



REPUBLIC OF ALBANIA
COMMISSIONER FOR PROTECTION OF PERSONAL DATA
OFFICE OF COMMISSIONER

INSTRUCTION

No 7, Dated 09/06/2010

ON

PROCESSING THE PERSONAL DATA IN THE SECTOR OF EDUCATION

In reliance on the Law No 9887, dated 10.03.2008 "*On Protection of Personal Data*", on decisions of the Parliament of Albania No 211, dated 11.09.2008 "*On election of the Commissioner for Protection of Personal Data*", no 225, dated 13.11.2008 "*On the approval of the organic structure and categories of job positions of the office of the Commissioner for Protection of Personal Data*", as well as abiding by the obligations set out in Article 30/1, letter c, of the law mentioned above, I

INSTRUCT:

I. The legal processing of the personal data abiding by and guaranteeing the fundamental human rights and freedoms and, specifically, the right of preserving the privacy.

Processing of data shall be any act which is conducted in full or in part with automatic facilities, with the personal data, such as collection, registration, storing, ordering, adjustment, rectification, advise, exploitation, taking, deletion or destruction or any other act, such as the transfer of data.

The law No 9887, dated 10.03.2008 "*On Protection of Personal Data*", has granted more individual rights and along with them, stronger responsibilities for the controller of the personal data, manually or automatically (via computer).

This instruction provides a short summary of these changes and including the acts which are conducted by the higher education institutions (HEI) as controllers for the processing of the personal data.

The updating of the rules "*on protection of individual*" shall occur for all personal data which are in processing. All public or private controllers, prior to conducting the processing of the personal data, shall be obliged to take account of some principles which shall be abided by as well as a number of conditions which shall be applied by the controllers (which are foreseen in detail in the instruction of the Commissioner No 1 , dated 26/02/2010 "*On allowing some categories of international transfers of the personal data in a state not having a sufficient level of protection for personal data*", but in the summary there are:

- Aims for which the controllers process the data;
- the process of obtaining the data shall occur in a fair and legitimate way;
- the data shall not be kept longer than necessary;
- the entire process of processing shall occur in accordance with the law on protection of personal data;
- any processing shall be safe.

The international transfer of the personal data is conducted with recipients from states with a sufficient level of protection of personal data. The states with sufficient level are foreseen in the Decision of the Council of Ministers No 934, dated "On determining the states with sufficient level of protection of personal data".

The international transfer of the personal data to another state not having a sufficient level of protection of personal data shall be allowed only under the conditions foreseen in **Instruction No 1, dated 26/02/2010 "On allowing some categories of international transfers of the personal data to a state not having sufficient level of protection of personal data" issued by the office of the Commissioner"**.

In accordance with the law No 9887, dated 10.03.2008 "*On Protection of Personal Data*" the data shall be kept no longer than necessary for the purpose for which they have been collected or further processed.

The controllers of the data are subject to responsibility and they have to be clear about the time space within which the data shall be stored and the reason why the information is being kept.

Every HEI shall appoint a person responsible to safeguard files or databases shall be monitored regularly in order for the personal data not to be kept no longer than the necessary time period.

Every HEI shall apply:

- a) Clear policy for the period of keeping the entire personal data in accordance with the effective legislation;
- b) the rules determining for management, official procedures and computer procedures being applied to implement such policy.

II. Higher Education Institutions as controllers of personal data

Article 58 of the law No 9741, dated 21.5.2007 "*On higher education in the Republic of Albania*", as amended, provides for:

1. An institution of higher education shall keep a basic register for students with their personal data, their evaluation in the course of following the study program, data on

the diploma or diplomas obtained along with the supplements of diplomas, etc., these being formatted in accordance with state standards.

2. The register of the students shall be filled in any written or electronic format and shall be kept under the permanent supervision.
3. Every student shall, upon his initial registration with an institution of higher education, be given a unique number of matriculation, accompanying him up to obtaining the diploma or the certificate. The Minister of Education and Science shall determine the rules for generating and giving the registration numbers.

HEI are "*controllers of the data*" and abiding by the law they shall process the "*personal data*" by which the students may be identified. Account shall be taken that the personal data be processed to the extent that the aim is reached for which they have been collected. Following meeting this aim, the personal data may be deleted or kept anonymously by taking out any identification characteristics as long as this is necessary to be used for another purpose such as for instance, research, historic, archives purpose.

HEI shall process information about students and by doing this they shall abide by the requirements of the law No 9887, dated 10.03.2008 "*On Protection of Personal Data*".

This means that the data kept about the student shall:

- a) Be used only for specific purposes, clearly defined, and legitimate purposes, and the processing shall occur in accordance with these purposes.
- b) Be sufficient, and be connected with the aim of processing and not overcome this purpose.
- c) Be precise in terms of facts and as long as necessary, and updating shall be done and any act shall be undertaken to ensure that the wrong and inappropriate data be deleted or changed.
- d) The data are kept in the form allowing the identification of the person of the data for a certain time, but not longer than necessary for the purpose for which they have been collected or further processed.

The processing of the data shall occur in accordance with **Decision of the Commissioner No 2, dated 10/03/2010 "*On determining the procedures of the administration and registration of data, entering the data, their processing and retrieval*"**.

Every controller shall inform the directorate of registration of the office of the Commissioner about the processing of personal data for which he is responsible. It is advisable that you appoint a person who is going to represent institution for applying correctly of the law No 9887 "*On Protection of Personal Data*". The cases where the obligation to inform about the data being processed is excluded are foreseen in the decision of the Council of ministers No 1232, dated 11.12.2009 "*Determining cases of exclusion from their obligation for notifying the personal data being processed*".

II/1 How are the personal data processed and what is the aim of processing the personal data of students in HEI?

The purpose for processing the data in HEI are:

- a) to effectuate and administer the data of students with regard to their function since the initial application up to graduation and beyond, to manage the continuous relations with the graduates;
- b) training and calculating the offered services;
- c) producing the information for different projects that the government might have for the education, for determining the funds for HEI based on the number of students;
- d) to make possible to the personnel of HEI to identify and communicate with students, while they study the University also after their graduation;
- e) to monitor the academic process for a time period towards their qualifications;
- f) for monitoring the complaints, for instance complaints in connection with the diplomas;
- g) to ensure or support services for students, including human services with financial support of students (fellowships, credits, etc.);

II/2 Categories of personal data being processed by HEI

Some of the categories of data listed in the following:

a) The data entered into the registers of data of students:

- name, surname and address;
- date of birth;
- gender;
- nationality and residence;
- context (number of phone, address, e-mail);
- zone of permanent residence;
- academic references;
- unique matriculation number;
- current profession;
- sensitive data;
- criminal record certificates¹.

b) Updated data:

- address of his house and of his relative;
- address where he is following the University;
- other entries and qualifications;
- demographic information;
- financing, fellowship and other fees;
- bank details (for instance payment slips);
- participants, progress and current status;
- final results;
- photo of student.

¹ Not mandatory. This data is required in some IAL.

c) The data collected for the purposes of being provided with visas for students studying abroad:

- certificate issued by HEI where studies are followed, quoting:
 - name, name the father, surname;
 - date of birth and place of birth;
 - field of study;
 - course of study (for instance student in the third year).

II/3 Dissemination or retrieval of personal data

How should HEI treat the requests for information concerning the data of students?

Students have the right to privacy of their personal data. Appropriate arrangements have to be made for the security against unauthorized access, against disclosure or destruction of data as well as for the accidental loss of the data. The highest security standards are essential for all personal data. The processing of the data of students within HEI shall be strictly controlled.

The sensitive personal data shall be dealt with special care and that processing shall be done in accordance with the provisions contained in Article 7 of the law No 9887 "*On Protection of Personal Data*".

In accordance with Article 6 of the law No 9887 "*On Protection of Personal Data*". It is foreseen that the personal data are processed only for the person of the personal data that has granted his consent; ("*consent*" is the specific declaration made on free will by the person of personal data for the processing of his data).

The exceptional cases where the processing of the data may be done without the consent of the student are:

- if the university personnel needs information about teaching, administrative acts, or evaluation purposes;
- while obtaining the addresses of pupils and courses for members and for those students expected to be registered;
- where an organization offering cooperation offers, teaching courses, evaluation or support for a course of the University (only for the registered students in the course offered in connection with this organization offering the cooperation);
- whether court, police and prosecution office are dealing with the prevention of crime or enforcement of the law;
- for hospital emergencies.

Controllers, processors and persons being informed about the processing of data in the course of carrying out their functions shall be obliged to preserve the confidentiality and

reliability even after completing the function. These data should not be disseminated, unless it is provided for by law.

They shall always imply that they may not disclose to any unauthorized person personal data which they know or get to know in the course of their job. The obligation to preserve the confidentiality shall never expire. The obligation does not expire where the persons do not exercise their functions anymore. Infringement of the obligation of confidentiality shall consist criminal offence provided for by the Criminal Code (Article 123).

This decision shall enter into effect immediately and shall be published in our official website, www.kmdp.al.

COMMISSIONER

FLORA ÇABEJ (POGAÇE)