND CLOSING PROVISION

Article 26

The body supervising the collection of personal data has the duty to inform the appropriate federal law administration body about the existence of a collection of personal data within 30 days from the date of enactment of this Law.

Article 27.

The present law shall enter into force on the eight day of the date of its publication in the Official Gazette of FRY.