

LEGISLATION COMMITTEE OF THE CROATIAN PARLIAMENT

2300

Pursuant to its authority from Article 59 of the Rules of Procedure of the Croatian Parliament, the Legislation Committee determined the revised text of the Personal Data Protection Act at its session held on 17 September 2012. The revised text of the Personal Data Protection Act shall encompass (OG 103/03) the Act on Amendments to the Personal Data Protection Act (OG 118/06) the Act on Amendments to the Personal Data Protection Act (OG 41/08) the Act and Amendments to the Personal Data Protection Act (OG 130/11) which indicate their entry into force.

Class:
Zagreb, 17 September 2012

021-17/12-02/23

Chairperson of the
Legislation Committee of the
Croatian Parliament
Ingrid Antičević Marinović, B.A. jurist, m.p.

PERSONAL DATA PROTECTION ACT (Revised text)

I BASIC PROVISIONS

Article 1

This Act shall regulate the personal data protection of natural persons, and the supervision of collection, processing and usage of personal data in the Republic of Croatia.

The purpose of personal data protection is to protect the privacy of individuals, as well as other human rights and fundamental freedoms in the collection, processing and usage of personal data.

The protection of personal data in the Republic of Croatia has been ensured for every natural person irrespective of citizenship or place of residence, and regardless of race, skin colour, sex, language, religion, political or other convictions, national or social background, property, birth, education, social standing or other characteristics.

Article 1.a

This Act contains provisions harmonised with the following acts of the European Union: Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (CELEX 31995L0046).

In the provision of Article 1 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new Article 1a was added after Article 1.

Article 2

Terms in this Act shall have the following meanings:

1. Personal data shall be any information pertaining to an identified natural person or an identifiable natural person (hereinafter: data subject). An identifiable person is one who can be identified, directly or indirectly, particularly on the basis of an identification number or one or more factors specific to the person's physical, physiological, mental, economic, cultural or social identity.

In the provision of Article 1 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008, in paragraph 1, item 1 after the words: "particularly on the basis of", the following words were added: "identification number or".

2. Personal data processing shall mean any operation or set of operations which is performed on personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, usage, disclosure by transmission, dissemination or making it otherwise available, alignment or combination, blocking, erasure or destruction, as well as performing logical, mathematical and other operations on such data.

3. Personal data filing system shall mean any structured personal data set which is accessible according to specific criteria, centralized, decentralized or dispersed on a functional or geographical basis, regardless of whether it has been stored in electronic personal data bases, or is managed by any other technical tools or manually.

In the provision of Article 2 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2008, in paragraph 1, item 3 the words: "personal data set" shall be replaced by "structured personal data set".

4. Personal data filing system controller shall designate a natural or legal person, state or other body that determines the purposes and means of processing personal data. Where the purposes and means of processing have been regulated by law, the same law shall designate the personal data filing system controller.

5. A third party shall be a natural or legal person, a state or other authority, apart from the data subject, a personal data filing system controller or a personal data processing official, and the person directly appointed by the system controller or the personal data processing official for processing personal data.

In the provision of Article 2 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, paragraph 1, item 5 is modified.

6. Recipient is a natural or legal person, state or other authority to which personal data is disclosed, regardless of whether he/she is simultaneously a third party or not. However, state bodies authorised to receive data within investigation proceedings shall not be considered as recipients.

In the provision of Article 2 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new item 6 is added after item 5 in paragraph 1.

7. The processing official shall designate a natural or legal person, a state or other authority which processes personal data on behalf of the personal data filing system controller.

In the provision of Article 2 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new item 7 is added after item 6 in paragraph 1.

8. Data subject's consent shall mean any freely given and clear consent by which the data subject indicates his/her approval for his/her personal data to be processed for a specific purpose.

9. Personal data protection official shall be a person appointed by the personal data filing system controller, who shall supervise the legality of personal data processing and the exercise of the right to personal data protection.

In the provision of Article 1 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008, a new item 7 was added after item 6.

In the provision of Article 2 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, existing items 6 and 7 become items 8 and 9.

Certain activities or groups of activities encompassed by the term “processing” of personal data in item 2 of this Article may be singled out or indicated in certain provisions stipulated herein when such provisions do not refer to the entire processing as defined by item 2 of this Article, but to specifically defined activities encompassed by the processing.

Article 3

Provisions of this Act shall apply to the personal data processing conducted by state bodies, local and regional self-government units, as well as by legal and natural persons, representation offices and branches of foreign legal persons, and representatives of foreign legal and natural persons processing personal data.

In the provision of Article 1 of the Act on Amendments to the Personal Data Protection Act (OG 118/06) which entered into force on 10 November 2006, in paragraph 1, after the words: "natural persons" a comma is added, followed by the words: "representation offices and branches of foreign legal persons and representatives of foreign legal and natural persons".

Provisions of this Act shall also apply when the personal data filing system controller does not have his/her residence or seat in one of the European Union Member States, and uses automated and other equipment for personal data processing which is located in the Republic of Croatia, except when such equipment is used solely for the transfer of personal data through the European Union territory.

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new paragraph 2 was added after paragraph 1.

In case from paragraph 2 of this Article, the personal data filing system controller shall appoint a representative in the Republic of Croatia i.e. a natural or legal person with residence or seat, or registered in the Republic of Croatia, to represent him/her in regards to personal data protection in accordance with this Act.

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new paragraph 3 was added after paragraph 2.

Provisions of this Act shall not apply to the personal data processing conducted by natural persons exclusively for personal or private purposes.

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in Article 3 the existing paragraph 2 becomes paragraph 4.

Article 4

Provisions of this Act shall refer to all personal data files regardless of whether these are processed automatically or manually.

II PERSONAL DATA PROCESSING

Article 5

The personal data filing system controller shall process personal data only under conditions stipulated by this Act and special acts.

Article 6

Personal data shall be processed in an honest and legal manner.

In the provision of Article 4 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new paragraph 1 was added in Article 6.

Personal data may be collected for a purpose known to the data subject, explicitly stated and in accordance with the law, and may be subsequently processed only for the purposes it has been collected for, or for a purpose in line with the purpose it has been collected for. Further processing of personal data for historical, statistical or scientific purposes shall not be considered as incompatible provided that appropriate protection measures are in place.

Personal data must be relevant for the accomplishment of the established purpose and shall not be collected in quantities more extensive than necessary for achieving the purpose defined.

Personal data must be accurate, complete and up-to-date.

Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data was collected or for which it is further processed. Appropriate protection measures for personal data stored for longer periods of time for historical, statistical or scientific usage are established by special acts.

The personal data filing system controller is responsible for implementing provisions of this Article.

In the provision of Article 4 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, existing paragraphs 1, 2, 3, 4 and 5 become paragraphs 2, 3, 4, 5 and 6.

Article 7

Personal data shall be collected and subsequently processed exclusively:

In the provision of Article 5 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 1, after the word: "processed" the word "exclusively" is added.

- with consent of the data subject solely for the purpose for which the data subject provided his/her consent, or
- in cases determined by law, or
- for the purpose of fulfilling legal obligations of the personal data filing system controller, or
- for the purpose of concluding and executing contracts which the data subject is a party to, or
- for the purpose of protecting the life or physical integrity of the data subject or another person, when the data subject is physically or legally unable to provide his/her consent; or
- when the data processing is necessary to complete tasks executed for public interest or in the exercise of official authority vested in the personal data filing system controller, or a third party to whom data is delivered, or

In the provision of Article 5 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, after the words: "personal data filing system controller", the comma is deleted and the following words added: "or a third party to whom data is delivered".

- when data processing is necessary for the purpose of a legal interest of the personal data filing system controller or a third party to whom data is disclosed, except when interests of protecting the fundamental rights and freedoms of data subjects from Article 1 paragraph 2 herein prevail, or

In the provision of Article 5 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new subparagraph 7 is added after subparagraph 6.

- when the data subject personally publishes this data.

In the provision of Article 5 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, the existing subparagraph 7 becomes subparagraph 8.

In cases referred to in paragraph 1, subparagraphs 1 and 8 of this Article, the data subject has the right to revoke his/her consent at any time, and request the termination of further processing of his/her data, unless this data is processed for statistical purposes when personal data can no longer lead to the identification of the person it relates to.

In the provision of Article 5 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 2, the words: "subparagraphs 1 and 7" are replaced by "subparagraphs 1 and 8".

Personal data pertaining to underage persons may be collected and subsequently processed in accordance with this Act by applying special protection measures prescribed by special acts.

In the provision of Article 2 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008, Article 7 was amended.

III PROCESSING SPECIAL CATEGORIES OF PERSONAL DATA

Article 8

It shall be prohibited to collect and subsequently process personal data pertaining to racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, health or sexual orientation, as well as personal data regarding criminal and misdemeanour proceedings.

By way of derogation, data referred to in paragraph 1 of this Article may be collected and subsequently processed:

- upon consent of the data subject, or
- if the data processing is necessary to exercise the rights and obligations of the personal data filing system controller based on special regulations, or
- if the processing is necessary for the protection of life or physical integrity of another person, when the data subject is unable to provide his/her consent for physical or legal reasons, or
- if the processing is carried out within the scope of legal activity of an institution, association or any other non-profit entity with political, religious or other aim, provided that such processing relates solely to the members of this entity, and that the data obtained is not disclosed to a third party without prior consent of the data subject,
- if data processing is necessary to establish, obtain or protect claims prescribed by law, or
- when the data subject personally published this data, or
- if data processing is necessary for the purpose of preventive medicine, medical diagnosis, health care or management of health institutions, on the condition that the data is processed by a health official based on rules and regulations adopted by competent authorities.

In the provision of Article 6 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2008, Article 2 was amended.

In cases from paragraph 2 of this Article, data processing shall be specially marked and protected.

A government regulation, upon prior approval of the Personal Data Protection Agency, shall prescribe the manner in which the data from paragraph 2 of this Article shall be stored, as well as special measures of technical protection.

If data from paragraph 2 of this Article is classified, the manner of storing and technical protection of such data shall be conducted in accordance with special regulations governing the field of information security.

Personal data pertaining to misdemeanour and criminal records may be processed exclusively under control of the competent authorities.

In the provision of Article 6 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, new paragraphs 5 and 6 were added after paragraph 4.

Article 9

Prior to collecting any personal data, the personal data filing system controller or the processing official must inform the data subject whose personal data is being collected about the identity of the personal data filing system controller, the intended purpose of processing this data, about the reason for processing such data, about the right to information access and the right to data correction pertaining to him/her, about recipients or categories of personal data recipients, and whether data provision is voluntary or mandatory, as well as about possible consequences of withholding data. In case of mandatory provision of personal data, the legal basis for personal data processing shall be indicated as well.

In the provision of Article 7 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 1, after the words: "the intended purpose of processing this data", the following words are added: "about the right to information access and the right to data correction pertaining to him/her."

Prior to providing personal data to other recipients, the personal data filing system controller shall inform the data subject about this.

Information from paragraphs 1 and 2 of this Article shall be provided to the data subject regardless of whether data is collected directly from the subject or from other sources.

Exceptionally, information from paragraphs 1 and 2 of this Article does not have to be provided to the data subject if personal data is provided for usage or is collected from the existing personal data files in order to be processed for statistical purposes or for the purposes of historic or scientific research, or if the provision of such information would require an excessive effort, if such processing of personal data has been explicitly determined by law.

In the provision of Article 7 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 4, after the words: "personal data", the comma is deleted and the following words added: "or if the provision of such information would require an excessive effort".

IV ASSIGNING PERSONAL DATA PROCESSING TASKS

Article 10

Based on a contract, the personal data filing system controller may entrust individual tasks regarding the processing of personal data within his/her authority to other natural or legal persons (hereinafter: processing official).

Tasks regarding personal data processing may be entrusted solely to a processing official registered for conducting these activities, who provides sufficient guarantees that appropriate personal data protection measures will be implemented, or classified data when he/she fulfils the requirements determined by special regulations governing the field of information security.

In the provision of Article 8 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 2, after the words: "personal data", the comma is deleted and the following words added: "or classified data when he/she fulfils the requirements determined by special regulations governing the field of information security."

The contract from paragraph 1 of this Article shall regulate mutual rights and obligations of the personal data filing system controller and the processing official, where the processing official is in particular under the obligation to:

- act only pursuant to an order issued by the personal data filing system controller,
- not provide personal data to other recipients for usage, nor process it for any other purpose than that defined by the contract,
- ensure that the appropriate technical, organizational and staffing measures are in place for personal data protection, in accordance with provisions stipulated by this Act.

The contract from paragraph 1 of this Article shall be drawn up in writing.

In the provision of Article 8 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new paragraph 4 was added.

V DATA PROVISION TO RECIPIENTS

Article 11

The personal data filing system controller is authorised to allow the usage of personal data to other recipients based on the recipient's written request if this is necessary for carrying out tasks encompassed by the recipient's legal activity as defined by law.

The written request shall state the purpose and legal basis for the personal data usage, and the type of personal data requested.

It shall be prohibited to provide personal data to other recipients who were not authorised to process or use them based on provisions of Article 7 and Article 8, paragraph 2 herein, and when the purpose for the usage of such personal data requested is contrary to provisions of Article 6, paragraphs 2 and 3 herein.

In the provision of Article 9 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 3, the words: "Article 6, paragraphs 1 and 2" are replaced by "Article 6, paragraphs 2 and 3".

Personal data processed for scientific research or statistical purposes must not allow for the identification of persons the personal data refers to.

In case from paragraph 1 of this Article, the personal data filing system controller shall keep separate records on personal data provided for usage, personal data recipient, and the purpose for which this data was provided.

Article 12

Personal data may be used only in the term necessary for the fulfilment of the specific purpose, unless a longer period is established by a special act.

Following the expiry of the term from paragraph 1 of this Article, the personal data shall be deleted, unless otherwise established by a special act.

Provisions laid out herein pertaining to the provision of personal data for usage shall also apply to the exchange of personal data between state bodies, unless otherwise established by a special act.

VI PERSONAL DATA TRANSFER ABROAD FROM THE REPUBLIC OF CROATIA

Article 13

Personal data filing systems or personal data contained in personal data filing systems may be transferred abroad from the Republic of Croatia for further processing only if the state or the international organization the personal data is being transferred to have adequately regulated the legal protection of personal data and have ensured an adequate level of protection.

Prior to transferring personal data abroad from the Republic of Croatia, the personal data filing system controller shall, in case of reasonable doubt that an adequate personal data protection system exists, or that the adequate level of protection is ensured, obtain an opinion regarding this issue from the Personal Data Protection Agency.

In the provision of Article 2 of the Act on Amendments to the Personal Data Protection Act (OG 118/06) which entered into force on 10 November 2006, in paragraph 2, after the words: "adequate personal data protection system" the following words are added: "or that the adequate level of protection is ensured".

An adequate level of protection provided by the state or the international organisation shall be assessed in relation to circumstances pertaining to the disclosure of personal data, particularly in regards to the type, purpose and processing time of the data, country to which the data is transferred, governing laws in that country, and the professional and safety measures applied in that country.

In the provision of Article 2 of the Act on Amendments to the Personal Data Protection Act (OG 118/06) which entered into force on 10 November 2011, a new paragraph 3 was added after paragraph 2.

By way of derogation from paragraph 1 of this Article, personal data forming part of personal data filing systems may be taken out of the Republic of Croatia to states or to international organisations which do not provide for an adequate level of protection within the meaning of paragraph 2 of this Article only in the following cases:

– if the data subject consents to the transfer of his/her personal data only for the purpose for which the he/she provided consent, or

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008, in paragraph 4, subparagraph 1 after the word: "consents" the following words are added: "only for the purpose for which the data subject provided consent".

– if the transfer is essential for protecting the life or the physical integrity of the data subject, or

– if the personal data filing system controller provides sufficient guarantees regarding the protection of privacy and the fundamental rights and freedoms of individuals, which might arise from contractual provisions, for which the Personal Data Protection Agency establishes that they comply with regulations in force governing personal data protection, or,

In the provision of Article 2 of the Act on Amendments to the Personal Data Protection Act (OG 118/06) which entered into force on 10 November 2011, a new paragraph 4 was added after paragraph 3.

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 41/08 which entered into force on 17 April 2008, in paragraph 4, subparagraph 3 the period is replaced by a comma, and the following word is added: "or".

- if the transfer of data is necessary for the execution of contract between the personal data filing system controller and the data subject, or for the implementation of pre-contractual measures undertaken upon data subject's request, or

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008, a new subparagraph 4 was added in paragraph 4.

- if the data transfer is necessary for the conclusion or execution of a contract between the personal data filing system controller and a third person, and which is in the interest of the data subject, or

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008, a new subparagraph 4 was added in paragraph 5.

- if the data transfer is necessary or determined by law for protecting public interest or to establish, obtain or protect the claims prescribed by law, or

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008, a new subparagraph 4 was added in paragraph 6.

- if data is transferred from records the purpose of which, based on the law or another regulation, is to provide public information, and which is available to the public or to any person who can prove a legal interest in it, data may be transferred to the point to which requirements determined for review in a particular case have been prescribed by law.

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008, a new subparagraph 7 was added in paragraph 4.

Article 13.a

The Personal Data Protection Agency shall inform the European Commission and bodies authorised for supervision of personal data protection in European Union Member States about cases where it is considered that a third country does not provide an adequate level of personal data protection, as stipulated by Article 13, paragraph 3 herein.

If the European Commission determines that the third country does not ensure an adequate level of personal data protection, the Personal Data Protection Agency shall prohibit the transfer of personal data from the Republic of Croatia to that country.

If the European Commission determines that the third country ensures an adequate level of personal data protection, the Personal Data Protection Agency shall act in accordance with such a decision of the European Commission.

The Personal Data Protection Agency shall inform the European Commission and bodies authorised for supervision of personal data protection in European Union Member States about cases in which it approved the transfer of personal data from the Republic of Croatia according to Article 13, paragraph 4, subparagraph 3 herein.

In cases from paragraph 4 of this Article, the Personal Data Protection Agency shall act in accordance with the decision of the European Commission.

In the provision of Article 10 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new Article 13a was added after Article 13.

VII PERSONAL DATA FILING SYSTEMS, RECORDS AND THE CENTRAL REGISTER

Article 14

The personal data filing system controller shall create and maintain records for each personal data file, containing the basic information about the filing system and in particular the following:

1. filing system title,
2. title or name of the filing system controller and his/her seat and address,
3. processing purpose,
4. legal basis for establishing the filing system,
5. categories of persons to whom the data relates,
6. types of data contained in the filing system,
7. methods of data collection and storage,
8. periods of storage and usage for such data,
9. name or title of the filing system recipient, his/her address and seat,
10. an indication of whether data was transferred to or from the Republic of Croatia, indicating the state or international organization and foreign recipient of such personal data, and the purpose of this transfer to Croatia or from Croatia based on an international agreement, act or other regulation, or on a written consent of the person to whom this data refers to,
11. an indication of which personal data protection measures were undertaken.

Article 15

A government regulation shall prescribe the method of maintaining records referred to in Article 14 herein, as well as the form of such records, upon obtaining an opinion on this issue from the Personal Data Protection Agency.

Article 16

Personal data filing system controllers shall submit records referred to in Article 14 herein to the Personal Data Protection Agency at the latest within 15 days from the date the personal data filing system is created. Records shall be compiled in the Central Register of the Personal Data Protection Agency.

In the provision of Article 11 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2008, Article 1 was amended.

Records on personal data filing systems maintained by the authorised state bodies within the framework of personal data processing activities for the purposes of state security, defence and the prevention of occurrences determined in the National Security Strategy of the Republic of Croatia as security risks (corruption, organized crime, terrorism) do not have to be compiled in the Central Register.

Article 16.a

Personal data filing system controllers employing up to five persons and personal data filing system controllers who appointed a personal data protection official, and had informed the Personal Data Protection Agency about it, are exempt from the obligation to submit records from Article 14 herein to the Central Register for data filing systems kept in accordance with regulations governing the field of labour law, if data from the data filing systems is not transferred abroad from the Republic of Croatia.

In the provision of Article 4 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2011, a new Article 16a was added after Article 16.

Article 17

Prior to the creation of a personal data filing system, personal data filing system controllers shall be under the obligation to submit to the Personal Data Protection Agency their notification of the planned creation of a personal data filing system together with data from Article 14 herein, as well as of any plans to further process such data, prior to initiating any processing activity.

The obligation to submit a prior notification to the Personal Data Protection Agency set out in paragraph 1 of this Article does not apply to the creation of personal data filing systems in cases when a special act determines the processing purpose, data or data categories to be processed, the category or categories of data subjects, the recipients or recipient categories to whom such data shall be disclosed to, and the time period during which such data shall be disclosed.

In cases from paragraph 2 of this Article, personal data filing system controllers are under the obligation to submit the data on the creation of personal data filing systems, as well as any data amendments concerning personal data filing systems to the Personal Data Protection Agency, at the latest within 15 days after such creation or amendments occur.

The public has access to the records in the Central Register.

The Personal Data Protection Agency shall publish the records from the Central Register on its website.

In the provision of Article 12 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 5, the words: "in the Official Gazette or in another adequate manner" are replaced by the words: "on its website".

Article 18

Personal data in personal data filing systems shall be adequately protected from accidental or deliberate abuse, destruction, loss, unauthorized alteration or access.

The personal data filing system controller and recipient shall undertake appropriate technical, staffing and organisational measures aimed at protecting personal data, necessary for the protection of personal data from accidental loss or destruction and from unauthorized access, unauthorized alterations, unauthorized dissemination and all other forms of abuse, and to determine the obligation of all persons entrusted with the processing of personal data to sign a confidentiality statement.

In the provision of Article 13 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 2, the words: "to maintain the confidentiality of this data" is replaced by the words: "to sign a confidentiality statement".

Protection measures must be proportionate to the nature of activities of the personal data filing system controller or the recipient, and to the contents of the personal data filing systems.

In the provision of Article 13 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new paragraph 3 was added after paragraph 2.

Article 18.a

A personal data filing system controller employing less than 20 persons may appoint a personal data protection official.

A personal data filing system controller employing more than 20 persons shall appoint a personal data protection official.

The appointment from paragraphs 1 and 2 of this Article shall be drawn up in writing.

The personal data filing system controller shall inform the Personal Data Protection Agency about the appointment of the personal data protection official within one month from the date the appointment decision was adopted.

The Personal Data Protection Agency shall keep a Register of Personal Data Protection Officials.

The personal data filing system controller shall make the official contact information of the personal data protection official publicly available on the official website or in another adequate manner.

A person against whom the process for the violation of duty *ex officio* or obligations is conducted, or on whom the sanction for the violation of duty *ex officio* or obligations was imposed, or on whom the sanction for the violation of the code of ethics or other rules of conduct prescribed by the employer was pronounced, shall not be appointed as a personal data protection official.

The personal data protection official shall conduct the following tasks:

- ensure legality of personal data processing by complying with provisions stipulated herein, and other regulations determining the field of personal data protection,
- remind the personal data filing system controller about the necessity to apply personal data protection regulations in planning or in conducting activities which may influence privacy issues and personal data protection,
- inform all persons working on personal data protection about their legal obligation to protect personal data,
- ensure the fulfilment of obligations from Articles 14 and 17 herein,
- ensure the exercise of data subject's rights from Articles 19 and 20 herein,
- cooperate with the Personal Data Protection Agency on implementing the supervision of personal data processing.

The personal data protection official shall consider as confidential all information and data learned while performing their official duties. This obligation shall continue after official duties of the personal data protection official have ended.

In the provision of Article 5 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2011, a new Article 18a was added after Article 18.

In the provision of Article 14 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2008, Article 18a was amended.

VIII RIGHTS OF THE DATA SUBJECT AND THE PROTECTION OF THESE RIGHTS

Article 19

The personal data filing system controller shall, at the latest within 30 days from receiving a request about it, provide the following to every data subject or his/her legal representatives or authorised persons:

1. deliver a confirmation as to whether or not data relating to the data subject is being processed,
2. provide the notice in an understandable form regarding information pertaining to him/her that is being processed, including its source,
3. allow access to the personal data filing system records and to personal data in the personal data filing system relating to the data subject, and allow the copying of such files,

4. deliver excerpts, certificates or printouts of the personal data held in the personal data filing system relating to the data subject, which must contain an indication of the purpose and legal basis for its collection, processing and usage,
5. deliver a printed copy containing the information on who obtained access to the data, for what purpose and on what legal basis regarding the personal data of the data subject,
6. provide information about the logic involved in any automatic processing of data concerning the data subject.

Article 20

Upon request of the data subject or that of his/her legal representatives or authorised persons, the personal data filing system controller shall complete, alter or delete personal data if this data is incomplete, inaccurate or outdated, and if their processing is not in accordance with provisions stipulated herein.

Independently of the data subject's request, whenever the personal data filing system controller determines that personal data is incomplete, inaccurate or outdated, he/she shall supplement or amend it.

The personal data filing system controller shall inform the person to whom the data relates and recipients of such personal data of any amendments, alterations or deletions of such personal data undertaken within 30 days.

Article 21

The data subject has the right to object to the processing of his/her personal data for the purposes of direct marketing, in which case the personal data relating to him/her shall not be processed for such purpose.

The personal data filing system controller shall inform the data subject in advance of any intent to process personal data for direct marketing purposes, and of the latter's right to object to such processing.

The data subject shall have the right to object to his/her personal data processing on legal grounds in cases from Article 7, paragraph 1, subparagraphs 6 and 7.

In cases when the objections of data subjects from paragraph 3 of this Article are justified, personal data shall not be processed further.

In the provision of Article 15 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, new paragraphs 3 and 4 were added after paragraph 2.

Article 22

All costs from Articles 19, 20, and 21 herein shall be borne by the personal data filing system controller, unless otherwise regulated by a special act.

Article 22.a

A decision entailing a legal effect or with a significant influence on the data subject, based exclusively on automated personal data processing intended for the assessment of certain

personal aspects of data subjects (like success at work, creditworthiness, reliability and alike) shall be permitted only:

a) if the adoption of such a decision is prescribed by law, which also ensures adequate protection of the data subject's rights,

b) if the decision was reached in relation to contract conclusion or execution which the data subject is a party to, on the condition that adequate protection of the data subject is ensured.

In the provision of Article 16 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new Article 22a was added after Article 22.

Article 23

The obligations and rights stipulated by provisions of Articles 9 and 19 herein may be restricted in the way and under conditions established by special acts if deemed necessary for the protection of state security, defence and public safety; for the prevention, investigation, detection or persecution of any criminal act or breaches of codes of ethics for regulated professions; for the protection of important economic or financial interests of the state (including monetary, budgetary and tax issues), and for the protection of data subjects or the rights and freedoms of others, within the scope necessary for the fulfilment of purposes for which the limitation in question was determined.

In the provision of Article 17 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 1, after the words: "financial interests of the state", the comma is deleted and the following words added: "(including monetary, budgetary and tax issues), and the words: "cultural assets" are deleted.

The obligations and rights stipulated by provisions of Articles 19 and 20 herein may be restricted by special acts in case personal data is processed exclusively for the purpose of scientific research or for the purpose of establishing statistics, and stored for a longer period to be used exclusively for statistical purposes.

Article 24

A person who considers that any of his/her rights guaranteed by this Act have been violated may submit a request to establish the violation of rights to the Personal Data Protection Agency.

The Personal Data Protection Agency shall issue a decision regarding the request of the rights violation.

The Agency Decision shall be regarded as an administrative act.

An appeal against the decision of the Personal Data Protection Agency shall not be permitted, however administrative proceedings may be initiated.

Article 25

Upon request of a person asking for the protection of his/her rights, the Personal Data Protection Agency may issue a temporary ruling prohibiting the processing of data in question until the finality of proceedings.

An appeal against the ruling from paragraph 1 of this Article shall not be permitted, however administrative proceedings may be initiated.

Article 26

The personal data filing system controller shall be responsible for any damages suffered by the data subject as a result of the personal data processing contrary to this Act, in accordance with general regulations regarding the compensation of damages.

The data subject shall be entitled to the compensation of damages from the personal data filing system controller in cases of unauthorized usage, or unauthorized disclosure of his/her personal data for usage by other recipients, or natural or legal persons.

The competent court for the right to the compensation of damages from paragraphs 1 and 2 of this Article shall be a court of general jurisdiction.

IX SUPERVISION OF PERSONAL DATA PROCESSING

Article 27

For the purposes of supervising the work of personal data processing, Croatian Personal Data Protection Agency (hereinafter: Agency) shall be established by this Act.

The Agency shall be a legal person.

The Agency seat shall be in Zagreb.

Article 28

In carrying out its activities as stipulated by this Act, the Agency shall be independent and shall be responsible to the Croatian Parliament.

Resources for the Agency operation shall be secured from the state budget of the Republic of Croatia.

The organization and operation of the Agency shall be regulated by the Agency Statute, endorsed by the Croatian Parliament.

Article 29

The Agency shall be run by the director appointed and revoked by the Croatian Parliament upon proposal of the Government of the Republic of Croatia.

The director shall have a deputy director.

The deputy director shall be appointed and revoked by the Croatian Parliament upon proposal of the Government of the Republic of Croatia.

The Agency director and deputy director shall professionally conduct their tasks in the Agency.

The director and the deputy director shall be Croatian citizens with a university degree and at least ten years of work experience.

The Agency director and deputy director shall be appointed for a period of four years with the possibility of reappointment.

Provisions of the Act on Rights and Obligations of Civil Servants shall apply to the Agency director and deputy director.

The salary of the Agency director and deputy director shall correspond to that of a director of a state administration agency and a deputy director of a state administration agency, respectively.

Article 30

The Agency shall have its own professional service.

General employment regulations shall apply to the employees of the Agency's professional service.

Article 31

The Agency shall submit a report regarding its operation to the Croatian Parliament upon its request and at least once a year.

In its report, the Agency shall provide a comprehensive analysis of the situation in the field of personal data protection, of the procedures initiated based on this Act, of the measures undertaken, and of the facts about the level of civil rights protection in personal data processing.

The Agency report shall be public and shall be published on the Agency website.

In the provision of Article 18 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new paragraph 3 was added after paragraph 2.

Article 32

The Agency shall conduct the following activities as its public tasks:

- supervise the implementation of personal data protection,
- indicate the violations noted during personal data collection,
- compile a list of national and international organizations which have adequately regulated personal data protection,
- resolve requests to determine possible violations of rights guaranteed by this Act,
- maintain the Central Register.

The Agency may publish significant decisions in the Official Gazette of the Republic of Croatia, or on the Agency's website.

In the provision of Article 19 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 2, after the words: "Official Gazette", the comma is deleted and the following words added: "or on the Agency's website".

The Agency shall supervise the implementation of personal data protection upon request of the data subject, upon proposal of a third party or *ex officio*.

The Agency shall be under the obligation to analyse all requests pertaining to possible rights violations during personal data processing, and inform the requesting party about the measures undertaken.

The Agency shall have the right to access personal data stored in the personal data filing system, regardless of whether records of these files are kept within the Central Register or not, it shall have the right to access files and other documentation pertaining to personal data processing, as well as to electronic data processing, and shall have the right to collect all information necessary for carrying out its supervisory tasks.

In the provision of Article 19 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 5, after the words: "supervisory tasks" the comma is replaced by the period, and the words "regardless of the confidentiality level" are deleted.

The personal data filing system controller, recipient or processing official shall be under the obligation to allow the Agency access to files and other documentation, as well as to electronic data processing, and shall submit the requested files and other documentation to the Agency.

In the provision of Article 19 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force in 2011, a new paragraph 6 was added after paragraph 5.

The personal data filing controller, recipient or processing official shall allow the Agency access to files and other documentation, as well as to electronic processing means, and shall submit the requested files and other documentation based on a written request of the Agency.

In the provision of Article 19 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force in 2011, the existing subparagraph 6 becomes subparagraph 7.

Article 33

In addition to the tasks referred to in Article 32 herein, the Agency shall conduct the following activities:

- monitor the regulation of personal data protection in other countries and cooperate with competent bodies authorised for personal data protection in other countries,
- monitor the transfer of personal data abroad from the Republic of Croatia,
- develop methodological recommendations for the advancement of personal data protection, and forward them to personal data filing system controllers,
- offer advice regarding the creation of new personal data filing systems, particularly when new information technology is introduced,
- provide its opinion, in case of ambiguity, whether a certain personal data set is considered to be a personal data filing system within the meaning of this Act,
- monitor the application of organizational and technical measures aimed at data protection, and propose improvements of these measures,

- issue proposals and recommendations regarding the advancement of personal data protection,
- cooperate with competent state bodies in preparing draft regulations regarding personal data protection,
- after receiving a notice of the personal data filing system controller about it, provide its opinion as to whether certain ways of personal data processing represent specific risks for the rights and freedoms of data subjects. In case of doubt that specific risks might exist, the personal data filing system controller must request the Agency's opinion,
- conduct other activities as defined by law.

Article 34

If the Agency determines during supervision that legal provisions establishing personal data processing have been violated, it shall be entitled to warn or notify the personal data filing system controller, recipient and processing official about the irregularities in the personal data processing and issue a decision:

In the provision of Article 3 of the Act on Amendments to the Personal Data Protection Act (OG 118/06) which entered into force on 10 November 2006, in paragraph 1, after the words: "personal data filing system controller", the comma is added, followed by the words: "recipient and processing official".

- ordering that irregularities be eliminated within a certain time period,
- temporarily prohibiting the collection, processing and usage of personal data being collected, processed or used contrary to the relevant legal provisions,
- ordering erasure of personal data collected without a legal basis,
- prohibiting the transfer of personal data abroad from the Republic of Croatia or allowing the provision of personal data to other recipients if such data is transferred abroad from the Republic of Croatia, or provided to other recipients contrary to provisions stipulated by this Act,
- prohibiting the assignment to collect and process personal data to processing officials who do not fulfil the requirements prescribed for personal data protection, or where the assigning of these tasks has been conducted contrary to provisions stipulated by this Act.

An appeal against the Agency ruling from the previous paragraph shall not be permitted, however administrative proceedings may be initiated.

In addition to measures from paragraph 1 of this Article the Agency may propose to initiate criminal or misdemeanour proceedings at a competent authority.

Article 35

The Agency director, deputy director and employees of the Agency's professional service shall consider all personal and other confidential data learned while performing their professional duties as confidential, or as another relevant type of confidential information, all in accordance with the act establishing data confidentiality.

The obligation from paragraph 1 of this Article shall continue to apply after the Agency director and deputy director cease to perform their duties, or upon their termination of employment in the Agency's professional service.

X CRIMINAL PROVISIONS

Article 36

A fine of HRK 20,000.00 to 40,000.00 shall be charged for the following violations:

1. if a processing official exceeds his/her authority or collects personal data for a purpose other than that agreed, or discloses them for usage to other recipients or does not ensure the implementation of appropriate personal data protection measures (Article 10, paragraph 3),
2. if a personal data filing system controller provides personal data for usage contrary to provisions of Article 11 herein,

In the provision of Article 6 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008, a new item 2 was added after item 1.

3. if a personal data filing system controller fails to keep records containing the basic information about the personal data filing system, or if such records are incomplete (Article 14),
4. if a personal data filing system controller does not submit the records on personal data sets to the Personal Data Protection Agency in the prescribed term (Article 16, paragraph 1),
5. if a personal data filing system controller does not submit a prior notice on the intended creation of a personal data filing system, or on any further intention to process this data (Article 17, paragraph 1),
6. if a personal data filing system controller or the recipient fail to ensure adequate personal data protection (Article 18),

In the provision of Article 20 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, new items 4 and 5 were added after item 3, and the existing item 4 becomes item 6.

7. if a personal data filing system controller who employs more than 20 persons does not appoint a personal data protection official (Article 18, paragraph 2),

In the provision of Article 20 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new item 7 was added.

8. if a personal data filing system controller does not, upon request of the data subject, supplement, amend or delete incomplete, incorrect or obsolete data (Article 20, paragraph 1),

In the provision of Article 20 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, a new item 8 was added.

9. if the personal data filing system controller, the recipient or processing official prevent the Agency from conducting activities referred to in Article 32, paragraphs 5, 6 and 7 herein,

In the provision of Article 20 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2008, in the existing item 5, which

becomes item 9 the words: "subparagraphs 5 and 6" are replaced by "subparagraphs 5, 6 and 7".

10. if the personal data filing system controller or processing official fail to respect an order or a prohibition issued by the Agency (Article 34, paragraph 1),

In the provision of Article 4 of the Act on Amendments to the Personal Data Protection Act (OG 118/06) which entered into force on 10 November 2006, in item 5, after the words: "personal data filing system controller", the comma is added, followed by the word: "recipient".

In the provision of Article 20 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, the existing item 6 becomes item 10.

11. if the Agency director, deputy director and employees of the Agency's professional service disclose confidential data they came across while performing their duties (Article 35).

In the provision of Article 6 of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2011, existing items 2 and 6 become items 3 and 7.

In the provision of Article 20 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, the existing item 7 becomes item 11.

The person responsible within the legal person, or in the state administration body and in the local and regional self-government unit shall also be fined for the violations from paragraph 1 of this Article in the amount of HRK 5,000.00 to 10,000.00.

In the provision of Article 20 of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011, in paragraph 2, after the words: "within the legal person" a comma is added, followed by the words: "or in the state administration body and in the local and regional self-government unit".

XI TRANSITIONAL AND FINAL PROVISIONS

Article 37

The Government of the Republic of Croatia shall submit a proposal for the appointment of the Agency director and deputy director to the Croatian Parliament within 60 days from the date this Act enters into force.

The Agency shall adopt its Statute within 30 days after the appointment of the Agency director, and submit it for endorsement to the Croatian Parliament.

Article 38

The Government of the Republic of Croatia shall adopt regulations referred to in Article 8, paragraph 4, and Article 15 herein within six months following the entry into force of this Act.

Article 39

The personal data filing systems and records established prior to the entry into force of this Act shall be harmonized with provisions stipulated by this Act within a year from the date this Act enters into force.

Personal data filing system controllers shall submit the records referred to in Article 14 herein to the Agency within 18 months from the date this Act enters into force.

Article 40

This Act shall enter into force eight days after its publication in the Official Gazette.

TRANSITIONAL AND FINAL PROVISIONS

of the Act on Amendments to the Personal Data Protection Act (OG 118/06) which entered into force on 10 November 2006.

Article 5

This Act shall enter into force eight days after its publication in the Official Gazette.

TRANSITIONAL AND FINAL PROVISIONS

of the Act on Amendments to the Personal Data Protection Act (OG 41/08) which entered into force on 17 April 2008.

Article 7

This Act shall enter into force eight days after its publication in the Official Gazette.

TRANSITIONAL AND FINAL PROVISIONS

of the Act on Amendments to the Personal Data Protection Act (OG 130/11) which entered into force on 24 November 2011.

Article 21

In the entire Personal Data Protection Act (OG 103/03, 118/06 and 41/08), the word: "user" is replaced by the word "recipient" in the adequate case and number.

Article 22

This Act shall enter into force on the eighth day after the date of its publication in the Official Gazette, with the exception of provisions from Article 10 herein, which shall enter into force on the date of accession of the Republic of Croatia to the European Union.