

INSTRUCTION

No. 37, dated 10.07.2013

“ON PROTECTION OF PERSONAL DATA DURING FINGERPRINTS DATA PROCESSING BY PUBLIC INSTITUTIONS”

Pursuant to article 31/1/f of the law no. 9887, dated 10.03.2008 “On personal data protection”, as amended, the Commissioner for Personal Data Protection”;

INSTRUCTS:

1. The purpose of this instruction is to determine mandatory rules to public institutions for the collection and processing of employees’ fingerprints for the authenticity of work presence (entries or exits from the institution facility).
2. In accordance with the law on personal data protection, the terms below will mean as follows:
 - a) “Public institution” is the controller which determines the purposes and manners of processing personal data obtained by fingerprints.
 - b) “Employee” is the data subject whose fingerprints are being processed.
3. The head of the public institution provides a reasoned decision on the purpose of collection and processing of fingerprints, safeguards to be put in place for their processing, retention period and manner of destruction or alteration of data, by respecting and ensuring human rights and fundamental freedoms and, in particular the right to private life.
4. Allowing public institutions to conduct this processing, will be possible only after the notification has been made to the Commissioner for Personal Data Protection, and the relevant authorization has been obtained.
5. The public institution is provided with authorization after submitting to the Authority of the Commissioner the act defined in point 3 of this Instruction and any other additional document in accordance with the justification of the act.
6. Fingerprint processing is performed only in cases when there is no other way to achieve the goal set out in this instruction.
7. The collection of fingerprints is not necessarily done with the express consent of the employee, as this data does not provide information about him.
8. Notwithstanding the provision made in point 7, in any case of this processing, the public institution shall take appropriate organizational and technical measures to protect these data in accordance with the instructions adopted by the Commissioner, Instruction no. 21, dated 24.09.2012 on "Determining the rules for maintaining the security of personal data processed by large controllers", as amended and Instruction no. 22, dated 24.09.2012 on "Determining the rules for maintaining the security of personal data processed by small controllers", as amended.

9. Every employee to whom this data has been collected has the right, free of charge, upon written request, to receive information from the public institution on the process of processing fingerprints and the purpose of their processing.
10. Any employee, in cases where he claims that the collection and processing of fingerprints is contrary to the legal framework for the protection of personal data, has the right to file a complaint to the Commissioner for Personal Data Protection.
11. In the public institution, anyone who becomes aware of the processed data, while exercising their functions, are obliged to maintain confidentiality and trust even after the end of the function. This data are not disseminated, except in cases provided by law.
12. The public institution that processes fingerprints, reports on annual basis to the Commissioner for Personal Data Protection, on how this process is accomplished.
13. Failure to comply with the requirements of this instruction by the public institution, constitutes a violation of the law "On personal data protection" and is sanctioned under Article 39 thereof.

This instruction enters into force immediately and is published in the Official Gazette.

COMMISSIONER

Flora Çabej (Pogaçe)