

INSTRUCTION

No. 39 dated 05/08/2013

“ON PROCESSING OF PERSONAL DATA IN PUBLIC REGISTERS”

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. This Instruction aims at defining binding rules to be implemented by public institutions regarding the collection, processing and publication of personal data contained in public registers.
2. This Instruction is addressed to and mandatory to be implemented by all public institutions, which on basis of a legal or sublegal act administer and publish personal data contained in a public register.
3. In accordance with the law on personal data protection and the purpose of this Instruction, the following terms mean:
 - a) “Public register” is any register, list or database managed by the controller, published on basis of a legal or sublegal act and is open to the public in order to obtain information.
 - b) “Public institution” is the controller, which on basis of a legal or sublegal act determines the purposes and manners of processing personal data collected in the context of a public register.
4. Public registers are categorized as follows:
 - a) Registers that contain personal data of social nature, such as birth register, marriage register, death register, citizenship acquisition register, registers with competition results.

- b) Registers that contain personal data of a political nature, such as the list of voters, the list of persons benefiting from amnesty/pardon.
 - c) Registers that contain personal data of a financial nature, such as property titles, property cards, data from the social security benefit scheme, the list of persons who qualify / benefit from legalization, bank data.
5. The list of the types of registers mentioned in point 4 is not exhaustive and the subject of this instruction will be all types of registers that meet the criteria for defining the term presented in point 3, littera "a".
 6. Any public institution, in the course of administering the register, should not perform actions or engage in practices that may be contrary to the principles of personal data processing and the initial purpose for which their collection was carried out, in relation to the data they collect, process, disclose or transfer from this register.
 7. Personal data contained in public registers should be used according to the original purpose for which they were collected and should not be listed or combined with personal data contained in another public register, for the purpose of making available information that cannot be obtained directly from this register.
 8. The disclosure of data from public registers and the purpose of the collection must be expressly provided for in the law or sub-legal act of the controller's activity and the information made available to the public must be consistent with the original purpose for which the personal data were collected.
 9. In cases when the law or sub-legal act does not express itself for the purpose of data collection and inclusion in public registers but only expresses the obligation to make this information public, it is the duty of controllers to assess in the spirit of law, which part of the information containing these registers should be made public in accordance with the purpose.
 10. In cases when the law or sub-legal act does not state the manner, means and forms of making public personal data from the public register or leaves it at the discretion of the public institution, the most appropriate way of publication should be chosen in order to avoid communication with the third parties, which have no direct interest in the information contained in this register.
 11. Personal data contained in a public register should not be made available to the public through electronic means or the Internet unless disclosure under these manner is expressly provided for in a specific law or sub-legal act.

12. During the phase of information gathering directly from personal data subjects for the purposes of new inclusion in a public register, the public institution should ensure that it is made clear to the data subjects that the information collected will be included in a register which will be open to the public.
 - a. The notification regarding the collection of these data to be included in an open register for the public based on the specific legal obligation, must contain, the information of the data subjects regarding the specific section of the law or sub-legal act, the purpose of the collection, publicity and information on the anticipated consequences if this information is not collected.
13. The time of making public the data in the public register should be limited except in cases when the law itself provides for their publication for an indefinite period. In other cases the information should be public as far as necessary informing the public about the information contained in these registers in accordance with the purpose.
 - a. In those cases, where the law does not provide for the time of disclosure of the data contained in a register, then it is the duty of the controller to assess the time required to leak the information to the public. This time cannot be for an indefinite period.
14. The public institution should take measures to avoid communication to third parties of personal data which are included in a public register and which relate to the personal data of data subjects, which may be vulnerable.
15. The public institution shall take appropriate organizational and technical measures to protect the personal data contained in a public register in accordance with the Instructions adopted by the Commissioner as follows: 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.
16. Failure to comply with the requirements of this instruction by the public institution shall consist in violation of the Law "On personal data protection" and will be sanctioned under article 39 of the latter.

This instruction enters into effect immediately and will be published in the Official Gazette.

COMMISSIONER
Flora Çabej (Pogaçe)