

# NATIONAL COUNCIL OF THE SLOVAK REPUBLIC

Act No. 122/2013 Coll. on Protection of Personal Data and on Changing and Amending of other acts, resulting from amendments and additions executed by the Act. No. 84/2014 Coll.

The National Council of the Slovak Republic has approved the following Act:

## **PART ONE BASIC PROVISIONS**

### **Object and Operation**

#### Section 1

This Act regulates

- a) protection the rights of natural persons against wrongful interference with their private life in connection with the processing of their personal data
- b) rights, duties and liability in connection with personal data processing
- c) establishment, scope of powers and organization of the Office for Personal Data Protection of the Slovak Republic (hereinafter the “Office”).

### **Field of Application**

#### Section 2

(1) This Act applies to everyone who processes personal data, determines the purpose and means of processing or provides personal data for processing.

(2) This Act also applies to the controllers, which do not have a registered office, organizational unit, business premises or permanent residence on the territory of

- a) the Slovak Republic but they are located abroad at a place, where the law of the Slovak Republic takes precedence based on an international public law,
- b) a Member State, provided that for the purposes of personal data processing they use fully or partially automated means or other than automated means of processing located on the territory of the Slovak Republic, while such means of processing are not used solely for the transfer of personal data through the territory of the Member States; in such case the controller shall proceed pursuant to Section 7.

(3) This Act applies to personal data systematically processed by fully or partially automated means of processing or by other than automated means of processing, which constitute a part of a filing system or are intended for the processing in a filing system.

#### Section 3

(1) Provisions of Section 6 Paragraphs 2 to 5, Section 8 Paragraph 5, Section 15 Paragraphs 1, 2 and 8, Section 28 Paragraph 1 and Section 44 shall not apply to the processing of personal data necessary for safeguarding of the public interest, provided that the controller fulfils the obligations expressly stipulated by a special Act determined for safeguarding of

- a) security of the Slovak Republic<sup>1)</sup>,

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<sup>1</sup> E.g. Act of the National Council of the Slovak Republic No. 46/1993 Coll. on Slovak Intelligence Service, as amended; constitutional Act No. 227/2002 Coll. on National Security in Time of War, State of War, Exceptional

- b) defence of the Slovak Republic<sup>2)</sup>,
- c) public policy and security<sup>3)</sup>,
- d) prevention, preclusion, detection and documentation of criminal offences, identification of their perpetrators, investigation and prosecution of perpetrator of criminal offences<sup>4)</sup>,
- e) detection of violations of ethical codex in regulated professions and regulated specialized activities<sup>5)</sup>,
- f) important economic or financial interests of the Slovak Republic or the European Union, including monetary, budgetary and tax matters<sup>6)</sup>,
- g) inspection, surveillance, supervision or regulatory function connected with exercise of official authority in cases referred to in Points c) to f) or
- h) protection of the data subject or of the rights and freedoms of others.

(2) This Act shall not apply to personal data,

- a) processed by the natural person for his own needs within the framework of purely personal or household activities, mainly the keeping of a personal address book or correspondence,
- b) which were obtained accidentally without prior determination of the purpose and means of processing, without the intent of their further processing in an organized system according to special criteria and which are not further systematically processed.

(3) This Act shall not affect the right to privacy<sup>7)</sup>.

## Section 4

### Definition of Basic Terms

(1) Personal data shall mean any information relating to an identified or identifiable natural person, while such person is one who can be identified, directly or indirectly, in particular by reference to an identifier of general application or by reference to one or more characteristics or factors specific to his physical, physiological, psychic, mental, economic, cultural or social identity.

(2) For the purposes of this Act:

- a) data subject shall mean any natural person, whose personal data are regarded to,
- b) controller shall mean everyone who alone or jointly with others determines the purposes and means of personal data processing, determines the conditions of their processing and processes personal data on their own behalf; if the purpose, perhaps even conditions of personal data processing are set out by a special Act, directly enforceable legally binding act of the European Union or international treaty which the Slovak Republic is bounded by, the controller is anyone who in fulfilment of purpose of personal data processing is appointed as

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State and State of Emergency, as amended; Act No. 387/2002 Coll. on Management of the State in Crisis Situations outside Time of War and State of War, as amended; Act No. 215/2004 Coll. on Protection of Classified Information and on Changing and Amending of other Acts.

<sup>2</sup> E.g. Act No. 319/2002 Coll. on Defence of the Slovak Republic, as amended; Act No. 321/2002 Coll. on Military of the Slovak Republic, as amended; Act No. 179/2011 Coll. on Economic Mobilisation and amendment of the Act No. 387/2002 Coll. on Management of the State in Crisis Situations outside Time of War and State of War, as amended..

<sup>3</sup> E.g. Act of the Slovak National Council No. 564/1991 Coll. on Municipal Police, as amended; Act of the National Council of the Slovak Republic No. 171/1993 on Police Force, as amended.

<sup>4</sup> E.g. Criminal Procedure, as amended; Act No. 297/2008 Coll. on Protection Against Money Laundering and on Protection against Terrorist Financing and on Changing and Amending of other Acts, as amended.

<sup>5</sup> Section 2 Paragraph b) of the Act No. 293/2007 Coll. on Recognition of Professional Qualifications, as amended.

<sup>6</sup> E.g. Act No. 523/2004 Coll. on Budgetary Rules of Public Administration and on Changing and Amending of Other Acts, as amended; Act No. 563/2009 Coll. on Administration of Taxes (Tax Code) and on Changing and Amending of Other Acts, as amended.

<sup>7</sup> Sections 11 to 16 of the Civil Code, as amended.

- the controller or who fulfils the conditions set by Act, directly enforceable legally binding act of the European Union or international treaty, which the Slovak Republic is bounded by,
- c) representative of the controller shall mean everyone, who represents the controller with registered office, organizational unit, business premises or permanent residence on the territory of a third country within the territory of the Slovak Republic,
  - d) processor shall mean everyone, who processes personal data on behalf of the controller in the extent and by conditions negotiated with the controller by the agreement in writing under Section 8 and in accordance with this Act,
  - e) entitled person shall mean any natural person that comes into contact with personal data within the framework of his employment relationship, civil service employment relationship, civil service relationship, membership, based on authorization, election or appointment or within the framework of performance of a public office, who may process personal data in the extent and by means included in the instruction under Section 21,
  - f) third party shall mean any entity other than the data subject, the controller providing personal data or the controller's representative, his processor or entitled person,
  - g) recipient shall mean everyone to which the personal data were provided or made available, whereby the third party can also be recipient; the controller authorized to process personal data under Section 3 Paragraph 1 Point g) and the Office fulfilling the tasks stipulated by this Act are not be deemed a recipient.

(3) For the purposes of this Act:

- a) processing of personal data shall mean any operation or set of operations which is performed upon personal data mainly their obtaining, collecting, distributing, recording, organization, adaptation or alteration, retrieval, consultation, alignment, combination, transfer, usage, storage, blocking, destruction, their cross-border flows, provision, making available or disclosure; some of the personal data operations according to first sentence shall mean
  - 1. provision of personal data submitting personal data to the third party, which processes them further,
  - 2. making personal data available disclosing of personal data or making them available to a recipient, who does not process them further,
  - 3. disclosing personal data shall mean publication or displaying of personal data in public by means of the mass media, publicly accessible computer networks, creating or exhibiting a piece of work in public,<sup>8)</sup> public announcement, presenting on a public list, register or file,<sup>9)</sup> their placing on an official board or other publicly accessible places,
  - 4. cross-border flows transfer of personal data the transfer of personal data outside the territory of the Slovak Republic and into the territory of the Slovak Republic,
  - 5. destruction of personal data shall mean liquidation of personal data by breaking them down, erasing them or by physically destroying material carriers in the manner precluding reproduction of personal data,
  - 6. blocking of personal data temporary or permanent interruption of their processing during which only those operations that are necessary to fulfil the obligations set by this Act are permitted,
- b) filing system of personal data a system, in which any organized personal data file available pursuant to given criteria is being processed or shall be processed according to previously specified or determined purpose, disregarding the fact whether the system is centralised, decentralized or dispersed on a functional or geographical basis (hereinafter "filing system"); the filing system for the purpose of this Act shall also mean file of personal data,

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<sup>8</sup> Section 13 of the Act No. 618/2003 Coll. on Copyright and Rights related to Copyright (the Copyright Act), as amended.

<sup>9</sup> E.g. The Sections 27 to 34 of the Business Code, as amended; Sections 8 to 68 of the Act of the National Council of the Slovak Republic No. 162/1995 Coll. on Cadastre and Registration of Ownership and Other Rights to Real Estate (Cadastre Act), as amended.

- which is being processed while using automated, partially automated or other than automated means of processing,
- c) purpose of personal data processing shall mean the aim of personal data processing that was previously, explicitly specified or determined and is connected with certain activities,
  - d) data subject's consent shall mean any freely given, explicit and intelligible expression of his will by which the data subject, based on provided information, signifies his agreement to the processing of his personal data,
  - e) conditions of the personal data processing shall mean the means and manner of the processing of personal data , as well as other requirements, criteria or instructions concerning the processing of personal data or taking of the actions serving for achieving the purpose of the processing, whether prior to the personal data processing or in the course of their processing,
  - f) biometric data shall mean personal data of the natural person that specifies his biological or physiological characteristic, based on which the natural person is unambiguously and unmistakably identifiable; biometric data is especially fingerprint, palm print, analysis of DNA,
  - g) identifier of general application shall mean a permanent identification personal data of the data subject securing his definiteness in filing systems,
  - h) address shall mean a set of data concerning the residence of a natural person, including the name of the street, house number, registration number of house, name of municipality, if appropriate name of a municipality part, postal code, name of district, name of state,
  - i) anonymised data shall mean personal data adjusted in such manner that it cannot be matched with the concerned data subject,
  - j) premises accessible to public shall mean premises that are possible to enter freely and in which it is possible to remain within without time restrictions or in a permitted time whereby other restrictions, if present and are met by the person have no effect on entering and free movement in such premises, or it is premises defined as such by special Act,
  - k) Member State shall mean a State which is a Member State of the European Union or a party of the Agreement on the European Economic Area,
  - l) third country shall mean a country which is not a member of the European Union or a party of the Agreement on the European Economic Area,
  - m) public interest shall mean an important interest of the State pursued in the exercise of public authority which overrides the legitimate interest of the natural person or several natural persons and without pursuing of which extensive or irrecoverable damages could be caused.

## **PART TWO**

### **RIGHTS, OBLIGATIONS AND RESPONSIBILITY IN THE PROCESSING OF PERSONAL DATA**

#### **CHAPTER ONE PRINCIPLES OF THE PROCESSING OF PERSONAL DATA**

##### **Section 5**

(1) Personal data may be processed only in the manner pursuant to this Act and within its borders thus causing no harm to fundamental rights and freedoms of data subjects, mainly to their right to preserve human dignity or other unjustified interference to their right of privacy.

(2) Personal data may be processed only by a controller or a processor.

(3) The controller for the purpose of personal data processing in the criminal records registry according to a special Act<sup>10)</sup> may be a state authority established by an Act.<sup>11)</sup>

## Section 6

### Controller

(1) Personal data may be processed on its own behalf only by the controller. The controller processes personal data pursuant to Section 9, in the manner which is pursuant to morality and only pursuant to specified or determined purpose.

(2) The controller shall be obliged to

- a) determine the purpose of personal data processing before commencement of the processing of personal data; the purpose of personal data processing has to be determined unambiguously and concretely and has to be in accordance with the Constitution of the Slovak Republic, constitutional Acts, Acts and international treaties which the Slovak Republic is bounded by,
- b) determine the conditions of the processing of personal data so that no harm comes to the data subject's rights pursuant to Law,
- c) obtain personal data solely for a defined or determined purpose; obtaining of personal data under the pretext of a different purpose or activity shall be inadmissible,
- d) ensure that only such personal data are processed, the extent and contents of which correspond with the purpose of their processing and are necessary for its achieving,
- e) ensure that personal data are processed and used solely in the manner adequate to the purpose for which they were collected; combining of personal data obtained for various purposes shall be inadmissible,
- f) process only accurate, complete and, where necessary, updated personal data in respect of the purpose of their processing; the controller shall be obliged to block inaccurate and incomplete personal data and rectify or complete them without undue delay; inaccurate or incomplete personal data that cannot be rectified or completed in order to make them accurate and complete shall be clearly marked by the controller and destroyed without undue delay,
- g) ensure that collected personal data are processed in the manner enabling identification of the data subjects only during a time period necessary for achieving the purpose of processing,
- h) destroy personal data whose purpose of processing terminated; personal data may be further processed also after the termination of the purpose of the processing only under conditions stipulated in Paragraph 5,
- i) process personal data in accordance with morality and act in a manner not contrary to Law.

(3) The controller shall be exempted from the obligation under Paragraph 2 Point a) only if the purpose of the processing of personal data is stipulated by a special Act in accordance with conditions referred under Paragraph 2 Point a). The controller shall be exempted from the obligation to determine the conditions and manner of the processing of personal data under Paragraph 2 Point b) only if they are stipulated by a generally binding legal regulation. The controller shall be obliged to fulfil the rest of the obligations under Paragraph 2 Points c) to i) also in the course of the processing of personal data pursuant to a special Act; this shall not affect the provision under Section 10 Paragraph 4 the first sentence.

(4) The controller cannot process collected personal data pursuant to a different purpose that is incompatible with the original purpose of the processing.

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<sup>10</sup> Act No. 330/2007 Coll. on Criminal Registry and on Changing and Amending of other Acts, as amended.

<sup>11</sup> Section 40 Paragraph 2 Point d) of the Act No. 153/2001 Coll. on the Prosecution, as amended.

(5) Processing of collected personal data in the course of previously determined purpose and after its termination is admissible in the necessary extent for the historical research, scientific research or statistical purposes which shall not be deemed incompatible with the original purpose of processing. The controller shall not use the processed personal data to support measures or actions taken against the data subject and against interests of data subject and as restriction of data subject's rights and freedoms. In the course of personal data processing for the purposes pursuant to the first sentence, the controller shall mark, anonymise them if it allows achieving the purpose of processing and destroy them immediately as they become obsolete.

## Section 7

### **Controller's Representative**

(1) The controller that prepares the processing of personal data under Section 2 Paragraph 2 Point b) shall be obliged to appoint its representative with registered office, place of business or permanent residence on the territory of the Slovak Republic prior to the commencement of personal data processing.

(2) The controller's representative shall be obliged to keep the original of the document establishing its appointment as representative of the controller and to demonstrate it to the Office at any request. The authenticity of signatures and the print of controller's stamp on the original shall be officially certified.

(3) The provisions of this Act about the controller shall apply to the controller's representative accordingly.

## Section 8

### **Processor**

(1) The controller is entitled to entrust the processing of personal data upon a processor based on a written agreement. The consent of data subject shall not be required for the purpose of delegation of the personal data processing to the processor according to the first sentence.

(2) While selecting the processor, the controller shall take into consideration professional, technological, organisational and personal skills and its competence to ensure security of the processing of personal data by measures pursuant to Section 19 Paragraph 1. The controller shall not entrust the processing of personal data to the processor if that could present a risk to the rights and law protected interests of data subjects.

(3) The controller shall be obliged to conclude an agreement pursuant to Paragraph 1 before commencement of the processing of personal data, on the day of the commencement of personal data processing at latest. The processor shall be entitled to process personal data only in the extent and under the conditions agreed upon with the controller in the agreement and in the manner pursuant to this Act.

(4) The agreement pursuant to Paragraph 3 shall include

- a) data on contracting parties (hereinafter "identification data")
  1. title, name, surname, date of birth and permanent residence in case of natural person,
  2. name, corporate form, address of registered office and identification number in case of legal person,
  3. business name, place of business and identification number in case of natural person – entrepreneur

- b) date of processor's authorization to commence the processing of personal data on behalf of the controller,
- c) purpose of the processing of personal data ,
- d) name of the filing system,
- e) list of personal data to be processed; the list of personal data may be substituted with the scope of the personal data under Section 10 Paragraph 4,
- f) sphere of data subjects,
- g) conditions of the processing of personal data including list of permitted operations with personal data,
- h) controller's declaration that he followed provisions under Paragraph 2 in the process of the selection of processor,
- i) controller's consent with personal data processing by processor at the hand of a different person, if such procedure is under Paragraph 5,
- j) duration upon which the contract is concluded,
- k) date of the contract conclusion and the signatures of contract parties

(5) The processor exercises personal data processing in person, unless it is stipulated in the written agreement with the controller that the processing of personal data will be exercised at the hand of a different person (hereinafter "sub-processor"). The sub-processor processes personal data and provides their protection on processor's liability. Provisions of this Act about the processor are also relevant for the sub-processor. The Office considers the sub-processor as the processor.

(6) If the controller tasked the processor with the processing after acquiring personal data he shall be obliged to inform the data subjects of this fact during the first contact with them; however, not later than three months from the day of tasking the processor. This shall also apply when the processing of personal data is taken over by a legal successor of the controller.<sup>12)</sup> The controller shall not be obliged to inform the data subject pursuant to the first sentence, if he proceeded according to Paragraph 7 in the same period.

(7) The processor shall be obliged to inform the data subject at any time that he processes personal data on behalf of the controller for defined or determined purpose at the first contact with the data subject, unless otherwise stipulated by this Act.

(8) The processor shall be obliged to follow obligations imposed on the controller under Section 5 Paragraph 1, Section 6 Paragraph 2 Points c) to i), Section 6 Paragraph 4, Sections 19 to 26, unless otherwise stipulated by this Act.

(9) Controller's obligations stipulated under Section 8 Paragraph 6, Sections 15 to 18 and Sections 28 to 32 can be exercised by the processor, if it was specifically agreed upon in the agreement with the controller under Paragraph 1.

(10) The processor is responsible for the performance of duties under Paragraph 9 in extent of the agreement agreed upon with the controller under Paragraph 1.

## **Legal basis of Personal Data Processing**

### **Section 9**

(1) The controller shall process personal data only pursuant to directly enforceable legally binding act of the European Union, an international treaty, which is binding for the Slovak Republic, provisions of this or any special Act or pursuant to the data subject's consent.

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<sup>12</sup> Section 69 of the Business Code, as amended.

(2) The processor shall process personal data pursuant to directly enforceable legally binding act of the European Union, an international treaty, which is binding for the Slovak Republic, the provisions of this or any special Act or pursuant to the data subject's consent only in the extent and under the conditions agreed upon with the controller in a written agreement under Section 8 Paragraph 1.

## Section 10

### **Processing of Personal Data without the Data Subject's Consent**

(1) The controller shall process personal data without the consent of the data subject if the purpose of the processing of personal data, group of data subjects and the list of personal data or their scope pursuant to Paragraph 4 is stipulated in directly enforceable legally binding act of the European Union, an international treaty, which is binding for the Slovak Republic, or this Act. If the list or scope of personal data is not defined, the controller shall process personal data only in the extent and in the manner, which is necessary to achieve the determined purpose of processing in compliance with obligations under Section 6 Paragraph 2 Points c) to f) and i).

(2) The controller shall further process personal data without the data subject's consent if the purpose of the processing of personal data, group of data subjects and the list of personal data is stipulated in a special Act.<sup>13)</sup> The controller shall process personal data only in the extent and in the manner stipulated by a special Act. The processed personal data may be provided, made available or disclosed in the filing system only if a special Act stipulates the purpose of provision, making available or disclosure, a list of personal data that may be provided, made available or disclosed, as well as the third parties to which personal data are provided or a group of recipients to which personal data are made available, unless otherwise stipulated by this Act.

- (3) The controller shall process personal data without the data subject's consent also, if
- a) processing of personal data is necessary for the purpose of artistic or literary works, for the purpose of informing the public by means of the mass media and if personal data are processed by the controller for whom it results from the scope of its activities; this shall not apply if by the processing of personal data for such purpose the controller violates the data subject's right to protection of his personal rights and privacy or if such processing of personal data without the consent of the data subject is excluded by a special Act or an international treaty binding for the Slovak Republic,
  - b) processing of personal data is necessary for the performance of a contract to which the data subject is party or in order to establish relations prior to entering a contract with the data subject or at the negotiation of alternation of a contract which are held on the request of the data subject,
  - c) processing of personal data is necessary for protection of life, health or property of the data subject,
  - d) subject of the processing is constituted solely by the title, name, surname and address of the data subject without a possibility of adding his other personal data and they are used solely for the controller's needs concerning the mail correspondence with the data subject and the keeping of records of such data; if the scope of the controller's activities is direct marketing, he may provide the above personal data, without a possibility of making them available and public only if they are provided to another controller whose scope of activities is also solely for the purposes of direct marketing and the data subject did not file an objection in writing under Section 28 Paragraph 3 Point c),

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<sup>13</sup> E.g. Act of the National Council of the Slovak Republic No. 40/1993 Coll. on the Citizenship of the Slovak Republic, as amended; Act No. 483/2001 Coll. on Banks and on Changing and Amending of other Acts, as amended; Act No. 305/2005 Coll. on Social and Legal Protection of Children and on Changing and Amending of other Acts, as amended; Act No. 400/2009 Coll. on Civil Service and on Changing and Amending of other acts, as amended.



- e) processed personal data have already been disclosed pursuant to Law and the controller properly marked them as disclosed; the person alleging to process personal data which have already been disclosed shall prove to the Office, upon its request, that the processed personal data have already been legally disclosed,
- f) processing of personal data is necessary for fulfilment of an important task carried out in public interest; or
- g) processing of personal data is necessary for the protection of rights and interests protected by law of the controller or the third party, mainly personal data processed in the scope of property protection, financial or other interests of the controller and personal data processed for the purposes of security of the controller via video cameras or similar systems; this shall not apply if fundamental rights and freedoms of data subject protected by this Act are predominant in such personal data processing.

(4) If individual personal data that are supposed to undergo the processing cannot be concretely determined in regard of personal data processing purpose stipulated in the directly enforceable legally binding act of the European Union, an international treaty, which is binding for the Slovak Republic, provisions of this or any special Act, a list of personal data under Paragraph 1 and 2 may be substituted with the scope of personal data; the controller shall be obliged in such personal data processing proceed pursuant to Section 6 Paragraph 2 Point d), with exception of those controllers who process personal data for the purpose of judicial proceedings and in connection with them. A list of third parties under Section 2 may be replaced by determining a group of third parties only in case that individual third parties to which personal data are to be provided cannot be specified in advance with respect to the nature of the matter, or if the third parties constitute a group of entities with the same scope of activities and if they process personal data for the same purpose, eventually if composition of such group is subject to a constant change.

## Section 11

### **Consent of Data Subject**

(1) Where Paragraph 10 does not apply to the processing of personal data the controller may process personal data only with the data subject's consent.

(2) If the controller processes personal data pursuant to Paragraph 1 and any doubts arise about the data subject's consent, the controller shall be obliged to credibly prove the Office that the data subject provides him with his consent.

(3) The controller may not force the data subject's consent or make it conditional with a threat of rejecting the contractual relation, service, goods or duty of the controller or the processor imposed by legally binding act of the European Union, an international treaty, which is binding for the Slovak Republic or the Law.

(4) The consent shall be proven by an audio or audio-visual recording or by an affidavit of the person that provided personal data to the filing system or by another reliable manner. The written consent shall be demonstrated by evidence that confirms a grant of the consent. The evidence of such consent shall be constituted above all by indication who gave the consent, to whom the consent is given, for what purpose, a list or extent of personal data and a validity term of the consent. A written consent without own signature of the person who gave the consent shall be invalid. The consent provided by means of qualified electronic signature shall be also considered as written consent.<sup>14)</sup>

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<sup>14)</sup> Section 4 of the Act No. 215/2002 on Electronic Signature and on Changing and Amending of Other Acts, as amended.

## Section 12

(1) Personal data of the data subject may be obtained from another individual and processed in the filing system only upon a prior written consent of the data subject. This shall not apply if by provision of the data subject's personal data to the filing system the other natural person protects his rights or interests protected by law or notifies of the facts justifying enforcing of the data subject's legal liability, or if personal data are processed pursuant to a special Act under Section 10 Paragraph 2. The person processing personal data in this manner must be able to prove to the Office, at any time upon its requests, that he obtained them in accordance with this Act.

(2) Personal data of the data subject may be provided from the filing system to another legal person or natural person only with a written confirmation on a given consent provided that this Act requires such consent; the person providing personal data in such manner may replace the written confirmation on the given consent by a written declaration of the controller stating that data subject gave his consent, provided that the controller is able to prove that the written consent of data subject has been given.

(3) The controller who is an employer of the data subject may disclose, provide or publish personal data in the extent of title, name, surname, job, service or administrative position, department, place of work, telephone number, fax number or electronic address of workplace and identification data of the employer if it is necessary for the fulfilment of job, service or administrative duties of the data subject. Disclosure, provision or publishing of personal data cannot violate respect, dignity and safety of the data subject.

(4) Personal data under Section 10 Paragraph 3 Point c) and under Section 14 Point c) may be processed without the consent of the data subject only if and until the reasons which prevented obtaining of the data subject's consent exist. If the reasons ceased to exist, the person processing the personal data shall provide the data subject's consent.

(5) The person intending to disclose personal data of the data subject cannot violate, by his conduct, the data subject's right to protection of personal rights and privacy; making personal data public cannot be contrary to legitimate interests of the data subject.<sup>7)</sup>

(6) If the data subject does not enjoy full legal capacity,<sup>15)</sup> a consent required under this Act may be provided by his legal representative.<sup>16)</sup>

(7) If the data subject does not live, the consent required under this Act may be provided by his close person.<sup>17)</sup> The consent shall not be valid if any close person expresses his disagreement in writing.

## Section 13

### **Special Categories of Personal Data**

(1) The processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, membership in political parties or movements, trade-union membership, and data concerning health or sex life shall be prohibited.

(2) In the processing of personal data, an identifier of general application stipulated by a special Act<sup>18)</sup> may be used for the purposes of identification of a natural person only if its use

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<sup>15</sup> Section 8 of the Civil Code as amended by Act No. 509/1991 Coll.

<sup>16</sup> Section 26 to 30 of the Civil Code as amended.

<sup>17</sup> Section 116 of the Civil Code.

is necessary for achieving the given purpose of the processing. The processing of a different identifier revealing characteristics of the data subject or disclosing of an identifier of general application shall be prohibited.

(3) Personal data relating to mental identity of a natural person or his mental capacity to work may only be processed by a psychologist or by a person entitled to it by a special Act.<sup>19)</sup>

(4) The processing of personal data relating to a breach of provisions invoking criminal liability or administrative liability may only be performed by a person entitled to it by a special Act.<sup>20)</sup>

(5) The controller shall be entitled to process biometrical data only if it is adequate for the purpose of processing and necessary for its achieving and if

- a) it expressly results for the controller from the Act,
- b) the data subject gave a written or other credibly proven consent to the processing,
- c) the processing of personal data is necessary for the performance of a contract under Section 10 Paragraph 3 Point b), or
- d) the processing of personal data is necessary for the purposes under Section 10, Paragraph 3 Point g)

(6) Adequacy, necessity and legal basis of biometric data processing under Paragraph 5 Points b) and d) is determined by the Office in the procedure under Section 37 to 39.

## Section 14

### **Exceptions from Restriction in Processing of Special Categories of Personal Data**

The prohibition relating to the processing of special categories of personal data under Section 13 Paragraph 1 shall not apply if

- a) the data subject gave a written or other credibly provable consent to their processing; consent shall be invalid if its granting is excluded by special Act
- b) the legal basis for the processing of personal data is based on a special Act, a legally binding act of the European Union or an international treaty which is binding for the Slovak Republic,
- c) the processing is necessary for protection of vital interests of the data subject or another natural person if the data subject does not have a legal capacity or is physically unable to issue a written consent and a consent of his legal representative cannot be obtained,
- d) the processing is performed within the framework of legitimate activities by a civil society, foundation or non-profit organisation providing generally beneficial services, by a political party or movement, trade-union organisation, church or religious society acknowledged by the State, and such processing only concerns their members or those natural persons who are in a regular contact with them with respect to their objectives, the personal data serve solely for their internal needs and will not be provided to a third party without a written or other credibly provable consent of the data subject,
- e) the processing concerns the personal data which have already been made public by the data subject himself or which are necessary for exercising his legal claim,
- f) the processing is performed for the purposes of providing healthcare and effecting public health insurance, provided that these data are processed by a provider of the healthcare, a health insurance company, a person exercising services related to providing healthcare or by

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<sup>18</sup> Act of the National Council of the Slovak Republic No. 301/1995 Coll. on Identification Number as amended.

<sup>19</sup> E.g. Section 33 of the Act No. 578/2004 Coll. on Health Care Providers, Health Workers and Professional Organizations in Health Service, and on Changing and Amending of Other Acts, as amended.

<sup>20</sup> E.g. Section 40 Paragraph 2 Point d) of the Act No. 153/2001 Coll.; Act National Council of the Slovak Republic No. 171/1993 Coll., as amended.

- a person exercising supervision of healthcare and on his behalf expertly skilled entitled person that is bounded by obligation to maintain secrecy over matters that are part of professional secret and obligation to maintain etiquette of the profession, or
- g) the processing is performed within the framework of social insurance, social security of policemen and soldiers for the purposes of provision of the state social benefits, purposes of supporting social integration of a natural person with severe disability to the society,<sup>21</sup> purposes of social services, performing of measures of protection and social custody of children or provision of help in material need, or the processing is necessary for the purposes of fulfilment of duties or exercising of legal rights of the controller which is responsible for processing in labour law and employment services area and if it expressly results for the controller from a special Act.<sup>22</sup>

## Section 15

### Obtaining Personal Data

(1) The controller that prepares the processing of personal data of the data subject shall be obliged to notify the data subject before obtaining personal data of this information:

- a) identification data of the controller and controller's representative if he was appointed,
- b) identification data of the processor; this shall not apply if the controller does not follow Section 8 when obtaining personal data,
- c) purpose of the personal data processing,
- d) list or scope of personal data under Section 10 Paragraph 4 first sentence and
- e) additional information in the extent necessary for safeguarding the rights and law protected interests of the data subject with regard to all circumstances and conditions of the processing of personal data mainly in the range of
  1. identification of the entitled person obtaining personal data or proving his pertinence, by a reliable document, to the entity, on behalf of which it acts; the entitled person shall be obliged to satisfy such request of the data subject without undue delay,
  2. advice on voluntariness or obligation to provide the requested personal data; if the controller is obtaining personal data of the data subject pursuant to the data subject's content under Section 11, he shall inform him of the validity term of the consent, and if the data subject's obligation to provide personal data results from a directly enforceable legally binding Act of the European Union, an international treaty which is binding for the Slovak Republic, or an Act, the controller shall advice the data subject of the legal basis which imposes this obligation, and shall warn the data subject of the consequences of refusing to provide the personal data,
  3. third parties, provided that it is expected or clear that personal data will be provided to them,
  4. group of recipients, provided that it is expected or clear that personal data will be made available to them,
  5. form of making public, provided that personal data shall be made public,
  6. third countries, provided that it is expected or clear that personal data will be transmitted to these countries,
  7. advice on the data subject's rights.

(2) If the controller did not obtain the data subject's personal data directly from the data subject, he shall be obliged to notify the data subject without undue delay but at the latest before providing them for the first time to the third party, if such provision is expected to notify the data subject of the information under Paragraph 1 Points a) to c) and of additional information, if

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<sup>21</sup> Act No. 447/2008 Coll. on Financial Benefits to Compensate for Severe Disability and on Changing and Amending of Other Acts, as amended.

<sup>22</sup> Acts No. 328/2002 Coll. on Social Security of Policemen and Soldiers and Amending of Other Acts, as amended.

they are needed with regard to special circumstances in which the personal data are being obtained to ensure legal processing, mainly

- a) advice on the possibility to decide on processing of the obtained personal data,
- b) list of personal data,
- c) third parties, provided that it is expected or clear that personal data will be provided to them,
- d) group of recipients, provided that it is expected or clear that personal data will be made available to them,
- e) form of making public, provided that personal data shall be made public,
- f) third countries, provided that it is expected or clear that personal data will be transmitted to these countries,
- g) advice on the data subject's rights.

(3) The data subject does not have to be notified about the information under Paragraph 1, provided that the controller is capable of proving to the Office, at any time upon its request that they were provided to the data subject previously or when the controller processes personal data pursuant to Section 10 Paragraph 1 and 2. The data subject does not have to be notified about the information under Paragraph 2 if the controller

- a) is able to prove to the Office, anytime upon its request, that they were previously provided to the data subject,
- b) processes personal data pursuant to Section 10 Paragraph 1 and 2
- c) processes personal data for the purposes under Section 10 Paragraph 3 Point a)
- d) processes personal data for historical or scientific research and development, or for the purposes of statistics and provision of such information is objectively impossible or would involve disproportionate effort, or
- e) processes personal data pursuant to Section 10 Paragraph 3 Point e).

(4) The controller obtaining personal data for the purposes of identification of a natural person at his single entrance of the controller's premises shall be entitled to request his title, name, surname, and Identity Card number,<sup>23)</sup> the number of an official identity card, or the number of a travel document,<sup>24)</sup> citizenship and for proving, by a submitted document, that the provided personal data are true. If the natural person identifies himself according to a special Act,<sup>25)</sup> the controller shall be entitled to request only for the registration number of his official identity card and the name of the Authority which issued the official identity card. In both cases, Paragraph 1 shall not apply.

(5) The controller obtaining, providing or disclosing personal data at the premises accessible to the public shall ensure their adequate protection pursuant to Section 19.

(6) The personal data necessary for achieving the purpose of the processing may only be obtained by photocopying, scanning or other recording of official documents on an information carrier upon a written consent of the data subject or if a special Act expressly permits their obtaining without the consent of the data subject.<sup>26)</sup> This shall not apply in the case of obtaining personal data for the purposes and in the extent of data pursuant to Paragraph 4, by their recording from official document by the means of automated means of processing and obtaining of personal data for the purposes of conclusion of employment or similar relationship.

(7) The premises accessible to the public may be monitored only for the purposes of the public policy and security, disclosing criminal activities, a breach of the State's security, protection of property and health and only if the premises are clearly marked as being monitored; the controller shall be obliged to clearly mark the monitored premises, regardless of

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<sup>23</sup> Act No. 224/2006 Coll. on Identity Card and on Changing and Amending of Other Acts, as amended.

<sup>24</sup> Act No. 647/2007 Coll. on Travel Documents and on Changing and Amending of Other Acts, as amended.

<sup>25</sup> E.g. Section 14 of the Act of the National Council of the Slovak Republic No. 171/1993 Coll., as amended; Section 70 Paragraph 6 of the Act No. 215/2004 Coll.

<sup>26</sup> E.g. Section 93a of the Act No. 483/2001 as amended.

whether pictures or sound are recorded on an information medium. Marking of the fact that the premises are being monitored is not required if it is stipulated by a special Act. The recording may only be used for the purposes of criminal prosecution or proceedings concerning misdemeanours, unless otherwise stipulated by a special Act.

(8) The controller who obtains personal data under Section 10 Paragraph 3 Point d) without the data subject being aware of that or directly from the data subject shall provide the data subject, in the course of their first contact, with the information under Paragraph 1, and if the personal data are processed for the purposes of direct marketing, he shall also notify the data subject of his right to object in writing to their provision and use in mail correspondence.

(9) The controllers whose scope of activity is direct marketing shall keep a list of the provided personal data under Section 10 Paragraph 3 Point d) in the extent of title, name, surname, and address of the data subject, date of their provision or the date of effectiveness of the prohibition of their further provision under Section 17 Paragraph 6, and the name of the legal or natural person to whom the above personal data were provided. The legal and natural person to whom the above personal data were provided shall keep a list in the same extent.

## Section 16

### **Truthfulness, Accuracy and Keeping Personal Data Up-To-Date**

(1) Only true personal data may be provided to a filing system. Liability for false personal data shall be borne by the person who provided them to the filing system.

(2) The controller shall ensure accurate and up-to-date personal data.

(3) The personal data shall be deemed accurate, unless the contrary is proven.

## Section 17

### **Destruction of personal data**

(1) After the purpose of processing is fulfilled, the controller shall provide for destruction of personal data without undue delay.

(2) Paragraph 1 shall not apply if personal data are the part of the registration record.<sup>27)</sup> The controller shall provide destruction of the registration record pursuant to special Act.<sup>28)</sup>

(3) The controller shall ensure destruction of personal data without undue delay, except for the personal data under Section 10 Paragraph 3 Point d), even if the reasons which prevented obtaining of the consent of the data subject under Section 11 Paragraph 4 ceased to exist and the consent was not given.

(4) In the case that the data subject raises an objection under Section 28 Paragraph 3 Point a), the controller shall be obliged to destroy processed personal data without undue delay with the exception of personal data under Section 10 Paragraph 3 Point d).

(5) In the case that the data subject raises an objection under Section 28 Paragraph 3 Point b), the controller shall be obliged to terminate using of personal data under Section 10 Paragraph 3 Point d) in the mail correspondence without undue delay.

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<sup>27)</sup> Section 2 Paragraph 15 of the Act No. 395/2002 Coll. on Archives and Registries and on Amendment of Other Acts.

<sup>28)</sup> Section 20 of the Act No. 395/2002 Coll. as amended by the Act No. 216/2007 Coll.

(6) In the case that the data subject raises an objection under Section 28 Paragraph 3 Point c), the controller shall be obliged to inform in a written form every entity without undue delay, at the latest in three weekdays time, that he provided personal data under Section 10 Paragraph 3 Point d) to; prohibition of further providing of such data is valid towards the controller and any entity that the controller provided such data to, from the day following the day of the delivery of the objection of data subject, possibly after the delivery of the written information of the controller.

(7) If the recording made pursuant to Section 15 Paragraph 7 is not used for the purposes of criminal proceedings or proceedings concerning misdemeanours, the person who made it shall be obliged to destroy it at the latest within 15 days from the day following after the day on which the recording was made, unless otherwise stipulated by a special Act.

## Section 18

### **Notification of Alterations to Third Parties**

(1) If the data subject notifies the controller or if the data subject exercises his right towards the controller or the controller finds out on his own that he provided untruthful, incomplete or inaccurate personal data, or he provided them without legal basis to third party, he shall be obliged to notify it to anyone whom such data were provided to without undue delay. The controller shall state in the notification, what measures he exercised for removal of defects, mainly whether the personal data was blocked, completed, corrected, updated or destroyed, and what measures he demands to be exercised by the third party.

(2) Third party shall be, on the basis of the notification pursuant to Paragraph 1, obliged to exercise requested measures, mainly to block personal data in the filing system and to complete, to correct, to update or to destroy them without undue delay.

(3) Notification pursuant to Paragraph 1 may be abandoned only if the notification is objectively impossible or would involve disproportionate effort.

(4) The controller, that abandons the notification pursuant to Paragraph 1 and as a reason pursuant to Paragraph 3, shall be obliged to inform the Office upon its request, that the abandonment of notification is justified.

## **CHAPTER TWO SECURITY OF PERSONAL DATA**

### Section 19

#### **Liability for Security of Personal Data**

(1) The controller shall be responsible for the security of personal data. The controller shall be obliged to protect processed personal data against their damage, destruction, loss, alteration, unauthorized access and disclosure, providing or publishing, as well as against any other unauthorized forms of processing. For this purpose he shall take due technical, organisational and personal measures (hereinafter “security measures”) adequate to the manner of the processing of personal data, whereas he shall take into account above all the existing technical means, confidentiality and importance of processed personal data, as well as the extent of possible risks that could violate security or functionality of the filing system.

(2) The controller shall register security measures under Paragraph 1 in the security project of the filing system (hereinafter “the Security Project”), if

- a) in the filing system interconnected with a publicly accessible computer network processes special category of personal data under Section 13, or
- b) the filing system is used for safeguarding the public interest under Section 3 Paragraph 1; the provision of Section 20 shall not apply to development of the Security Project only if an obligation to elaborate the Security Project pursuant to a special Act simultaneously applies to the respective case.<sup>29)</sup>

(3) The controller shall be obliged to update security measures approved pursuant to Paragraphs 1 to 2 without undue delay in the manner that it corresponds to adopted changes in the personal data processing until the day of termination of the processing of personal data in the filing system.

(4) The controller shall be obliged to prove content and extent of security measures pursuant to Paragraphs 1 to 2 upon the request of the Office.

## Section 20

### **Security Project**

(1) The security project shall define the extent and manner of the safety measures necessary for elimination and minimizing of the threats and risks affecting the filing system from the viewpoint of breaching of its security, reliability and functionality.

(2) The security project shall be developed by the controller in accordance with the issued security standards, legal regulations and international treaties binding for the Slovak Republic.

(3) Extent and documentation of the security measures shall be issued in generally binding legal regulation by the Office.

## Section 21

### **Instruction of the Entitled Person**

(1) The natural person shall become entitled person at a day of his instruction.

(2) The controller shall be obliged to instruct the entitled person under Paragraph 1 about the rights and obligations in the course of personal data processing; instruction contains mainly determination of his rights, permitted activities and conditions of processing of personal data. The controller shall execute the instruction before executing the first operation with personal data by the entitled person.

(3) The controller shall be obliged to produce a record of the instruction of the entitled person which he shall be obliged to provide to the Office upon its request

(4) The controller shall be obliged to instruct the entitled person repeatedly, provided substantial change occur in his job, service or administrative position, and it caused significant modification in content of the scope of his employment or there was substantial change in conditions of personal data processing or extent of processed personal data within the frame of his job, service or administrative position.

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<sup>29)</sup> Act No. 215/2004 Coll. as amended.



## Section 22

### **Obligation to Maintain Secrecy**

(1) The controller shall be obliged to maintain secrecy about the personal data which he process. The obligation to maintain secrecy also applies after termination of the processing of personal data

(2) The entitled person shall be obliged to maintain secrecy about the personal data which he comes across; he must not use them even for his personal needs and he must not disclose them, provide them or make them available to anybody without consent of the controller.

(3) The obligation to maintain secrecy under Paragraph 2 shall also apply to other natural persons, who come across the personal data at the controller's or the processor's place.

(4) The obligation to maintain secrecy under Paragraph 2 shall also apply after termination of the function of the entitled person or after termination of his employment relationship, civil service employment relationship, service employment relationship or similar labour relationship. Obligation to maintain secrecy shall apply also to natural person under Paragraph 3.

(5) Obligation to maintain secrecy pursuant to Paragraph 1 to 4 shall not apply, if it is necessary for fulfilment of duties of courts or law enforcement agencies pursuant to special Act; this shall not effect obligation to maintain secrecy pursuant to special Acts.<sup>30)</sup>

(6) Paragraphs 1 to 4 shall not apply in respect of the Office in the course of fulfilment of its tasks.

## **CHAPTER THREE SURVEILLANCE OF PERSONAL DATA PROTECTION**

### **Data Protection Officer**

## Section 23

### **Conditions of Data Protection Officer's Designation**

(1) The controller shall be responsible for surveillance of protection of personal data processed pursuant to this Act.

(2) The controller, who processes personal data at the hand of entitled persons may designate a data protection officer or several data protection officers in writing for the surveillance before the commencement of the processing of personal data which shall supervise compliance of statutory provisions in the course of the processing of personal data not later than 60 days from the day of the beginning of the processing. This shall not affect obligations of the controller pursuant to Paragraph 1.

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<sup>30</sup> E.g. Section 40 of the Act of the National Council of the Slovak Republic No. 566/1992 Coll. on National Bank of Slovakia, as amended; Section 23 of the Act of the National Council of the Slovak Republic No. 46/1993 Coll. on the Slovak Intelligence Service, as amended; Section 80 of the Act of the National Council of the Slovak Republic No. 171/1993 Coll., as amended; Section 38 of the Act No. 215/2004 Coll.; Section 11 of the Act No. 563/2009 Coll. as amended.

(3) If the controller does not designate the data protection officer pursuant to Paragraph 2, he shall be obliged to submit to the Office a notification of the filing systems which are subject to an obligation to notify under Section 34 of this Act. The obligation laid down on the controller pursuant to the first sentence shall not apply to the processor.

(4) The data protection officer shall have the status of the entitled person of the controller with access rights to the filing system of the controller in the extent necessary for fulfilment of the duties pursuant to Section 27.

(5) The data protection officer can only be a natural person who has the full legal capacity, is irreproachable and has a valid confirmation of passing the exam by the Office under Section 24.

(6) A person who has not been sentenced for a deliberate crime or a crime for which the court did not decide on suspension of imprisonment, if he is not deemed as uncondemned or his condemnation has not been expunged by the decision of the court or pursuant to Law, shall be deemed irreproachable for the purposes of this Act. Irreproachability shall be proven by extract from the Criminal Register not older than three months. The natural person shall provide Extract from the Criminal Register for the controller not later than the day of his designation pursuant to Paragraph 2. The controller shall be obliged to preserve it with the designation pursuant to Paragraph 8 throughout the exercising of the function of the personal data officer.

(7) Obligation to prove irreproachability under Paragraph 6 shall not apply, if the natural person is obliged to prove his irreproachability for the purposes of employment relationship, civil service employment relationship, service employment relationship or similar labour relationship with the controller pursuant to special Act.

- (8) Designation under Paragraph 2 shall contain
- a) controller's identification data,
  - b) title, name, surname and the date of birth of the designated data protection officer,
  - c) date of effectiveness of the designation of the data protection officer,
  - d) controller's declaration stating that the designated person satisfies the requirements under to this Act,
  - e) number of a confirmation on passing the exam pursuant to Section 24 Paragraph 5 Point c) and date of issuing of the confirmation,
  - f) explicit consent with the designation and signature of the data protection officer,
  - g) stamp of the controller,
  - h) date of issuing of the designation,
  - i) signature of the statutory authority of the controller or other person entitled to act on behalf of the controller.

## Section 24

### **Exam on the Performance of the Data Protection Officer Function**

(1) The natural person may be designated on exercising of surveillance of personal data protection after successfully passing the exam.

(2) Examination of the natural person for the purpose of exercising the function of data protection officer pursuant to this Act is provided by the Office.

- (3) Application to perform the exam shall contain
- a) applicant's data in the extent of title, name, surname, date of birth, permanent residence address and the address for delivering documents, electronic post and telephone number,

- b) controller's or processor's identification data, if they address the application to perform the exam on behalf of the applicant,
- c) date and signature of the applicant.

(4) Template of the application to perform exam under Paragraph 3 shall be published by the Office on its website.

(5) Confirmation of passing the exam contains

- a) identification data of the Office,
- b) applicant's identification data in the extent of title, name, surname and date of birth,
- c) number of the confirmation,
- d) date of issuing the confirmation,
- e) title, name, surname and signature of the President of the Office, and
- f) official stamp of the Office.

(6) The natural person who passed the exam successfully and does not exercise the function of the data protection officer longer than two years shall be obliged to repeat the exam.

(7) The Office shall define details of the exam of the natural person on the performance of the data protection officer function via generally binding legal regulation.

## Section 25

### **Obligations of the Controller when Designating the Data Protection Officer**

(1) The controller shall be obliged to enable the data protection officer to perform the supervision of personal data protection independently and to accept his legitimate proposals; a notification of deficiencies or making of a request by the data protection officer in connection with fulfilment of his obligations under Section 27 Paragraph 2 may not become an instigation or a reason for the controller's action that could cause damage to the data protection officer.

(2) The controller who designated the data protection officer in writing for supervision of personal data protection shall be obliged to notify the Office of the above in writing without undue delay, but at the latest within 30 days from the day of the designation of the data protection officer by means of a registered letter or by means of electronic document signed with qualified electronic signature.<sup>14)</sup> The controller shall notify the Office of the following data:

- a) controller's identification data,
- b) title, name, surname and date of birth of the data protection officer,
- c) date on which the person became the data protection officer,
- d) controller's declaration that the data protection officer meets the requirements stipulated by this Act,
- e) number of the certificate of passing the exam pursuant to Section 24 Paragraph 5 Point c) and date of issuing the certificate,
- f) official stamp of the controller,
- g) date of the notification,
- h) signature of controller's statutory authority or other person entitled to act on behalf of the controller.

(3) If the controller designated several data protection officers for supervision of personal data protection, he shall be obliged to notify the Office pursuant to Paragraph 2 of designation of all data protection officers.

(4) In case of modifications of data under Paragraph 2 during the course of performance data protection officer's function, the controller shall be obliged to notify the Office of the modification of such data without undue delay.

(5) Template of the notification under Paragraph 2 shall be published by the Office on its website.

## Section 26

### **Termination of the Designation of the Data Protection Officer**

(1) The Controller is entitled to recall the designation of the data protection officer in written form at any time without giving any reason.

(2) Designation of the data protection officer shall terminate by

- a) death of the data protection officer,
- b) effectiveness date of controller's termination,
- c) date that the data protection officer ceased to meet requirements pursuant to Section 23 Paragraphs 5,
- d) expiration of period under Section 24 Paragraph 6,
- e) date of termination of employment relationship, civil service relationship, civil service employment relationship, service relationship or similar employment relationship of the data protection officer if he is an employee of the controller and they have not agreed in written form upon continuing of performance of the data protection officer function pursuant to Act, or
- f) date on which the controller received a written request of the data protection officer of the termination of his function if there was no other agreement on the termination date.

(3) If the controller shall recall the designation of the data protection officer pursuant to Paragraph 1 he may follow Section 23 Paragraph 2 and Section 25 Paragraph 2. In case of termination of the designation of the data protection officer pursuant to Paragraph 2 Points a), c) to f) the controller may follow Section 23 Paragraph 2 and Section 25 Paragraph 2.

(4) In case of termination of the designation of the data protection officer pursuant to Paragraph 2 Point b), the controller shall be obliged to inform the Office without undue delay.

(5) If the controller shall not act pursuant to Paragraph 3 he shall be obliged to inform the Office of the recall of the designation or the termination of the designation of the data protection officer.

(6) The Office shall be entitled to impose an obligation on the controller to designate a different personal data protection officer in writing for surveillance of the personal data protection, provided that it is proven that the personal data protection officer, who had originally been designated in writing, failed to fulfil the tasks under Section 27 Paragraph 1 and 2 according with this Act. The controller shall be obliged to satisfy the request of the Office without undue delay and designate a different natural person in writing for the supervision.

## Section 27

### **Obligations of the Data Protection Officer**

(1) Before commencement of the processing of personal data in the filing system the personal data protection officer shall be obliged to assess whether any danger of violation of the rights and freedoms of data subjects arises from their processing. The personal data protection officer shall be obliged to notify the controller in writing without undue delay of any determination of violation of the rights and freedoms of data subjects before commencement of the processing or of determination of a breach of statutory provisions in the course of the processing of personal data.

- (2) The data protection officer shall be obliged to ensure
- a) the necessary cooperation with the Office in fulfilment of the tasks falling within its scope; anytime upon request the data protection officer shall be obliged to submit to the Office his written designation and written notifications issued pursuant to Paragraph 1,
  - b) fulfilment of the obligations under Paragraph 1,
  - c) supervision of fulfilment of the controller's basic obligations under Section 6
  - d) instruction of the entitled person under Section 21,
  - e) disposal of the applications of data subjects under Sections 28 to 30,
  - f) adoption of security measures under Section 19 Paragraphs 1 to 2, supervision of their application in practice and provision of their actualization pursuant to Section 19 paragraph 3,
  - g) supervision of the selection of the processor, drafting of a written contract with the processor and during the term of contractual relations verification of compliance with agreed conditions pursuant to Section 8,
  - h) supervision of the trans-border personal data flow pursuant to Section 31 and 32
  - i) submittal of filing systems for a special registration, their deregistration or announcement of alterations or ensure the keeping of records of filing systems pursuant to Section 34 to 44.

(3) Data protection officer shall be obliged to notify the controller that he ceased to fulfil the conditions under Section 23 Paragraphs 5, without undue delay.

## **CHAPTER FOUR PROTECTION OF DATA SUBJECT'S RIGHTS**

### Section 28

#### **Data Subject's Rights**

(1) The data subject shall be entitled to request upon a written application from the controller

- a) confirmation whether his personal data are or are not being processed,
- b) information about the state of processing of his personal data in the filing system in a generally intelligible form and in the extent under Section 15 Paragraph 1 Points a) to e) Numbers 1 to 6; if a decision under Paragraph 5 is issued, the data subject shall be entitled to familiarize himself with the procedure of the processing and evaluating of operations,
- c) exact information, in a generally intelligible form, about the source from which the controller obtained his personal data for their processing,
- d) list of his personal data, in a generally intelligible form, which constitute the subject of the processing,
- e) rectification or erasure of his inaccurate, incomplete or not updated personal data, which constitute the subject of the processing,
- f) erasure of his personal data, if the purpose of their processing was fulfilled; if any official documents containing personal data constitute the subject of the processing, he may request their returning,
- g) erasure of his personal data which constitute the subject of processing if there was a violation in the Law,
- h) blocking of his personal data due to the cancelation of the consent for personal data processing before its expiration if controller processes personal data based on the consent of the data subject.

(2) The right of the data subject may be restricted only under Paragraph 1 Points e) and f) only if such restriction results from a special Act or its application would infringe the protection of the data subject or would infringe the rights and freedoms of others.

(3) The data subject shall be entitled to object to the controller upon a written application, to the following

- a) processing of his personal data, in respect of which he expects that they are or would be processed for the purposes of direct marketing without his consent and he shall be entitled to request for their erasure,
- b) use of the personal data referred to in Section 10 Paragraph 3 Point d) for the purposes of direct marketing in the mail correspondence; or
- c) provision of personal data referred to in Section 10 Paragraph 3 Point d) for the purposes of direct marketing.

(4) The data subject shall be entitled to object to the controller anytime upon a written request or in person, provided that the matter cannot be postponed to the processing of personal data in the cases under Section 10 Paragraph 3 Points a), e), f) or g) by stating the legitimate reasons or by submitting evidence of infringement of his rights and legitimate interests that are or can be violated by the processing of personal data in a concrete case; if it is proved that the legitimate reasons do not prevent it and the objection of the data subject is valid, the controller shall be obliged to block the personal data, the processing of which was objected by the data subject without undue delay and erase them as soon as possible.

(5) The data subject shall be further entitled anytime upon a written request or in person, provided that the matter cannot be postponed to object to the controller and refuse to submit to the controller's decision, which would produce legal effects on him or significantly affect him, provided that such decision is based solely on the acts of the automatic processing of his personal data. The data subject shall be entitled to request the controller for examination of the issued decision by a method other than the automatic processing, whereas the controller shall be obliged to satisfy the request of the data subject in such manner that the entitled person shall have a decisive role in the examination of the decision; the controller shall inform the data subject about the manner of examination and the outcome of his finding in a period under Section 29 Paragraph 3. The data subject shall be deprived of the above right only if so stipulated by a special Act in which are regulated the measures for securing the legitimate rights of the data subject or if the controller issued a decision satisfying the request of the data subject during the pre-contractual relationship or in the course of existence of contractual relationship or if the controller adopted other adequate measures to ensure data subject's legitimate interests based on the contract.

(6) If the data subject claims his right

- a) in a written form and it is clear from the content of his request that he claims his right, the application is considered as submitted pursuant to this Act; the application submitted via electronic mail or fax shall the data subject delivers in a written form not later than in three days from the date of its expedition,
- b) in person, verbally into the record, from which it must be clear on who executes his rights, what right is he executing and who and when created the record, his signature and the signature of the data subject; the controller shall be obliged to deliver a copy of the record to the data subject,
- c) at the processor's pursuant to Point a) or Point b), he shall be obliged to deliver this request or record to the controller without undue delay.

(7) The data subject may submit the petition initiating the procedure of personal data protection to the Office when suspecting that his personal data are processed unlawfully.

(8) If the data subject does not enjoy full legal capacity,<sup>15)</sup> his rights may be exercised by his legal representative.<sup>16)</sup>

(9) If the data subject is deceased, his rights which he had pursuant to this Act may be

exercised by his close person.<sup>17)</sup>

## Section 29

### **Provision of Information to the Data Subject**

(1) The controller shall be obliged to satisfy the data subject's request under Section 28 Paragraph 1 Points a) to c) and h) and Paragraphs 3 to 5 free of charge.

(2) The controller shall be obliged to satisfy the data subject's request under Section 28 Paragraph 1 Point d) free of charge, except for a fee in the amount not exceeding the amount of material costs accrued in connection with the making of copies, providing technical carriers and sending the information to the data subject, unless otherwise stipulated by a special Act.<sup>31)</sup>

(3) The controller shall be obliged to satisfy the data subject's request under Paragraphs 1 and 2 in written form not later than in 30 days' from the date of delivery of the request.

## Section 30

### **Notification of Restriction of Data Subject's Rights**

The controller shall be obliged to notify the data subject and the Office of restrictions of data subject's rights under Section 28 Paragraph 2 without undue delay.

## **CHAPTER FIVE CROSS-BORDER TRANSFER OF PERSONAL DATA**

## Section 31

### **Transfer of Personal Data to Third Countries**

(1) Transfer of personal data to a third country which according to European Commission's decision<sup>32)</sup> ensures an adequate level of protection may be executed if the controller provided to the data subject information under section 15 Paragraph 1 or Paragraph 2 or any of the conditions under Section 15 Paragraph 3 has been fulfilled.

(2) Transfer of personal data to third country which does not ensure the adequate level of protection may be executed if the controller adopts adequate safeguards of privacy and fundamental rights and freedoms of individuals and executing of corresponding rights protection; such safeguards result from standard contractual clauses pursuant to a special Regulation<sup>33)</sup> or binding corporate rules of the controller which were approved by the data protection supervisory authority established in the Member State.

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<sup>31</sup> E.g. Act of the National Council of the Slovak Republic No. 162/1995 Coll., as amended.

<sup>32</sup> E.g. Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and the Council on the adequate protection of personal data provided in Switzerland (2000/518/EC) (Special edition of the OJ L 215/1 of 25.8.2000)

<sup>33</sup> E.g. Commission Decision of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC of the European Parliament and the Council (2010/87/EU) (OJ L 39/5 of 12.2.2010); Commission decision of 15 June 2001 on standard contractual clauses for the transfer of personal data to third countries, under Directive 95/46/EC (2001/497/EC) (Special edition of the OJ L 181/19 of 4.7.2001).

(3) If the processor does not follow Paragraph 2 the transfer of personal data to third country which does not ensure the adequate level of the personal data protection is possible only if

- a) the data subject provided written or other credibly provable consent with such transfer before its executing with knowledge that the third country does not ensure the adequate level of protection,
- b) transfer is necessary for the performance of a contract between the data and the controller or in order to establish relations prior to entering a contract with the data subject or at the negotiation of alternation of a contract, which are held on the request of the data subject,
- c) transfer is necessary for conclusion of a contract or for the performance of a contract which was concluded by the controller in the interest of the data subject with a third party,
- d) transfer is necessary or requested pursuant to the Law for the purposes of ensuring of an important public interest or for proving, filing or defending a legal claim pursuant to the Law or international treaty which the Slovak Republic is bounded by,
- e) transfer is necessary for protection of vital interests of the data subject, or
- f) it concerns the personal data, which constitute a part of the lists, registers or files kept pursuant to a special Acts publicly available or disclose to the persons that prove a legal basis for their disclosure while fulfilling the conditions prescribed by the Law.

(4) In case of the transfer of personal data of persons in employment relationship, civil service employment relationship, service employment relationship or similar labour relationship the controller shall be obliged to adopt adequate safeguards of privacy and personal data protection pursuant to Paragraph 2.

(5) In case the controller and the processor with their registered office, place of business or permanent residence in United States of America acceded to principles of the Safe Harbour<sup>34)</sup> the contract on personal data transfer shall contain

- a) identification data of the contracting parties,
- b) purpose of personal data transfer,
- c) expected processing operations in the third country,
- d) a list of personal data that are being transferred,
- e) group of data subjects, and
- f) storage period of personal data.

(6) If the controller shall use in the contract of personal data transfer to a third country without an adequate level of personal data protection contractual clauses that are different from standard contractual clauses under Paragraph 2 determined for the transfer by the controller or the processor or they are in apparent discrepancy with them, he shall be obliged to request a consent of the Office before commencing the transfer.

(7) The request pursuant to Paragraph 6 shall contain

- a) identification data of the contracting parties,
- b) purpose of personal data transfer,
- c) expected processing operations in the third country,
- d) a list of transmitted personal data,
- e) group of data subjects, and
- f) storage period of personal data.

(8) The contract of personal data transfer in the state language or its officially certified translation into the state language shall be an annex of the request pursuant to Paragraph 7.

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<sup>34</sup> Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce (2000/520/EC) (Special edition of the OJ L 215, 25.8.2000).



(9) The consent of the Office with the personal data transfer pursuant to Paragraphs 2, 3 and 5 shall not be requested.

(10) The controller shall be entitled to realise the personal data transfer of the special category of the personal data to the third party established in the third country only with the previously provided written consent of the data subject unless otherwise stipulated by a special Act.

(11) The person carrying out the transfer of personal data shall ensure their security during this transfer

(12) Protection of personal data transferred to the territory of the Slovak Republic from the controller or the processor with registered office, place of business or permanent residence in the third country shall be executed pursuant to this Act.

## Section 32

### **Transfer of Personal Data within Member States**

(1) A free movement of personal data between the Slovak Republic and the Member States shall be ensured; the Slovak Republic shall not restrict or prohibit transfer of personal data for the reasons of protection of fundamental rights and freedoms of natural persons, in particular their right to privacy in respect of processing of their personal data.

(2) The controller with the registered office, place of business or permanent residence on the territory of the Slovak Republic who simultaneously processes personal data by means of its processor on the territory of one or several Member States shall be obliged to ensure that they act pursuant to its instruction and to this Act; this shall not apply if the technical, organisational and personnel safety measures were adopted.

(3) The controller with the registered office, place of business or permanent residence on the territory of the Slovak Republic shall be obliged to adopt adequate safeguards of securing rights and interests protected by the Law of data subjects provided that he transfers personal data to the controller in a different Member State.

(4) The controller shall be obliged to obtain written or other credibly provable consent of data subjects before providing personal data to the controller with registered office in other Member State if this consent is requested by this or a special Act.

## **CHAPTER SIX**

### **OBLIGATION TO NOTIFY, SPECIAL REGISTRATION AND KEEPING-RECORDS OF FILING SYSTEMS**

## Section 33

The controller shall be obliged to notify the Office of filing systems, to request the Office for a special registration of filing systems or to keep records of filing systems in the extent and under conditions stipulated by this Act.

### **Obligation to Notify**

## Section 34

(1) The obligation to notify shall apply to all filing systems, in which personal data are processed by fully or partially automated means of processing.

- (2) Obligation to notify pursuant to Paragraph 1 shall not apply to filing systems which
- a) are subject to special registration pursuant to Section 37,
  - b) are subject to supervision of a data protection officer, who was authorized by the controller in writing under Section 23 and who performs supervision of personal data protection pursuant to this Act, with exception of filing system in which personal data pursuant to Section 10 Paragraph 3 point g) are being processed, which is always subject to the obligation to notify; the Office may decide that the filing system in which personal data under Section 10 Paragraph 3 point g) are being processed is subject to the special registration,
  - c) contain personal data concerning membership of the persons in a civil society or a trade-union organisation, and if these personal data are processed and used solely for its internal needs or containing personal data concerning religious beliefs of persons associated in a church or religious association acknowledged by the State and if these personal data are processed by the church or the religious association and used solely for their internal needs, or containing personal data concerning membership of persons in a political party or movement, of which they are members and if these personal data are processed by the political party or movement and used solely for their internal needs, or
  - d) contain personal data processed pursuant to the Law, directly enforceable legally binding legal Act of the European Union or an international treaty which the Slovak Republic is bounded by.

## Section 35

(1) The controller shall be obliged to notify the filing system pursuant to section 34 before commencement of personal data processing; notification may be carried out via electronic application form. The notification shall contain

- a) controller's identification data,
- b) name and surname of the statutory authority of the controller or other person entitled to act on behalf of the controller,
- c) identification data controller's representative if appointed; in case the controller appointed his representative he shall state the name of the statutory authority of the controller's representative or other person entitled to act on behalf of the controller's representative,
- d) number of entitled persons of the controller,
- e) name of the filing system,
- f) purpose of personal data processing,
- g) legal basis of personal data processing,
- h) group of data subjects,
- i) list or scope of personal data under Section 10 Paragraph 4 first sentence,
- j) third parties or a group of third parties, if it is expected or clear that personal data will be provided to them and the legal basis of such provision,
- k) group of recipients, if it is expected or clear that the personal data will be disclosed and the legal basis of their disclosing,
- l) manner of disclosing if the controller discloses personal data and the legal basis for such disclosing,
- m) third countries, if it is expected or clear that personal data will be transferred to these countries and the legal basis of such transfer,
- n) denomination of security measures adopted to ensure the security of personal data pursuant to Section 19 Paragraphs 1 to 2,
- o) date of commencement of the personal data processing in the filing system.

(2) Model of filing system notification and list of examples of filing systems pursuant to Paragraph 1 shall be published by the Office on its website.

## Section 36

(1) The Office shall assign an identification number to the filing system in the case of filing system which is subject to the notification obligation pursuant to Section 34 and notification meets condition pursuant to Section 35 Paragraph 1. The Office shall issue a certificate of the fulfilment of the obligation to notify on the controller's request which includes

- a) identification data of the Office,
- b) controller's identification data; title, name, surname and permanent residence address if the controller is a natural person,
- c) name of the filing system,
- d) assigned identification number,
- e) title, name, surname, function and signature of the employee of the Office,
- f) date of the fulfilment of the obligation to notify and
- g) official stamp of the Office.

(2) If the notification does not meet requirements pursuant to Section 35 Paragraph 1, the Office shall call the controller for correction of the deficiencies within the determined period which shall not be shorter than seven days. In case the controller shall not address deficiencies within the determined period the Office shall not assign identification number and the notification shall not be taken into account.

(3) If the filing system is subject to the obligation to notify and the controller has fulfilled his obligation to notify pursuant to Section 35 Paragraph 1, he shall be entitled to commence the processing of personal data from the date of notification.

(4) If the controller's filing system after its notification begins to fulfil requirements pursuant to Section 34 Paragraph 2 the controller shall be obliged to inform the Office without undue delay; the Office shall revoke the identification number and shall notify the controller of this without undue delay. If the Office shall find out the above stated fact from its own initiative during fulfilment of its tasks pursuant to this Act it shall revoke the identification number of the filing system and shall inform the controller of it without undue delay. The legal remedy against revoking of the identification number is not admissible.

## **Special Registration**

### Section 37

#### **Conditions of the Special Registration**

Special registration shall apply to the filing systems, in which the controller processes

- a) personal data pursuant to Section 10 Paragraph 3 Point g) in case the Office shall decide pursuant to Section 34 Paragraph 2 Point b),
- b) personal data pursuant to Section 13 paragraph 5 Points b), c) and d) or
- c) at least one of the personal data referred to in Section 13 Paragraph 1, and at the same time their transfer to a third country not ensuring an adequate level of protection is expected; special registration shall not apply in cases pursuant to Section 31 Paragraph 9.

### Section 38

### **Submittal for Special Registration**

- (1) The controller shall be obliged to submit the filing system for the special registration at the Office before the commencement of personal data processing. Request by which the controller submits the filing systems for special registration shall contain beside the requirements pursuant to Section 35 Paragraph 1 also the purpose of submittal of the filing system for special registration pursuant to Section 37.
- (2) Template of the application by means of which the controller shall submit the filing system for special registration shall be published by the Office on its website.
- (3) Annex of the application pursuant to the Paragraph 2 shall contain documents necessary for assessment whether the processing does not raise a danger of infringement of the rights and freedoms of data subjects.

### Section 39

#### **Procedure of the Special Registration**

(1) In case the request does not fulfil requirements pursuant to Section 38 Paragraphs 1 and 3 or if any doubts shall arise during the evaluation of the request, the Office shall call the controller for correction of the deficiencies or completion of the request within determined period which shall not be shorter than 10 days; period in procedure of the special registration shall not elapse during this period.

(2) The Office evaluates a degree of the danger of the infringement of the rights and freedoms of the data subject in the course of the processing of personal data individually in each particular case.

(3) The Office shall register and assign a registration number to the filing system if the processing of personal data does not impose infringement of the rights and freedoms of the data subjects. The Office shall issue a certificate of the special registration which includes

- a) identification data of the Office,
- b) controller's identification data; title, name, surname and permanent residence address if the controller is a natural person,
- c) name of the filing system,
- d) assigned registration number,
- e) title, name, surname, function and signature of the employee of the Office,
- f) date of the registration and
- g) official stamp of the Office.

(4) Template of the certificate of the special registration shall be published by the Office on its website.

(5) The controller shall be entitled to commence personal data processing in the filing system submitted for the special registration only after the certificate of the special registration has been delivered to him.

(6) If the Office assesses the processing of personal data in the filing system submitted for the special registration as a risk it shall decide against granting the special registration of personal data protection for the respective purpose to the controller. The controller shall be obliged to take measures, which will prevent the processing of personal data without undue delay.

(7) In case the Office shall discover while assessing submitted data that the special registration does not apply to the submitted filing system, it shall terminate the procedure of the special registration and shall inform the controller of it without undue delay.

(8) The written decision on the special registration is not produced and there is no legal remedy against the special registration.

(9) If it is proved that the controller processes personal data contrary to the Law or good morals the Office shall cancel the special registration of the filing system by decision and shall rule on the termination of the processing of personal data provided.

## Section 40

### **Notification of Alterations and Deregistration of Special Registration**

(1) The controller shall notify the Office in writing of any alterations of the data submitted for notification and data submitted special registration which occurred in the course of the processing within 15 days; the obligation to notify the alterations shall not apply to a number of entitled persons pursuant to Section 35 Paragraph 1 Point d). The template of application of notification of alterations shall be published by the Office on its website.

(2) The controller shall be obliged to notify in writing the termination of using the filing system pursuant to Section 35 Paragraph 1 within 15 days after the termination of personal data processing and to deregister the filing system from special registration in writing. The controller shall be obliged to state mainly his identification data, name of the deregistered filing system, identification or registration number and the date of the termination of personal data processing in case of written notification pursuant to the first sentence. Template of the written notification pursuant to the first sentence shall be published by the Office on its website.

(3) Alterations of the notified data pursuant to Paragraph 1 and notification of the termination of making use of the filing system pursuant to Paragraph 2 may be executed via electronic form.

## Section 41

### **Special Registration Fee**

An administrative fee for the special registration and alteration of special registration is collected pursuant to the special Act.<sup>35)</sup>

## Section 42

### **Disclosing and Making the State of Special Registration Available**

(1) The Office shall be obliged to make available data of the notification in the extent pursuant to Section 35 Paragraph 1 and the special registration in the extent pursuant to Section 38 Paragraph 1 to anyone who shall request it free of charge.

(2) The Office makes available a list of notifications and awarded special registrations via its website in the extent of

- a) name and identification number of the controller of the filing system; title, name and surname in the case the controller is a natural person and
- b) identification or registration number of the filing system.

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<sup>35</sup> Act No. 145/1995 Coll. on Administrative fees, as amended.

## **Records**

### Section 43

#### **Terms of Records**

(1) The controller shall be obliged to keep records of the filing systems, which are not subject to the obligation to notify or the special registration, at the latest from the day of commencement of the processing of personal data in these filing systems. The records shall contain data in the extent pursuant to Section 35 Paragraph 1. Template of the records shall be published by the Office on its website.

(2) The controller shall be obliged to keep and update the records pursuant to Paragraph 1 until the day of the termination of the processing of personal data in the filing system; the obligation to update shall not apply to the number of entitled persons pursuant to Section 35 Paragraph 1 point d).

### Section 44

#### **Disclosure of the Records**

The controller shall be obliged to disclose the data contained in the Records pursuant to Section 43 Paragraph 1 to anyone who shall request it free of charge.

## **PART THREE THE OFFICE**

### **CHAPTER ONE STATUS, SCOPE of POWERS AND ORGANIZATION OF THE OFFICE**

#### Section 45

##### **Status of the Office**

(1) The office is a state administration authority with competence over the entire territory of the Slovak Republic, which executes supervision of personal data protection and participates in protection of the fundamental rights and freedoms of natural persons in the processing of personal data.

(2) The seat of the Office is Bratislava.

(3) The Office shall in the scope of its power act independently and shall obey the Constitution, constitutional laws, laws, other generally binding legal regulations and international treaties which the Slovak Republic is bound by.

(4) The Office is a budgetary organisation.<sup>36)</sup> The Office shall submit a proposal of the budget as a part of the General Treasury Administration category. Only the National Council of the Slovak Republic may decrease the approved budget of the Office in the course of a calendar year.

(5) Details concerning organisation of the Office shall be regulated by the rules of

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<sup>36)</sup> Section 21 Paragraph 1 and Paragraph 5 Point a) of the Act No. 523/2004 Coll. as amended.

internal governance.

## Section 46

### **Scope of Powers of the Office**

(1) The Office shall fulfil the following tasks during performance of supervision over the protection of personal data:

- a) performs a supervision over compliance with obligations stipulated by the Law in the course of the processing of personal data,
- b) monitors continuously a state of the personal data protection, fulfilment of the obligation to notify and the special registration of the filing systems and keeps records concerning the filing systems,
- c) accepts notifications and petitions concerning suspicion of a breach of the obligations stipulated by the Law in the course of the processing of personal data or it acts on its own initiative,
- d) performs inspection of the processing of personal data in the filing systems,
- e) in the case of suspicion that the obligations imposed by this Act were breached it may summon the controller or the processor,
- f) imposes corrective measures by decision in order to remove detected deficiencies,
- g) imposes sanctions in the case of determining that the obligations referred to in this Act were breached,
- h) recommends measures to the controllers for ensuring a security of personal data; for this reason it issues recommendation for the controllers within the scope of its powers,
- i) enables fulfilment of the obligation to notify and performs the special registration of the filing systems and ensures publishing of their status,
- j) keeps a register of the data protection officers,
- k) provides consultation in the area of personal data protection,
- l) issues binding opinions within the scope of its powers,
- m) methodically guides the controllers and the processors in the course of the processing of personal data,
- n) performs exams of the data protection officers and issues certificates of their authorization,
- o) issues the consent with personal data transfer to third countries which do not ensure adequate level of protection,
- p) approves the binding corporate rules of the controller for the purposes of cross-border transfer to third countries which do not ensure adequate level of protection,
- q) participates in drafting of generally binding legal regulations in the field of personal data protection,
- r) gives opinions on draft laws and other generally binding legal regulations, which regulate the processing of personal data,
- s) issues generally binding legal regulations within the scope of its power,
- t) submits to the National Council of the Slovak Republic a report on the state of protection of personal data at least once in two years; the report on the state of protection of personal data shall be published by the Office on its website,
- u) publishes templates for instructions of the entitled person pursuant to Section 21 on its website

(2) Except the fulfilment of the tasks under Paragraph 1 the Office further

- a) fulfils the obligation to notify the European Commission in the field of personal data protection,
- b) takes measures in order to execute the decisions of the European Commission issued in the field of personal data protection,
- c) cooperates in the execution of supervision of personal data protection with similar supervisory authorities abroad.

(3) If the Office determines the facts indicating that an act, other generally binding legal regulation or an internal regulation issued by the controller violates the fundamental rights and freedoms of natural persons in the processing of their personal data, the President of the Office may file a petition for its amendment or cancellation to the authority that issued it.

(4) Disputes arising from contractual or pre-contractual relations between the controllers or the processors and data subjects or other natural or legal persons, the hearing or deciding of which is subject to the respective courts or other authorities pursuant to special acts, shall not be the subject of the supervision of personal data protection.

(5) If personal data are processed by intelligence services or the National Security Authority, the supervision of personal data protection shall be executed by the National Council of the Slovak Republic pursuant to a special Act.<sup>37)</sup>

## **Organisation of the Office**

### **Section 47**

#### **President of the Office**

(1) The Office shall be headed by the President who shall be elected and recalled by the National Council of the Slovak Republic upon proposal of the Government of the Slovak Republic.

(2) The term of office of the President of the Office shall be five years and he may be elected for maximally two consecutive terms. The President of the Office shall remain in the function also after termination of the term of office until the National Council of the Slovak Republic elects another President.

(3) Only a citizen of the Slovak Republic, who is eligible for a deputy of the National Council of the Slovak Republic, enjoys full legal capacity, has a university education of the second degree and is irreproachable pursuant to section 23 Paragraph 8 first and second sentence, may be elected as the President of the Office.

(4) The President of the Office shall be obliged to maintain secrecy about the facts concerning the data about which he learned in the course of the term of office, as well as after its termination. The President of the Office may be exempted from the obligation to maintain secrecy in a specific case by the National Council of the Slovak Republic.

(5) The President of the Office shall be liable for his activities to the National Council of the Slovak Republic.

(6) In the course of the term of office the President of the Office shall have a position of a head of the personnel office.<sup>38)</sup>

(7) Performance of the function of the President of the Office shall terminate before expiration of the term of office by

- a) resignation from the function,
- b) loss of eligibility for a deputy of the National Council of the Slovak Republic,
- c) effectiveness of a decision by which he was sentenced for a deliberate crime or by which he was sentenced for a crime and in his case the court did not decide on suspension of

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<sup>37)</sup> Section 60 of the Act of the National Council of the Slovak Republic No. 350/1996 Coll. on Rules of Procedure of the National Council of the Slovak Republic, as amended by the Act No. 215/2004 Coll.

<sup>38)</sup> Act No, 400/2009 Coll. as amended.



- imprisonment,
- d) performance of activities not compatible with performance of the function pursuant to a special Act,<sup>39)</sup> or
  - e) death.

- (8) The President of the Office may be recalled if
- a) his health condition does not allow him to fulfil the obligations arising from the function on a long-term basis, but at least for one year,
  - b) he breached the obligation to maintain secrecy in respect of the facts about which he learned in connection with performance of his function.

(9) Salary and other terms of the President of the Office shall be determined by the Government of the Slovak Republic pursuant to a special Act.

## Section 48

### **Vice-President of the Office**

(1) The President of the Office shall be represented by a Vice-President of the Office, who shall be elected and recalled by the Government of the Slovak Republic upon proposal of the President of the Office.

(2) The term of office of the Vice-President of the Office shall be five years and he may be elected for maximally two consecutive terms. The Vice-President of the Office shall remain in the function also after termination of the term of office until the Government of the Slovak Republic elects another Vice-President.

(3) Provisions of Section 47 Paragraphs 3, 7 and 8 shall apply the same to the performance of the function of Vice-President of the Office.

## Section 49

### **Chief Inspector of the Office**

(1) The head of the inspectors shall be the Chief Inspector of the Office, who shall be elected and recalled by the Government of the Slovak Republic upon proposal of the President of the Office.

(2) Only a citizen, who is eligible for a deputy of the National Council of the Slovak Republic,<sup>40)</sup> is irreproachable, has a university education of the second degree, has professional experience in the field of information technology or law of at least five years and is at least 35-years old, may be elected the Chief Inspector of the Office.

(3) The term of office of the Chief Inspector shall be five years and he may be elected for maximally two consecutive terms. The Chief Inspector of the Office shall remain in the function also after termination of the term of office until the Government of the Slovak Republic elects another chief inspector.

- (4) The Chief Inspector may be recalled if
- a) his health condition does not allow him to fulfil the obligations arising from the function on a long-term basis, but at least for six months,

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<sup>39)</sup> Act No. 357/2004 Coll. on Protection of Public Interest in Performance of Public Officials Functions, as amended by the Act No. 545/2004 Coll..

<sup>40)</sup> Section 3 Paragraph 1 of the Act No. 400/2009 Coll. as amended.

- b) he breached the obligation to maintain secrecy in respect of the facts about which he learned in connection with performance of his function.
- c) he repeatedly fails to fulfil the tasks referred to in Section 46 Paragraph 1 Points d), f) and g) or breaches work discipline, and if during the last six months the President of the Office repeatedly requested the Chief Inspector in writing to remove the defects and the Chief Inspector failed to remove them in a reasonable time.

(5) The Chief Inspector shall be recalled if he grossly neglected obligations imposed by this Act, provided that he fails to prove that he did not cause the neglect or could not have prevented it, or due to a gross breach of the work discipline.

(6) Performance of the function of the Chief Inspector of the Office shall terminate before expiration of the term of office by

- a) resignation from the function,
- b) effectiveness of a decision by which he was sentenced for a deliberate crime or by which he was sentenced for a crime and in his case the court did not decide on suspension of imprisonment,
- c) performance of activities not compatible with performance of the function pursuant to a special Act, or
- d) death.

## Section 50

### **Inspector of the Office**

(1) The inspector of the Office shall be appointed and recalled by the President of the Office from among the state employees<sup>38)</sup> performing the civil service in the Office.

(2) Only a citizen,<sup>40)</sup> who has an university education of the second degree, has professional experience in the field of information technology or law of at least three years and is at least 30-years old, may be elected the inspector of the Office.

(3) The inspector of the Office may be recalled in case of change in the civil service employment relationship and if his health condition does not allow him to fulfil the obligations arising from the description of activities of the state employee on a long-term basis, but at least for six months.

## Section 51

The Vice-President of the office, Chief Inspector, inspector of the office and employee of the Office shall be obliged to maintain secrecy about the facts concerning the data about which they learned in the course of executing the obligations pursuant to this Act, as well as after the termination of their function, civil service employment relationship or employment relationship. Vice-President of the Office, chief inspector, inspectors and employees of the Office may be exempted from the obligation to maintain secrecy in a concrete case by the President of the Office.

## **CHAPTER TWO INSPECTION**

## Section 52

### **Initiation of the Inspection**

(1) Inspection of personal data processing pursuant to this Act is executed by the Chief Inspector of the Office, inspector of the Office and by employees of the Office who are members of the inspection authority (hereinafter the “inspection authority”).

(2) Inspection authority executes the inspection as regular control pursuant to annual plan of inspection or as special inspection pursuant to suspicion of a breach of the obligations or conditions stipulated by this Act, in the course of personal data processing or in the course of personal data protection proceedings.

(3) The Chief Inspector of the Office executes the inspection pursuant to a written authorization issued by the President of the Office. Inspector of the Office executes the inspection pursuant to the written authorization issued by the chief inspector of the Office. The employee of the Office participates on the inspection pursuant to the written authorization issued by the President of the Office or the Chief Inspector of the office. Written authorization for executing the inspection shall contain

- a) identification data of the Office,
- b) identification data of the inspected person,
- c) title, name and surname of the inspection authority,
- d) date, place and time of the inspection,
- e) subject of the inspection,
- f) official stamp and signature of the President of the Office or the Chief Inspector of the Office pursuant to first sentence to third sentence.

(4) Template of the authorization for the execution of the inspection shall be published by the Office on its website.

(5) Inspection is initiated on the day of the delivery of the notification of the inspection to the controller or the processor (hereinafter the “inspected person”).

### Section 53

The inspection authority shall be obliged to act in such manner that the rights and interests protected by the law of the inspected person shall not be affected.

### Section 54

#### **Partiality of the Inspection**

(1) The inspection authority shall be obliged to inform the Office in written form if he finds out about facts that raise doubts of his partiality of these facts without undue delay.

(2) If the inspected person has doubts about partiality of the inspection authority in view of his relationship to subject of the inspection or to the inspected person, the inspected person shall be entitled to file objections with stating their grounds. Filing of the objections shall not have suspensive effect; the inspection authority in the course of the inspection shall be entitled pursuant to first sentence to perform only such actions which cannot be postponed.

(3) Objections of partiality and information of partiality shall be decided upon the President of the Office in period no longer than five working days since their submittal and the President shall inform the person that filed the objection on the decision in written form. No legal remedy may be used against the decision of the President of the Office.

(4) General regulation on administrative proceedings shall not apply in the case of the

decision making of the partiality.<sup>41)</sup>

## Section 55

### **Obligations of the Inspection Authority**

- (1) Inspection authority shall be obliged to
- a) notify the inspected person in advance of the subject-matter and the purpose of the inspection; this shall not apply if the notification of inspection before the commencement of the inspection could lead to frustration of the purpose of the inspection or significant obstruction of the inspection execution if the notification of the inspection can be executed upon the initiation of the inspection,
  - b) demonstrate the authorization to execute the inspection and to demonstrate its affiliation to the Office before commencing the inspection,
  - c) elaborate a protocol on execution of the inspection (hereinafter the “protocol”), or the report of the inspection,
  - d) state findings resulting from the inspection in the protocol and the report,
  - e) notify the inspected person of the findings resulting from the inspection in the protocol and request him for a written opinion on all facts stated in the protocol in period determined by the inspection authority,
  - f) give to the inspected person one copy of a protocol or a report of the inspection,
  - g) confirm to the inspected person in writing the receipt of the originals or the copies of documents, written documents, copies of storage media and of other records and ensure their due protection against loss, destruction or abuse,
  - h) investigate justness of the objections to the inspection findings stated in the protocol and account to justness of the objections in the appendix of the protocol and inform on it the inspected person,
  - i) discuss the protocol of the result of the inspection with the inspected person and elaborate a record of its discussion,
  - j) inform the President of the Office and the Chief Inspector of the Office if the Chief Inspector does not execute the inspection of the process and the result of the inspection.

## Section 56

### **Rights of the Inspection Authority**

- The inspection authority shall be entitled to
- a) enter the lands, buildings or premises of the operations and facilities of the controller and of the processor,
  - b) verify identity of the inspected person and of the natural persons acting on behalf of the inspected person,
  - c) request from the inspected person to provide the inspection authority in a determined period with documents, other papers, statements and information, data processed on storage media including technical data carriers, reports and source codes of programs, provided that they own them, and other records necessary for execution of the inspection, originals or copies and to enable them, in justified cases, to make copies also outside the premises of the inspected person,
  - d) request from the inspected person to provide, in a reasonable period, complete and true oral and written information, statements and explanations in respect of the inspected and related facts and determined deficiencies,
  - e) access to the filing systems as the system administrator in the extent necessary for performing of the inspection,
  - f) require cooperation of the inspected person,

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<sup>41</sup> Act No. 71/1967 Coll. on Administrative Proceedings (Administrative Procedure) as amended.

## Section 57

### **Obligations of the Inspected Person**

The inspected person shall be obliged to

- a) create adequate conditions to the inspection authority for execution of the inspection and processing of the findings resulting from the inspection,
- b) provide the inspection authority with the requested cooperation pursuant to the rights under Section 56 and refrain from a conduct that could frustrate the execution of the inspection,
- c) appear in the determined time and in the determined place upon the summons of the Office with the aim to provide explanations,
- d) familiarize himself with the content of the protocol and to appear upon the request of the inspection authority for its discussion.

## Section 58

### **Rights of the Inspected Person**

The inspected person shall be entitled to

- a) familiarize himself with the inspection findings and comment on them in a written form,
- b) file written complains after familiarizing himself with the inspection findings,
- c) request from the inspection authority the demonstrations of facts pursuant to Section 55 point b),
- d) verify the identity of a called person and to request from the called person proving that he is entitled to participate on the execution of the inspection,
- e) request from the inspection authority the confirmation of removal of originals or copies of the documents pursuant to Section 56 Point c),
- f) request that his rights and interests protected by the Law shall not be affected by the execution of the inspection; this shall not affect the provision of Section 56 and 57.

## Section 59

### **Called person**

(1) If it is justified by a special nature of the inspection, the inspection authority may call other natural persons to the execution of the inspection. Participation of these natural persons in the inspection shall be deemed another action in a general interest.

(2) The called person as a member of the inspection authority shall participate on the inspection pursuant to a written authorization issued by the President of the Office or the Chief Inspector; the inspection authority shall inform the inspected person on calling the natural person pursuant to Section 55 Point a).

(3) The called person shall be obliged to maintain secrecy about the facts which he comes across in the course of the execution of the inspection and that also after its termination. The called person may be exempted from the obligation to maintain secrecy by the President of the Office.

(4) The called person may not execute tasks pursuant to this act if there could be a doubt about his impartiality with regard to his relation to the subject-matter of the inspection. The called person who is himself aware of the facts raising doubts about his impartiality shall notify the Office of these facts without undue delay.

(5) The inspected person may file provable objections to the bias of the called person in writing. Until a decision is made on the objections to bias, the called person may only take the actions that shall not suffer postponing in the course of the inspection.

(6) Objections to partiality and notification of partiality shall be decided upon by the President of the Office within three working days of their application. No legal remedy is allowed against the decision of the President of the Office.

(7) General regulation on administrative proceedings shall not apply in the case of decision making on the partiality.<sup>41)</sup>

## Section 60

### **Termination of the Inspection**

(1) A result of the inspection is the protocol or the report of the investigation.

(2) In the case that deficiencies were determined in the course of the inspection, the inspection authority shall elaborate the protocol which contains

- a) identification data of the Office,
- b) identification data of the inspected person,
- c) place, date and time of the execution of the inspection,
- d) subject of the inspection,
- e) proven findings resulting from the inspection,
- f) statements of the inspected person on the findings of the inspection,
- g) title, name, surname and function or job position of the inspection authority which executed the inspection,
- h) date of producing of the protocol,
- i) official stamp of the Office, handwritten signatures of the inspection authority, responsible employees of the controlled person, which were educated on the content of the protocol and the called person, if the inspection authority called such person to the execution of the inspection pursuant to Section 59,
- j) date of the familiarization with the protocol; in the case that the controlled person shall refuse to familiarize himself with the content of the protocol, to express his opinions towards the findings of the inspection or to sign the protocol, this fact shall be presented in the protocol, and
- k) written confirmation about the acceptance of the protocol by the controlled person.

(3) Protocol pursuant to Paragraph 2 may contain annexes; annexes shall form inseparable part of the protocol.

(4) The controlled person shall be entitled to submit written objections in period of seven days from the day of signing the protocol after familiarizing himself with the findings of the inspection contained in the protocol; date of the refusal to sign the protocol pursuant to Paragraph 2 Point j) sentence after the semicolon, shall be considered the date of signing the protocol. Subsequently submitted objections shall not be taken into account.

(5) In the case that objections against the findings of the inspection shall be submitted pursuant to Paragraph 4 or new facts shall arise, which were not known in the time of familiarization with the protocol, the inspection authority shall consider them from their justness viewpoint in 15 days period from the delivery of the objections and shall elaborate the appendix that is inseparable part of the protocol. In the case that the inspection authority shall not accept the objections of the controlled person it shall be obliged to state the reason of the refusal in the appendix. It shall be elaborated pursuant to Paragraph 2.

(6) The inspection authority shall inform the inspected person in writing on the result of the consideration of the objections in period of 15 days from the delivery of the objections.

(7) The inspection authority shall elaborate report of the inspection in the case that the inspection shall not find the violation of the obligations stipulated by this Act. It shall be elaborated appropriately pursuant to Paragraph 2.

(8) The inspection shall be terminated by the date of signing of the record after the discussion of the protocol or by the date of signing of the report of the investigation pursuant to Paragraph 7. In the case that the inspected person shall refuse to sign the record of the discussion of the protocol the inspection shall be considered terminated by the date of the refusal of signing of the record which shall be noted by the inspection authority in the record.

#### Section 61

(1) Protocol and information which are contained in the documentation related to the execution of the inspection pursuant to this Act shall not be made available pursuant to the special Act.<sup>42)</sup>

(2) The special Act on the inspection in the state administration shall not apply to the execution of the inspection.<sup>43)</sup>

(3) The delivery of documents during the performance of inspection is governed by the general act on administrative proceedings.

### **CHAPTER THREE PERSONAL DATA PROTECTION PROCEEDINGS**

#### Section 62

(1) Purpose of personal data protection proceedings (hereinafter the “proceedings”) is to determine if the rights of natural persons came to harm by the controller’s or the processor’s doing in the course of the processing of personal data and in the case of deficiencies to impose corrective measures eventually a fine for the violation of this Act.

(2) The proceedings shall be closed to the public; this shall not affect provisions of Section 71.

#### Section 63

#### **Initiation of the Proceedings**

(1) The proceedings shall be initiated upon the proposal of the data subject or a person, who states that his rights stipulated by this Act are directly affected (hereinafter the “claimant”) or without the proposal.

(2) The proposal initiating the proceedings pursuant to Paragraph 1 must contain  
a) name, surname, permanent residence address and the signature of the claimant,

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<sup>42</sup> Section 11 Paragraph 1 Point h) of the Act No. 211/200 Coll. on Freedom of Information and on Changing and Amending of other Acts (Act on Freedom of Information), as amended.

<sup>43</sup> Act of the National Council of the Slovak Republic No. 10/1996 Coll. on Control in the State Administration, as amended.

- b) identification of the subject against which the proposal is aimed; corporate name or name and surname, registered office or permanent residence, potentially legal form and identification number,
- c) object of the proposal with identification of the rights which were violated in the course of personal data processing according to the claimant's allegation,
- d) evidence supporting the claims stated in the proposal,
- e) copy of the document proving claiming of the rights pursuant to Section 28, if such right could have been claimed or stating reasons worth special consideration.

(3) The Office may file the proposal away pursuant to Paragraph 1 if

- a) proposal is manifestly unfounded,
- b) matter that the proposal relates to is at issue at law enforcement agencies,
- c) claimant fails to provide the Office with the necessary cooperation, upon request of the Office, while the matter cannot be disposed of without his active participation; the claimant has to be instructed about the possibility to withhold his proposal,
- d) on the day of delivery of the notification more than three years elapsed from events concerned by the notification.

(4) The Office may conceal the identity of the claimant upon his request in justified cases in which harm to his rights and interests protected by the Law could occur.

(5) If the proposal initiating the proceedings is delivered to the Office by other subject than the claimant, the proposal is considered as a petition of proceedings initiation without the proposal (hereinafter the "petition").

(6) The Office may file the petition away pursuant to Paragraph 5 if

- a) the petition is manifestly unfounded,
- b) the matter that the petition relates to is at issue at law enforcement agencies,
- c) on the day of delivery of the petition more than three years elapsed from events concerned by the petition.

(7) The Office shall initiate the proceedings on its own initiative in case it shall not file the petition away pursuant to Paragraph 6. The Office shall also initiate the proceedings on its own initiative based on the results of the inspection pursuant to Section 60 Paragraph 2 in case deficiencies were determined.

(8) The natural person or legal person who submitted the petition shall not be the party of the proceedings. The Office shall inform them of the manner of the disposition of their petition pursuant to the first sentence without undue delay.

## Section 64

### **Periods**

(1) The Office shall decide on the proposal of the claimant in the period of 60 days from the date of the initiation of the proceedings. The Office may extend this period for maximally six months in justified cases. The Office shall inform parties of the proceedings in written form of the extension of the period.

(2) The Office shall assess the proposal of the natural person or the legal person pursuant to section 63 Paragraph 5 in period of 15 days from the day of its delivery. If the Office shall not proceed pursuant to Section 63 Paragraph 6 the Office shall initiate and shall decide the matter



in the proceedings pursuant to Paragraph 1.

(3) If there is a need during the proceedings initiated by the proposal of the proposer or by the own initiative pursuant to Section 63 Paragraph 7 to execute the inspection the period for disposing of the proposal pursuant to Paragraph 1 shall not elapse from the day of the initiation of the inspection to the day of the termination of the inspection. Result of inspection is the base for decision in the matter.

## Section 65

### **Decision**

(1) If the Office determines violation of rights of the claimant, the natural person in the proceedings without proposal or neglect of the duties stipulated by the Law in the course of personal data processing, it shall impose by decision on the controller or the processor to take measures in order to remove determined deficiencies and their causes in a determined period; otherwise shall terminate personal data proceedings.

(2) In addition to measures pursuant to Paragraph 1 the Office shall be entitled to further impose measures on the controller or the processor by which

- a) prohibit processing of those personal data, the processing of which is contrary to the provisions of this Act,
- b) prohibit processing, which is contrary to the provisions of this Act,
- c) order removal or destruction of personal data in a determined period, provided that they are or were processed illegitimately,
- d) impose an obligation to take, in a determined period, the technical, organisational and personal measures adequate to the manner of the processing,
- e) impose an obligation to provide elaboration or completing of documents or the Security Project in accordance with this Act,
- f) impose an obligation on the controller in determined period to change the processor, if the controller processes personal data via the processor.

(3) The Office shall impose preliminary measure provided that violation of data subject's rights or failure to fulfil obligations in the course of the processing of personal data cannot be postponed.

(4) The controller or the processor shall be obliged to inform the Office of fulfilment of the imposed measures in the period determined by the Office.

## Section 66

### **Remonstrance**

The President of the Office shall decide on the submitted remonstrance pursuant to Section 65.

## **CHAPTER FOUR SANCTIONS AND PUBLICATION OF THE ACT VIOLATION**

## Section 67

Sanctions for violation of this Act are:

- a) a fine and
- b) a disciplinary fine

## Section 68

### Fine

(1) The Office may impose a fine in the amount from € 300 to € 3 000 to the controller who

- a) failed to secure updating and actualization of personal data pursuant to Section 16 Paragraph 2,
- b) failed to notify third parties of the deficiencies pursuant to Section 18 Paragraph 1 or could not prove during the inspection to the Office that the abandonment of notification pursuant to Section 18 was legitimate or he received the notification as the third party and failed to execute measures in the extent and manner pursuant to Section 18 Paragraph 2,
- c) failed to fulfil or violated the obligation to credibly prove the elaboration of the instruction of the entitled persons pursuant to Section 21 Paragraph 3,
- d) failed to fulfil or violated the obligation to elaborate the authorization of the data protection officer pursuant to Section 23 Paragraphs 8,
- e) failed to fulfil or violated the obligation of the notification pursuant to Section 25 Paragraphs 2 to 4,
- f) failed to fulfil or violated the obligation of termination of the authorization of the data protection officer pursuant to Section 26,
- g) failed to execute the notification of restriction of the data subject's rights pursuant to Section 30,
- h) failed to fulfil or violated the obligation pursuant to Section 35 Paragraphs 1 and Section 36 Paragraph 3 first sentence,
- i) failed to fulfil or violated the obligation of notification of alterations pursuant to Section 40,
- j) failed to fulfil or violated the obligation of keeping the records of the filing system pursuant to Section 43, or
- k) failed to fulfil or violated the obligation to make available the data from the records pursuant to Section 44.

(2) The Office may impose a fine in the amount from € 1 000 to € 50 000 to the controller who

- a) failed to fulfil or violated any of the obligations of basic principles of personal data processing pursuant to Sections 5 to 7 and 9 to 12,
- b) failed to fulfil or violated any of the obligations while selecting and entrusting the processor pursuant to Section 8 Paragraphs 2 to 5,
- c) failed to fulfil or violated any of the obligations in the course of obtaining the personal data pursuant to Section 15,
- d) failed to fulfil or violated any of the obligations of the destruction of the personal data pursuant to Section 17,
- e) failed to fulfil or violated any of the security obligations of the processing of personal data pursuant to Section 19 Paragraphs 1 and 3 and Section 20,
- f) failed to fulfil or violated any of the obligations governing the instruction of entitled persons pursuant to Section 21 Paragraphs 2 and 4,
- g) failed to fulfil or violated any of the obligations in the course of exercising the surveillance of personal data protection pursuant to Section 23 Paragraphs 2 and 5 to 7 and Section 25 Paragraph 1,
- h) failed to fulfil or violated any of the obligations in the course of satisfying the data subject's

requests pursuant to Sections 28 and 29.

(3) The Office shall impose a fine in the amount from € 1 000 to € 200 000 to the controller who

- a) failed to fulfil or violated the obligation to entrust the processing of personal data to the processor under a written contract pursuant to section 8 Paragraph 3 first sentence,
- b) failed to fulfil or violated any of the obligation in the course of the processing of special category of personal data pursuant to Sections 13 and 14,
- c) failed to fulfil or violated the obligation to elaborate a security project pursuant to Section 19 Paragraph 2,
- d) failed to transfer personal data to third countries pursuant to Section 31 or failed to fulfil or violated any of conditions pursuant to Sections 31 and 32 Paragraphs 2, 3 and 4 or
- e) failed to fulfil or violated the obligation to the special registration of the filing system pursuant to Sections 37 and 38, Section 29 Paragraph 5 and Paragraph 6 the second sentence.

(4) The Office may impose a fine in the amount from € 300 to € 3000 to the processor who

- a) failed to secure truthfulness and updating of personal data pursuant to Section 16 Paragraph 2,
- b) failed to notify the third parties of the deficiencies pursuant to Section 18 Paragraph 1 or does not know to prove to the Office in the course of the inspection that the abandonment of notification pursuant to Section 18 was justified or he received the notification as the third party and failed to execute measures in the extent and manner pursuant to Section 18 Paragraph 2,
- c) failed to fulfil or violated the obligation to credibly prove elaboration of record of the instruction of the entitled persons pursuant to Section 21 Paragraph 3,
- d) failed to fulfil or violated the obligation to produce a designation of the data protection officer pursuant to Section 23 Paragraphs 8,
- e) failed to fulfil or violated the obligation of notification pursuant to Section 25 Paragraphs 2 to 4,
- f) failed to fulfil or violated the obligation of termination of designation of the data protection officer,
- g) failed to execute the notification of restriction of the data subject's rights pursuant to Section 30.

(5) The Office may impose a fine in the amount from € 1 000 to € 50 000 to the processor who

- a) failed to fulfil or violated any of the obligations of basic principles of the processing of personal data pursuant to Sections 5 Paragraph 1, Section 6 Paragraph 2 Points c) to i), Section 6 Paragraph 4,
- b) failed to fulfil or violated any of the processor's obligations pursuant to Section 8 Paragraphs 6 and 7,
- c) failed to fulfil or violated any of the obligations in the course of obtaining the personal data pursuant to Section 15,
- d) failed to fulfil or violated any of the obligations of destruction of personal data pursuant to Section 17,
- e) failed to fulfil or violated any of the obligations of security of the processing of personal data pursuant to Section 19 Paragraphs 1 and 3 and Section 20,
- f) failed to fulfil or violated any of the obligations governing the instruction of the entitled persons pursuant to Section 21 Paragraphs 2 and 4,
- g) failed to fulfil or violated any of the obligations in the course of exercising the surveillance

of personal data protection pursuant to Section 23 Paragraphs 2 and 5 to 7 and Section 25 Paragraph 1,

- h) failed to fulfil or violated any of the obligations in the course of satisfying the data subject's requests pursuant to Sections 28 and 29.

(6) The Office shall impose a fine in the amount from € 1 000 to € 200 000 to the processor who

- a) failed to fulfil or violated the obligation to elaborate the security project pursuant to Section 19 Paragraph 2, or
- b) failed to transfer personal data to third countries pursuant to Section 31 or failed to fulfil or violated any of the conditions pursuant to Sections 31 and 32 Paragraphs 2, 3 and 4.

(7) The Office may impose a fine in the amount from € 150 to € 2000 to everyone who

- a) shall provide personal data in contrary to Section 12 Paragraph 1, this shall not apply to the controller and the processor,
- b) shall provide untruthful personal data pursuant to Section 16 Paragraph 1,
- c) failed to proceed pursuant to technical, organizational or personal measures taken by the controller or the processor pursuant to Section 19 and 20,
- d) shall fail to fulfil obligation to maintain secrecy about the personal data pursuant to Section 22, or
- e) failed to provide requested cooperation to the Office in the course of the execution of the supervision pursuant to this Act.

## Section 69

### **The Disciplinary Fine**

The Office may impose a disciplinary fine to the controller or the processor

- a) up to the amount of € 1 000 provided that he fails to provide adequate conditions for execution of the inspection pursuant to Section 57 point a),
- b) up to the amount of € 10 000, provided that he frustrates the exercise of the inspection requested pursuant to Section 57 point b),
- c) up to the amount of € 20 000, provided that he failed to make public at all, or failed to make public in time, a notice designated to be made public in the mass media pursuant Section 71 or provided that he failed to make the above notice public in the determined form or in the determined mass medium, or provided that he failed to adhere to the determined contents of this notice and thus repeatedly until fulfilment of obligation,
- d) up to the amount of € 30 000 provided that he failed to execute the measures imposed in the decision pursuant to Section 65 Paragraphs 1, 2 or he failed to inform the Office in determined time pursuant to Section 65 Paragraph 4.

## Section 70

### **Common Provision on the Fine and the Disciplinary Fine**

(1) The Office shall impose a disciplinary fine repeatedly if the obligation was not fulfilled in a determined period.

(2) The fine under Section 68 may be imposed within two years from the day when the Office determined the breach of the obligation, but at the latest within five years from the day when the obligation was breached.

(3) The disciplinary fine under Section 69 may be imposed within one month from the

day when the obligation was breached.

(4) In the imposition of the fine or disciplinary fine and determining of its amount the Office shall take into account especially the gravity, time of duration and consequences of the illegal conduct, recidivism of such conduct and the rate of threat to the private and family life and number of the data subjects.

(5) The Office shall be entitled to impose the fine or the disciplinary fine up to the double of the rate of the imposed fine or disciplinary fine provided if the same person shall violate the same provisions of this Act within two years from the validity of the decision.

(6) A remonstrance may be filed against the decision on imposition of the fine or the disciplinary fine within 15 days from the day of its delivery. The President of the Office shall decide on the remonstrance within 60 days from the day of its receipt.

(7) The Office shall be entitled to decide in justified cases on allowing the postponement of the fine payment or the disciplinary fine or allowing payment of the fine or the disciplinary fine by instalments.

(8) Proceeds from the fines shall constitute an income of the State budget.

## Section 71

### **Publication of the Act Violation**

(1) If the Office determines a violation of the obligations stipulated by this Act the Office may publish by the means of decision corporate name or name, registered office or permanent residence, identification number if assigned and legal form of the entity which committed the unlawful conduct and

- a) the verdict and the grounds of an enforceable order or their parts pursuant to Section 65 in the personal data protection proceedings,
- b) the verdict and the grounds of an enforceable decision on the fine or the disciplinary fine or their part pursuant to Section 68 or Section 69 or
- c) characterisation of the facts breaching the protection of personal data.

(2) The Office may impose on the controller or the processor an obligation to publish facts in the extent pursuant to Paragraph 1 Point c) by means of the mass media.

(3) The Office may impose obligation to publish violation of the Act pursuant to Paragraph 2 provided that it shall discover serious, repeated or continual violations of the obligations stipulated by this Act; in the imposition of the obligation to publish the violation of the Act the rate of the threat to the private and family life and number of the data subjects shall be taken into account by the Office.

(4) The controller or the processor shall be obliged to fulfil the obligation imposed by the Office pursuant to Paragraph 2. The statutory authority of the controller and the processor shall be obliged to ensure the publication of a notice in the extent under Paragraph 1 Point c) public in the mass media at the expense of the controller; the contents, form, the mass medium and the latest possible day of making the notice public shall be determined by the Office.

(5) Personal data stipulated in the verdict or the grounds of an enforceable order or decision pursuant to Paragraph 1 Points a) and b) shall not be made public.

## **COMMON, INTERIM AND FINAL PROVISIONS**

### **Common Provisions**

#### Section 72

(1) A general regulation on administrative proceedings shall apply to the proceedings under this Act,<sup>41)</sup> unless otherwise stipulated by Paragraph 2.

(2) The general regulation on administrative proceedings<sup>41)</sup> shall not apply to

- a) execution and passing of the exam for the exercising of the data protection officer function pursuant to Section 24,
- b) obligation to notify pursuant to Section 34 to 36 and
- c) execution of the inspection pursuant to Sections 52 to 61 with the exception of delivery of documents with regard to execution of the inspection.

#### Section 73

Every entity shall be obliged to enable the Office to execute supervision of compliance with obligations pursuant to this Act and decisions issued on its basis. This shall not affect provisions of Section 46 Paragraph 5.

#### Section 74

### **Cooperation**

(1) Every entity shall be obliged to provide the Office with necessary cooperation in the course of executing its tasks pursuant to this Act.

(2) The controller and the processor shall be obliged to bear all actions taken by the Office with the aim to clarify all circumstances necessary for an objective assessment of a case.

### **Interim Provisions**

#### Section 75

(1) The Office for Personal Data Protection of the Slovak Republic established pursuant to the standing Act shall be the Office for Personal Data Protection of the Slovak Republic pursuant to this Act.

(2) The President of the Office elected to the office pursuant to the previous Act shall be the President of the Office pursuant to this Act; this shall not affect elapsing of the term of his office.

(3) The Vice-President of the Office designated to the office pursuant to the previous regulations shall be the Vice-President pursuant to this Act; this shall not affect elapsing of the term of his office.

(4) The Chief Inspector of the Office designated to the office pursuant to the previous regulations shall be the Chief Inspector of the Office pursuant to this Act; this shall not affect elapsing of the term of his office.

(5) Inspector of the Office designated to the office pursuant to the previous regulations shall be the inspector of the Office pursuant to this Act.

## Section 76

(1) The controller shall harmonize all the filing systems in which he processes personal data with this Act within six months from the date of its effectiveness.

(2) The controller shall be obliged to harmonize the contractual relationship with the processor pursuant to this Act within two years from the date of its effectiveness.

(3) The controller and the processor shall be obliged to execute the instruction of the entitled persons pursuant to this Act within six months from the date of its effectiveness.

(4) Designations and notifications of designation of the data protection officer pursuant to previous Act shall be considered as authorizations and notifications of authorization of the data protection officer pursuant to this Act. The controller and the processor shall be obliged to designate the data protection officer in written form and to notify the Office of its designation pursuant to this Act within one year from the date of its effectiveness.

(5) Registration issued pursuant to the previous Act shall be considered registration issued pursuant to this Act. The controller shall be obliged to re-submit his filing system for registration pursuant to this Act within six months from the date of its effectiveness.

(6) Special registrations issued pursuant to the previous Act shall be considered special registrations issued pursuant to this Act. The controller shall be obliged to re-submit his filing system for special registration pursuant to this Act within six month from the date of its effectiveness provided that the Act stipulates it.

(7) Security measures, security directive and security project elaborated pursuant to the previous Act shall be considered security measures, security directive and security project pursuant to this Act by the effectiveness of this Act. The controller and the processor shall be obliged to harmonize elaborated security measures pursuant to this Act within nine months from the date of its effectiveness.

(8) The consent with the personal data processing given pursuant to previous Act shall be considered the consent with the processing of personal data given pursuant to this Act by the effectiveness of this Act.

## Section 77

Proceedings initiated before the date of effectiveness of this Act shall be concluded pursuant to the previous regulations.

### Section 77a

#### **Interim Provisions regarding the amendments effective since 15 April 2014**

(1) Registrations of filing systems executed before 14 April 2014 shall be deemed as notifications of filing systems pursuant to Section 34 pursuant to the wording effective since 15 April 2014.

(2) Proceedings regarding registration of the filing systems and proceedings regarding special registration of filing systems, which were not concluded until 14 April 2014 shall be concluded pursuant to the Act effective until 14 April 2014.

(3) Qualified electronic signature shall not be required in the course of the notification pursuant to Section 35 Paragraph 1, notification of alterations of notified data and

notifications of termination of making use of the filing system via electronic template since 15 April 2014; Since 1<sup>st</sup> September 2014 notifications pursuant to Section 35 Paragraph 1, notification of alterations of notified data and notifications of termination of making use of the filing system shall be possible also via electronic template. The electronic template shall be published by the Office via its website.

(4) Proceedings pursuant to Section 68 and 69 initiated before 15 April 2014 shall be concluded pursuant to the Act effective until 14 April 2014.

## Section 78

This Act shall implement legally binding acts of the European Union referred to in the Annex.

## Section 79

### **Repealing Provisions**

Act No. 428/2002 Coll. on personal data protection as amended by the Act No. 602/2003 Coll., Act no 576/2004 Coll., Act No. 90/2005 Coll. and the Act No. 583/2008 Coll. shall be repealed.

## **Article II**

Act No. 145/1995 Coll. on administrative fees as amended by the Act of the National Council of the Slovak Republic No. 123/1996 Coll., the Act of the National Council of the Slovak Republic No. 224/1996 Coll. Act No. 70/1997 Coll., Act No. 1/1998 Coll., Act No. 232/1999 Coll., Act No. 3/2000 Coll., Act No. 142/2000 Coll., Act No. 211/2000 Coll., Act No. 468/2000 Coll., Act No. 553/2001 Coll., Act No. 96/2002 Coll., Act No. 118/2002 Coll., Act No. 215/2002 Coll., Act No. č. 237/2002 Coll., Act No. 418/2002 Coll., Act No. 457/2002 Coll., Act No. 465/2002 Coll., Act No. 477/2002 Coll., Act No. 480/2002 Coll., Act No. 190/2003 Coll., Act No. 217/2003 Coll., Act No. 245/2003 Coll., Act No. 450/2003 Coll., Act No. 469/2003 Coll., Act No. 583/2003 Coll., Act No. 5/2004 Coll., Act No. 199/2004 Coll., Act No. 204/2004 Coll., Act No. 347/2004 Coll., Act No. 382/2004 Coll., Act No. 434/2004 Coll., Act No. 533/2004 Coll., Act No. 541/2004 Coll., Act No. 572/2004 Coll., Act No. 578/2004 Coll., Act No. 581/2004 Coll., Act No. 633/2004 Coll., Act No. 653/2004 Coll., Act No. 656/2004 Coll., Act No. 725/2004 Coll., Act No. 5/2005 Coll., Act No. 8/2005 Coll., Act No. 15/2005 Coll., Act No. 93/2005 Coll., Act No. 171/2005 Coll., Act No. 308/2005 Coll., Act No. 331/2005 Coll., Act No. 341/2005 Coll., Act No. 342/2005 Coll., Act No. 473/2005 Coll., Act No. 491/2005 Coll., Act No. 538/2005 Coll., Act No. 558/2005 Coll., Act No. 572/2005 Coll., Act No. 573/2005 Coll., Act No. 610/2005 Coll., Act No. 14/2006 Coll., Act No. 15/2006 Coll., Act No. 24/2006 Coll., Act No. 117/2006 Coll., Act No. 124/2006 Coll., Act No. 126/2006 Coll., Act No. 224/2006 Coll., Act No. 342/2006 Coll., Act No. 672/2006 Coll., Act No. 693/2006 Coll., Act No. 21/2007 Coll., Act No. 43/2007 Coll., Act No. 95/2007 Coll., Act No. 193/2007 Coll., Act No. 220/2007 Coll., Act No. 279/2007 Coll., Act No. 295/2007 Coll., Act No. 309/2007 Coll., Act No. 342/2007 Coll., Act No. 343/2007 Coll., Act No. 344/2007 Coll., Act No. 355/2007 Coll., Act No. 358/2007 Coll., Act No. 359/2007 Coll., Act No. 460/2007 Coll., Act No. 517/2007 Coll., Act No. 537/2007 Coll., Act No. 548/2007 Coll., Act No. 571/2007 Coll., Act No. 577/2007 Coll., Act No. 647/2007 Coll., Act No. 661/2007 Coll., Act No. 92/2008 Coll., Act No. 112/2008 Coll., Act No. 167/2008 Coll., Act No. 214/2008 Coll., Act No. 264/2008 Coll., Act No. 405/2008 Coll., Act No. 408/2008 Coll., Act No. 451/2008 Coll., Act No. 465/2008 Coll., Act No. 495/2008 Coll., Act No. 514/2008 Coll., Act No. 8/2009 Coll., Act No. 45/2009 Coll., Act No. 188/2009 Coll., Act No. 191/2009 Coll., Act No. 274/2009 Coll., Act No. 292/2009 Coll., Act No. 304/2009 Coll., Act No. 305/2009 Coll., Act No. 307/2009 Coll., Act No. 465/2009 Coll., Act No. 478/2009 Coll., Act No. 513/2009 Coll.,



Act No. 568/2009 Coll., Act No. 570/2009 Coll., Act No. 594/2009 Coll., Act No. 67/2010 Coll., Act No. 92/2010 Coll., Act No. 136/2010 Coll., Act No. 144/2010 Coll., Act No. 514/2010 Coll., Act No. 556/2010 Coll., Act No. 39/2011 Coll., Act No. 119/2011 Coll., Act No. 200/2011 Coll., Act No. 223/2011 Coll., Act No. 254/2011 Coll., Act No. 256/2011 Coll., Act No. 258/2011 Coll., Act No. 324/2011 Coll., Act No. 342/2011 Coll., Act No. 363/2011 Coll., Act No. 381/2011 Coll., Act No. 392/2011 Coll., Act No. 404/2011 Coll., Act No. 405/2011 Coll., Act No. 409/2011 Coll., Act No. 519/2011 Coll., Act No. 547/2011 Coll., Act No. 49/2012 Coll., Act No. 96/2012 Coll., Act No. 251/2012 Coll., Act No. 286/2012 Coll., Act No. 336/2012 Coll., Act No. 339/2012 Coll., AAct No. 351/2012 Coll., Act No. 439/2012 Coll., Act No. 447/2012 Coll., Act No. 459/2012 Coll., Act No. 8/2013 Coll., Act No. 39/2013 Coll., Act No. 40/2013 Coll., Act No. 72/2013 Coll., Act No. 75/2013 Coll., Act No. 94/2013 Coll. and Act No. 96/2013 Coll. shall be amendeded as follows:

In the annex to tariff of administrative fees shall be amended by the Part XXIII., which shall read including the head-line:

### “Part XXIII

#### PERSONAL DATA PROTECTION

##### Item 273

a) Special registration of the filing system or its alteration..... € 50

##### Note:

Fees pursuant to this item shall be collected by the Office for Personal Data Protection of the Slovak Republic.”

#### **Article III**

Act No. 215/2004 Coll. on Protection of Classified Information and about Changing and Amending of Other Acts as amended by the finding of the Constitutional Court of the Slovak Republic No. 638/2005 Coll., Act No. 255/2006 Coll., Act No. 330/2007 Coll., Act No. 668/2007 Coll., Act No. 291/2007 Coll., Act No. 400/2009 Coll., Act No. 192/2011 Coll. shall be amended as follows:

In Section 53 behind Paragraph 5 shall be inserted new Paragraph 6, which reads:

“(6) Provided that the premises and the protected areas are protected by technical security means which allow producing of audio, video or audio-video recordings, it shall not be requested to be marked pursuant to the general regulation on personal data protection. If such recording is not used for the purposes of criminal proceedings or proceedings concerning misdemeanours, the person who made it shall be obliged to destroy it at the latest within 60 days from the day following after the day on which the recording was made.”

Standing Paragraph 6 shall be marked as Paragraph 7.

#### **Article IV**

Act No. 400/2009 Coll. on Civil Service and about changing and amending some other acts as amended by Act No.151/2010 Coll., Act No. 500/2010 Coll., Act No. 505/2010 Coll., Act No. 547/2010 Coll., Act No. 33/2011 Coll., Act No. 48/2011 Coll., Act No. 220/2011 Coll., Act No. 257/2011 Coll., Act No. 503/2011 Coll., Act No. 252/2012 Coll., Act No. 345/2012 Coll., Act No. 361/2012 Coll. and Act No. 392/2012 Coll. shall be amended as follows:

In Section 6 Paragraph 5 words “except the inspector of the Office for Personal Data Protection

of the Slovak Republic” shall be deleted.

## **Article V**

### **Effectiveness**

This Act shall become effective on 1 July 2013.

Act NO84/2014 Coll became effective on 15 April 2014.

**Ivan Gašparovič**

**Pavol Paška**

**Robert Fico**

**Annex**  
**to the Act No. 122/2013 Coll.**

**LIST OF THE IMPLEMENTED REGULATIONS OF THE EUROPEAN  
COMMUNITIES AND THE EUROPEAN UNION**

Directive 95/46/EC of the European Parliament and 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 (OJ L 281, 23.11.1995, p. 31–50), as amended by the Regulation (EC) No. 1882/2003 of the European Parliament and the Council of 29 September 2003 (OJ L 284, 31.10.2003, p. 1–53).