

LAW ON AMENDMENTS AND ADDENDA OF THE LAW ON PERSONAL DATA PROTECTION

Article 1

In the Law on Personal Data Protection („Official Gazette of the Republic of Macedonia“ no.7/05 and 103/08), in article 2 in points 5, 6 and 7 the words „state body“ are replaced with „body of the state authority“.

In point 8 the first sentence is amended and it reads:

„User“ is a natural or legal person, body of the state authority or another body of whom data are disclosed.“

Article 2

The article 3-a is amended and it reads:

„Personal data protection is guaranteed for every natural person without discriminating on the basis on his nationality, rase, color of skin, religious beliefs, ethnic belonging, gender, language, political and other beliefs, material position, origin by birth, education, social origin, citizenship, place and type of stay or any other personal characteristics.“

Article 3

In the article 4-a in the introductory statement the words „and from 22 to 36“ are amended with the words „22 and from 27 to 36“.

After the paragraph 1 a new paragraph 2 is added and it reads:

„The provisions of this law would not be implemented on the basis of the processing of personal data that is done for the purpose on professional journalism, only in case when the public interest prevails the private interest of the subject of personal data.

Article 4

After article 4-b two new articles 4-d и 4-e are added, and they read:

„Article 4-d

Each body of state authority, public institution, facility or other legal person that keeps official records, publicly accessible data collections or other collections of data is obliged without compensation to submit data from the registries and data collections on the

request of the Directorate for Personal Data Protection (hereinafter: the Directorate) for the needs of the procedures that are ongoing in accordance to this law.

Article 4-e

The Directorate could request that assistance is provided by the state administrative body competent for internal affairs in the implementation of the executive decision if physical resistance is encountered or such kind of resistance could be expected, as well as in other cases regulated in the law.

In the cases from the paragraph 1 of this article the state administrative body competent for internal affairs is obliged to provide assistance.“

Article 5

In article 6 paragraph 1 line 6 the word „legal“ is amended with the word „legitimate“.

Article 6

After the article 7 two new articles 7-a and 7-b are added and they read:

„Article 7-a

Processing of personal data that are contained in the judicial decisions is conducted under the conditions stipulated by the law and on the manner prescribed with the regulations adopted on the basis of this law.

Article 7-b

The provisions of this law are implemented upon the processing of personal data if the controller is established in the Republic of Macedonia and if he/she has an authorized representative with a seat in the Republic of Macedonia.

The provisions of this law are also implemented if the controller is not established in the Republic of Macedonia or if there is not authorized representative with a seat in the Republic of Macedonia, but if the equipment that he/she uses for processing of personal data is situated in the Republic of Macedonia, unless the equipment is used only for transit through the territory of the Republic of Macedonia.

In the case referred in the paragraph 2 of this article, the controller is obliged to designate an authorized representative with a seat in the Republic of Macedonia, who would be responsible for personal data protection in accordance to this law.

The provisions of this law are implemented also in the case when the controller is established on the territory of another state on which the national legislature of the Republic of Macedonia is implemented on the basis of the international public law.“

Article 7

In article 8 paragraph 2 line 4 after the word „members“ the following words are added „or to the natural persons with which they keep regular contacts related to their goals“.

In line 9 the words: „The Directorate for personal data protection (hereinafter: The Directorate)“ are replaced with the words „the Directorate “.

Article 8

In article 9 the paragraph 2 is erased.

In the paragraph 3, which becomes paragraph 2 after the word „Controller“ the following words are added „is obliged to“.

Article 9

In article 9-b in the paragraph 1 in the introductory sentence the word „his“is erased.

In the paragraph 2 the words „regulates“ are replaced with the words “is obliged to regulate“

After the paragraph 4 a new paragraph 5 is added, and it reads:

„The Director of the Directorate prescribes the content and the form of the act referred in the paragraph 2 of this article .“

Article 10

In article 9-c the paragraph 1 is amended and it reads:

„For the performance of video surveillance in residential buildings with one or more apartments a written statement for assent of all the owners, i.e. tenants is mandatory.“

In the paragraph 2 the words : “residential building“ are replaced with the words : „ residential buildings with one or more apartments “.

In the paragraph 3 at the end of the sentence the fullstop is replaced with a comma and the following words are added „ i.e. tenants “.

Article 11

In article 10 paragraph 1 in line 1 after the word „his is“ the word „authorized“ is added.

Article 12

In article 11 paragraph 1 line 1 after the word „his“ the word „authorized“ is added.

In the paragraph 3 in the introductory sentence the word „no“ is replaced with the words : „has no obligation to“.

Article 13

The article 18 is amended and it reads:

„The natural person or association of citizens of which the natural person is a member, if he/she considers that one of his rights guaranteed by this law on the part of the controller or the processor is violated, he/she could submit a request for determining the injury of the right to the Directorate .

The Directorate shall decide whether, in the course of the procedure, shall reveal the personal data to the bearer of the request, as well as to the witness.

For the injury of the right referred in the paragraph 1 of this article, the inspector for personal data protection leads an inspection procedure and he/she decides with a decision in accordance to the provisions from Part IX-a of this law.“

Article 14

The article 18-a is erased.

Article 15

In article 21 paragraph 1 a new paragraph 2 is added and it reads:

„The right to compensation for the damages incurred by the processing of personal data or by another activity, the subject of personal data realizes it by submitting an lawsuit for compensation of damaged to the competent court.“

Article 16

In article 23 in the paragraph 2 the words „telecommunication network“ are replaced with the words „electronic communication network“.

In the paragraph 4 the word „lead“ is replaced with the words „adopt and implement“, and after the word „the technical“ the words: „and organizational“ are added.

Article 17

In article 26 following the paragraph 2 a new paragraph 3 is added, and it reads:

„In the agreement referred in paragraph 2 of this article, the manner of checking of the acting of the processor in the processing of personal data is mandatorily designated.“

Article 18

After the article 26 a new article 26-a is added and it reads :

„Article 26-a

The controller is obliged to determine an officer for personal data protection who performs the following tasks:

- participates in the adoption of the decisions related to the processing of personal data as well as to the realization of the rights of the subjects of personal data;
 - monitors the alignment of the law and the regulations adopted on the basis of the law, that are related to the processing of personal data, as well as the internal regulations for personal data protection and to the documentation for technical and organizational measures for ensuring of secrecy and protection of the processing of personal data;
 - prepared the internal regulations for personal data protection and the documentation for technical and organizational measures for ensuring of secrecy and protection of the processing of personal data;
 - coordinates the control of the procedures and the guidelines stipulated in the internal regulations for personal data protection and the documentation for technical and organizational measures for ensuring of secrecy and protection of the processing of personal data;
 - proposes training for the employees in relation to the personal data protection;
- and
- performs other tasks regulated by law and by the regulations adopted on the basis of the laws, as well as with the internal regulations for personal data protection and the documentation for technical and organizational measures for ensuring of secrecy and protection of the processing of personal data

The controller is not obliged to determine an officer for personal data protection if he/she does not notifies the Directorate in accordance to the article 28 paragraph 1 line 2 and 3 of this law. “

Article 19

In article 27 in paragraph 2 after point 6) a new point 7) is added, and it reads:

„7) deadline for keeping of personal data;“

The point 7) becomes point 8).

In the point 8), which becomes point 9) after the word „the undertaken“ the words „technical and organizational“ are added.

In the paragraph 3 the words „confirmation of the reception of the notification“ are replaced with the words „confirmation letter for the performed notification“.

Article 20

In article 28 in the paragraph 2 the words „6 and 7“ are replaced with the words „6, 7 and 8“.

Article 21

In article 29 after the paragraph 1 a new paragraph 2 is added and it reads:

„The approval from the paragraph 1 of this article is necessary also in the case when the procession of personal data is done in accordance to the article 8 paragraph 2 line 1 or the article 9 paragraph 1 line 1 of this law.“

The paragraphs 2 and 3 become paragraphs 3 and 4.

Article 22

After the article 29 a new article 29-a is added, and it reads:

„Article 29-a

For the cases referred in the article 29 paragraph 1 of this law, the Director of the Directorate decides by a decision within 60 days from the day of reception for receiving of an approval.

Against the decision of the Director of the Directorate a lawsuit could be submitted for commencing an administrative dispute to the competent court, within 15 days from the day of reception of the decision.“

Article 23

In article 30 the paragraph 1 after the word „leads“ the word „electronic“ is added.

In the paragraph 4 the number „8“ is replaced by the number „9“.

Article 24

In article 33 in the paragraph 2 the words „As an exception of the paragraph 1 of this article , the transmission“ is replaced with the word „the Transmission“.

Article 25

After the article 33 two new articles 33-a и 33-b are added, and they read:

„Article 33-a

In relation to the cases referred in the articles 31 and 33 of this law, the Director of The Directorate decides by a decision within 30 days from the day of reception of the request for obtaining an approval for transmission of personal data.

Against the decision of the Director of the Directorate could submit a lawsuit for commencing of an administrative dispute in the competent court, within 15 days from the day of the reception of the decision.

Article 33-b

The Director of the Directorate prescribes the form and the content of the form for recording of the performed transmission of personal data in other countries, as well as the manner for keeping the records.“

Article 26

In article 34 following the paragraph 2 a new paragraph 3 is added, and it reads:

„The request from the paragraph 1 of this article could also be submitted electronically in accordance to the law“.

The paragraphs 3 and 4 become paragraphs 4 and 5.

In the paragraph 5 which becomes paragraph 6 after the word „the controller“ the following words are added „is responsible to“.

Article 27

In article 37 following the paragraph 4 a new paragraph 5 is added and it reads:

„The deputy Director replaces the Director на the Directorate, in the case when he/she is absent or when due to sickness or other reasons he/she is unable to perform his/her functions, with all his/her authorizations and responsibilities in the management.“.

The paragraphs 5 and 6 become paragraphs 6 and 7.

Article 28

In article 41 paragraph 1 line 5 after the word „appreciate“ the following words are added „fairness and.“

In the line 10 the word „acts“ is replaced with the word „regulations“.

In line 14 the words: „ ñ provides professional assistance“ are erased.

In the paragraph 2 the words: „ ñ providing of professional assistance“ are replaced, while the number „15“ is replaced with the number „14“.

In the paragraph 3 after the word „the training“ a full stop is placed, while the words at the end of the sentence are erased .

After the paragraph 3 a new paragraph 4 is added and it reads :

„The secondary legislative acts, which are adopted by the Director of the Directorate are published in the „Official Gazette of the Republic of Macedonia “.

Article 29

In article 44 after the paragraph 2 four new paragraphs 3, 4 5 and 6 are added and they read:

„The Inspectors are with the titles:

- inspector;
- higher inspector and
- chief inspector.

An inspector could be a civil servant which fulfills the criteria for the title junior associate with successfully passed trainee exam or an associate in accordance to the Law on Civil Servants.

A higher inspector could be a civil servant which fulfills the criteria for the title councilor or Head of unit in accordance to the Law on Civil Servants.

A chief inspector could be a civil servant which fulfills the criteria for the title Head of sector in accordance to the Law on Civil Servants. “

Article 30

In article 44-b the paragraph 3 is amended and it reads:

„The extraordinary inspection surveillance is performed on the basis of the initiative submitted by a body of the state authority, legal or natural person, as well as in the case when the inspector suspects injuries of the provisions of this law.

The extraordinary inspection is also performed in cases following a submitted request in accordance to the provisions of the article 18 of this law.“

Article 31

In article 44-c the paragraph 1 is erased.

In the paragraph 2, which becomes paragraph 1 the introductory sentence is amended and it reads:

„The controller, i.e the processor is responsible to allow the inspector, for the purpose of performing the inspection supervision, to:“

After the line 4 a new line 5 is added, which reads:

„- uses technical means for photographing;“

In the paragraph 3 which becomes paragraph 2 the number „2“ is replaced with the number „1“, while after the word „person“ the following words are added „ controller, i.e the processor “.

Article 32

The article 45 is amended and it reads:

„For the performed inspection supervision the inspector prepared minutes with the finding of the state of play. The minutes are delivered to the controller, i.e. the processor within 30 days from the day of the completion of the inspection supervision.

The controller, i.e. the processor could submit remarks within three days from the day of the reception of the minutes.

Following the expiry of the deadline from the paragraph 2 of this article, in the direction of removing the established injuries the inspector adopts a decision, according to which he/she will determine in particular:

- completion, update, correction, detection or ensuring of secrecy of personal data;
 - implementation of the additional technical and organizational measures for ensuring of secrecy and for protection of the processing of personal data;
 - prohibition of the further procession of personal data;
 - termination of the transmission of personal data in other states;
 - ensuring of data or their transmission to other subjects;
 - blocking, erasing or destructions of the personal data;
 - dismantling, moving or removing of equipment, devices, installations and systems which are used for the processing of personal data;
 - deadline for adoption of regulations in accordance to the provisions of this law
- or
- deadline for removing of the injuries.

Against the decision referred in the paragraph 3 of this article a lawsuit could be submitted for undertaking of an administrative dispute to the competent court within 15 days from the day of the reception of the decision.“

Article 33

After the article 45 a new article 45-a is added and it reads:

“Article 45-a

In the case that in the performance of the inspection supervision, the inspector determines that an irregularity is done to the article 49 paragraph 1 the points 3), 14), 15), 17), 18) and 19) of this law, he/she is responsible for removing of the determined irregularity within eight days and at the same time to deliver the invitation for undertaking of training of the controller, i.e. the processor where the irregularity is determined in the course of the performance of the inspection supervision.

The form and the content of the invitation for training, as well as the manner of undertaking of the training is prescribed by the Director of the Directorate.

The training is organized and carried out by the Directorate, within a deadline that is no longer than eight days from the day of the undertaking of the inspection supervision.

The training could be carried out for a number of determined - same or similar - irregularities for one or more controllers, i.e. processors.

In case than the controller i.e. the processor who is subject to training does not report for training in the scheduled time, it would be considered that the training is implemented.

In case the controller, i.e. the processor who is subject to the training does appear at the scheduled training and he/she completes the same, it would be considered that he/she is trained in view of the determined irregularity.

If the inspector, in the course of the implementation of the control supervision established that the determined irregularities from the paragraph 1 of this article are removed, he/she adopts a conclusion according to which the procedure for inspection supervision is terminated.

In case the inspector, in the course of the implementation of the control supervision establishes that the determined irregularities from the paragraph 1 of this article are not removed, he/she submits a request for undertaking of a procedure for misdemeanors in from the Commission for taking decisions on misdemeanors.

The Directorate keeps a registry for the undertaken training in a manner that is prescribed by the Director of the Directorate.“

Article 34

In the article 47 in the first sentence the word „supervision“ is replaced with the words „inspection supervision“.

Article 35

In the article 47-a after the paragraph 2 two new paragraphs 3 and 4 are added, and they read:

„For the perfumed controlled supervision minutes are prepared in which the inspector shall conclude that the controller, i.e. the processor:

- has acted completely according to the decision;
- has acted partially according to the decision; or
- did not act according to the decision.

In the case of lack of acting, i.e. partial acting according to the decision, the inspector undertakes a misdemeanor procedure in accordance to this law and the Law on Misdemeanors. “

Article 36

In article 48 in the paragraph 2 the words: „and the providing of professional assistance“ are erased , while the number „15“ is replaced with the number „14“.

Article 37

The article 49 is amended and it reads:

„A fine in the amount of 1000 Euros in Denars currency shall be pronounced for a misdemeanor to a legal person – controller in cases when he/she:

- 1) acts in a manner that is contrary to the provisions of the article 5 of this law;
- 2) acts in a manner that is contrary to the provisions of the article 6 of this law;
- 3) acts in a manner that is contrary to the provisions of the article 7-б paragraph 3 of this law;
- 4) acts in a manner that is contrary to the provisions of the article 9 of this law;
- 5) acts in a manner that is contrary to the provisions of the article 9-a paragraphs 2, 3, 5 and 6 of this law;
- 6) acts in a manner that is contrary to the provisions of the article 9-b paragraphs 1,2,3 and 4 of this law;
- 7) acts in a manner that is contrary to the provisions of the article 9-c of this law;
- 8) acts in a manner that is contrary to the provisions of the article 10 paragraph 1 of this law;
- 9) acts in a manner that is contrary to the provisions of the article 11 paragraph 1 of this law;
- 10) acts in a manner that is contrary to the provisions of the article 12 paragraph 2 of this law;
- 11) acts in a manner that is contrary to the provisions of the article 13 paragraph 2 of this law;
- 12) acts in a manner that is contrary to the provisions of the article 13-a of this law;
- 13) acts in a manner that is contrary to the provisions of the article 14 of this law;
- 14) acts in a manner that is contrary to the provisions of the article 24 of this law;
- 15) acts in a manner that is contrary to the provisions of the article 25 of this law;
- 16) acts in a manner that is contrary to the provisions of the article 26 paragraphs 2 and 3 of this law;
- 17) acts in a manner that is contrary to the provisions of the article 26-a paragraph 1 of this law;
- 18) acts in a manner that is contrary to the provisions of the article 27 paragraphs 1 and 4 of this law;
- 19) acts in a manner that is contrary to the provisions of the article 28 paragraph 2 of this law;
- 20) acts in a manner that is contrary to the provisions of the article 29 paragraph 1 of this law;
- 21) acts in a manner that is contrary to the provisions of the article 34 paragraph 1, 2, 4, 5 and 6 of this law;
- 22) acts in a manner that is contrary to the provisions of the article 35 of this law;

23) acts in a manner that is contrary to the provisions of the article 44-c paragraph 1 of this law; и

24) acts in a manner that is contrary to the provisions of the article 47-a paragraph 1 of this law.

A fine in the amount of 350 Euros in Denars currency shall be pronounced for a misdemeanor of a responsible person to a legal person or to an official person in the bodies of the state authority for a misdemeanor that is incurred as referred in paragraph 1 of this article.

A fine in the amount of 250 Euros in Denars currency shall be pronounced for a misdemeanor to a natural person – controller for a misdemeanor that is incurred as referred in paragraph 1 of this article .“

Article 38

The article 49-a is amended and it reads:

„A fine in the amount of 2000 Euros in Denars currency shall be pronounced for a misdemeanor of a legal person – controller in the case when he/she:

1) acts in a manner that is contrary to the provisions of the article 8 paragraph 1 of this law;

2) acts in a manner that is contrary to the provisions of the article 23 paragraph 1, 2, 3 и 4 of this law;

3) acts in a manner that is contrary to the provisions of the article 31 of this law;

4) acts in a manner that is contrary to the provisions of the article 32 од овој зако; и

5) acts in a manner that is contrary to the provisions of the article 33 of this law.

A fine in the amount of 600 Euros in Denars currency shall be pronounced for a misdemeanor of a responsible person to a legal person or to an official person in the bodies of the state authority for a misdemeanor that is incurred as referred in paragraph 1 of this article.

A fine in the amount of 450 Euros in Denars currency shall be pronounced for a misdemeanor of a natural person – processor for an incurred misdemeanor as referred in paragraph 1 of this article.“

Article 39

Article 50 is amended and it reads:

„A fine in the amount of 1250 Euros in Denars currency shall be pronounced for a misdemeanor of a legal person- processor of a collection of personal data, in cases when he/she:

1) acts in a manner that is contrary to the provisions of the article 23 paragraph
ови 1, 2, 3 и 4 of this law;

2) acts in a manner that is contrary to the provisions of the article 24 of this law;

3) acts in a manner that is contrary to the provisions of the article 25 of this law;

4) acts in a manner that is contrary to the provisions of the article 26 paragraph
ови 2 и 3 of this law;

5) acts in a manner that is contrary to the provisions of the article 44-в paragraph
1 of this law; и

6) acts in a manner that is contrary to the provisions of the article 47-a paragraph
1 of this law.

A fine in the amount of 350 Euros in Denars currency shall be pronounced for a
misdemeanor of a responsible person to a legal person or to an official person in the bodies
of the state authority for a misdemeanor that is incurred as referred in paragraph 1 of this
article.

A fine in the amount of 300 Euros in Denars currency shall be pronounced for a
misdemeanor of a natural person – processor for an incurred misdemeanor as referred in
paragraph 1 of this article .“

Article 40

In article 50-a the paragraph 4 is amended and it reads:

„The members of the Commission should have higher education in legal studies
or working experience of at least one year in the subject matter, of which one is a law
graduate with a successfully passed Bar exam.“

Article 41

The article 50-c is amended and it reads:

„Prior to the submission of the request for misdemeanor procedure, for the
misdemeanors that are related to this law, the inspector leads a settlement procedure in
accordance to the Law on misdemeanors.“

Article 42

After the article 50-c a new article 50-d is added, and it reads:

„Article 50-d

The misdemeanor procedure could not be carried out nor it could be led if two
and a half years have passed since the day, when the injury of a certain rights that is
guaranteed in accordance to this law was, committed.

The misdemeanor prosecution starts to become obsolete from the day when the
injury of a certain right that is guaranteed in accordance to this law becomes known.

The time period for becoming obsolete does not run during the time period in which, according to the law, the prosecution could not start or could not continue.

The time period for becoming obsolete is interrupted with each procedural action that is undertaken due to the prosecution of the perpetrator of the injury.

The time period for becoming obsolete is also interrupted when the perpetrator commits another serious or even more serious misdemeanor, in the time period in which the deadline for becoming obsolete is running.

After each interruption, the time period for becoming obsolete continues to run again.

The obsolescence of the misdemeanor prosecution takes place in each case in which twice the time would elapse of the time that, according to the law, is requested for the obsolescence of a misdemeanor prosecution“.

TRANSITIONAL AND CONCLUDING PROVISIONS

Article 43

The secondary legislative acts that are envisaged with this law, shall be adopted by the Director of the Directorate within sixty days from the day of the entry into force of this law.

The secondary legislative acts from the article 33 of this law, shall be adopted by the Director of the Directorate within fifteen days from the day of the entry into force of this law.

Article 44

The procedures for injuries of the article 18 of this law, that have started before the day of entry into force of this law shall be terminated in accordance to the provisions of The Law on Personal Data Protection („Official Gazette of the Republic of Macedonia “ no.7/05 and 103/08), but within one year from the day of entry into force of this law, at the latest.

Article 45

This law enters into force on the eight day of its publication in „Official Gazette of the Republic of Macedonia“.