PROTECTION OF PERSONAL DATA OF CITIZENS OF THE REPUBLIC OF BULGARIA – LEGAL AND PRACTICAL ASPECTS

G. Velkovska

Abstract

Personal data of citizens of the Republic of Bulgaria have any information relating to an individual who is identified or can be identified, directly or indirectly through an identification number or to one or more specific signs. Protection of personal data of citizens of the Republic of Bulgaria, according to the text of Chapter Four of the Protection of personal data is an obligation of the data controller. Data controller is a natural or legal person as well as a public authority or local government, which alone or jointly with another person determines the purposes and means of processing personal data.

Keywords: personal Data Privacy Administrator of personal data, the Commission for Personal Data Protection, Electronic Document and Electronic Signature Act, the protection of personal data Right of access to personal data of Bulgarian citizens, physical protection of personal data Personal protection Documentary protection Protection of automated information systems and / or networks, cryptographic protection.

By decision of the National Assembly of the Republic of Bulgaria from May 23, 2002, it was established Commission for Protection of Personal Data.

Commission for Protection of Personal Data is an independent state body responsible for the protection of individuals with regard to the processing of their personal data and in providing access to these data, as well as supervising compliance with the Law on Data Protection. It is an independent, collegiate body, consisting of a chairman and four members. Members of the committee and its chairman are elected by the National Assembly on the proposal of the Council of Ministers for a period of 5 years and may be reappointed for another term.

The subject of this article is the legal basis on which is based the work of the Commission for Personal Data Protection, as well as some aspects of its practice with the formulation of measures and recommendations in the field of protection of personal data of citizens of the Republic of Bulgaria.

1. Personal data of bulgarian citizens.


1Gena Velkovska, Associate Professor, Trakia University, Stara Zagora, Republic of Bulagaria.
These requirements are defined in detail in Paragraph 2 of Article 2 of the Law on protection of personal data. Personal data must be:
- Processed lawfully and in good faith;
- Collected for specified, specified and legitimate purposes and not further processed in a way incompatible with those purposes; further processing of personal data for historical, statistical or scientific purposes is permitted provided that the controller provides appropriate protection by ensuring that data is not processed for other purposes except as expressly provided in this Act;
- Be relevant and related to exceeding the purposes for which they are processed;
- Accurate and, where necessary, updated;
- Deleted or corrected when found to be incorrect or disproportionate to the purposes for which they are processed;
- Are kept in a form which permits identification of data subjects for no longer than necessary for the purposes for which these data are processed; personal data will be stored for a longer period for historical, statistical or scientific purposes shall be maintained in a form allowing identification of individuals.

Purposes and means of the processing of personal data in the Republic of Bulgaria are set by the administrator of personal data. What are the main legal features of this figure? These legal characteristics are specified in Article 3 of the Law on protection of personal data. Data controller is a natural or legal person as well as a public authority or local government, which alone or jointly with another person determines the purposes and means of processing personal data. Moreover Administrator is also a natural or legal person as well as a public authority or local government, which process personal data, defined specific criteria.

How processes personal data administrator? The data controller processes personal data independently or by entrusting the handling of a particular entity / entities.

When is it permissible and when it prohibited the processing of personal data of Bulgarian citizens?

According to the text of Article 4 of the Law on protection of personal data processing of personal data is permissible only in cases where at least one of the following conditions:
- Processing is necessary to fulfill a legal obligation of the data controller;
- The natural person to whom the data relate has given his or her explicit consent;
- Processing is necessary for the performance of obligations under a contract in which the individual to whom the data relate is a party, and actions prior to the conclusion of a contract and taken at his request;
- Processing is necessary to protect the life and health of the individual to whom the data relate;
- Processing is necessary for the performance of a task carried out in the public interest;
- Processing is necessary for the exercise of powers conferred by law in the controller or a third party to whom the data are disclosed;
- Processing is necessary for the realization of the legitimate interests of the data controller or a third party to whom the data are disclosed, except where such interests are overridden by the interests of the individual to whom the data relate.

Furthermore, the processing of personal data is permissible when it is done solely for the purposes of journalism, literary or artistic expression, as far as it does not violate the right to privacy of the person to whom the data relate. According to the text of Article 5, Paragraph 1 of the Law on protection of personal data, the processing of personal data is prohibited when personal data:
- Revealing racial or ethnic origin;
- Reveal political, religious or philosophical beliefs, membership in political parties or organizations, associations with religious, philosophical, political or trade union purposes;
- Relate to health, sexual life or human genome.

The text of Article 5 Paragraph 2 of the Law on protection of personal data related to classification of cases where the aforementioned prohibitions can not be ignored.

These are cases where:
- Processing is necessary for the performance of specific rights and obligations of the controller in the field of employment law;
- The natural person to whom such data relate has given his or her explicit consent to their processing, unless a special law provides otherwise;
- Processing is necessary to protect the life and health of the individual to whom the data relate or of another person and the condition of the individual does not allow him to give consent or there are legal obstacles to this;
- Processing is carried out by non-profit organization, including political, philosophical, religious or trade union goal in the course of its legitimate activities with appropriate safeguards, provided that:
  a) the processing relates solely to the members of this body or to persons who have regular contact with it in connection with its objectives;
  b) the data are not disclosed to third parties without the consent of the individual to whom they relate;
- Processing relates to data made public by the individual, or it is necessary for the establishment, exercise or defense of legal claims;
- Processing is necessary for the purposes of preventive medicine, medical diagnosis, the provision or management of health services, provided that the data is processed by a medical specialist obliged by law to observe professional secrecy or by another person under a similar obligation to protect confidentiality;
- Processing is carried out solely for journalistic, literary or artistic expression as long as it does not violate the right to privacy of the person to whom such data refer.

Protection of personal data of Bulgarian citizens, according to the text of Chapter Four of the Protection of personal data is an obligation of the data controller.

The data controller shall take appropriate technical and organizational measures to protect data against accidental or unlawful destruction or accidental loss, unauthorized access, modification or distribution, and other unlawful forms of processing.

The administrator of personal data sets deadlines for conducting periodic reviews on the need to process data and deletion of personal data.

Furthermore, the administrator shall take special measures to protect, where the processing involves the transmission of data electronically.

All the measures are consistent with modern technological advances and ensure a level of security appropriate to the risks associated with the processing and the nature of the data to be protected.

Measures and deadlines are determined by the instructions of the data controller.

The minimum level of technical and organizational measures and admissible type of protection are defined in a specific ordinance. This is Ordinance №1 from 30.01.2013g. Issued by the Commission for Personal Data Protection.

The Ordinance aims to provide an adequate level of protection of personal data maintained registers of personal data against accidental or unlawful destruction or accidental loss, unauthorized access, modification or distribution, and other unlawful forms of processing.

Within the meaning of Art. 5 of Ordinance №1, types of protection of personal data are physical, personal, documentary, protection of automated information systems and / or networks and cryptographic protection.

How qualified are the various types of protection?

Physical protection of personal data is a system of technical and organizational measures to prevent unauthorized access to buildings, facilities and equipment in processing personal data.

Basic organizational measures of physical protection are:
- Identifying the areas with controlled access;
- Determination of the premises, which will process personal data;
- Determination of the premises that will have elements of communication and information systems for processing personal data;
- Establishing the organization of physical access;
- Determination of the regime of visits;
- Defining the technical means of physical protection;
- Determination of the team to respond to violations.

The main technical measures of physical protection are:
- Locks;
- Cabinets;
- Metal frames;
- Equipment areas with controlled access;
- Premises equipment;
- Devices for physical access control;
- Security and / or security system;
- Means for perimeter protection;
- Extinguishing agents;
- Fire detection and extinguishing systems;
- Detection of substances (metals, explosives, etc.).
Personal protection is a system of organizational measures against natural persons who process personal data on instructions from the controller.

The main measures of personal protection are:
- Knowledge of the legal framework for data protection;
- Knowledge of policy and guidelines for the protection of personal data;
- Knowledge of the dangers to personal data processed by the controller;
- Sharing of critical information among staff (e.g., IDs, passwords, etc.);
- Agreement on a commitment to non-proliferation of personal data;
- Training;
- Training staff to respond to events threatening the security of the data.

Personal protection measures ensure access to personal data only to persons whose official duties or missions require such access, subject to the principle of "need to know".

Individuals can begin to process personal data after acquaintance with:
- Legislation on the protection of personal data;
- Policy and guidelines for the protection of personal data;
- The risks to personal data processed by the administrator.

Persons sign a confidentiality statement of personal data to which they obtain in the course of implementing its obligations.

Documentary protection is a system of organizational measures to the processing of personal data on paper.

The main measures of documentary protection are:
- Determination of the records will be maintained on paper;
- Determining the conditions for processing personal data;
- Regulation of access to records;
- Control of access to records;
- Setting time limits for storage;
- Rules for reproduction and distribution;
- Procedures for destruction;
- Procedures for the inspection and control of processing.

Protection of automated information systems and / or networks is a system of technical and organizational measures to protect against unlawful forms of processing personal data.

The main measures for the protection of automated information systems and / or networks are:
- Policy on protection of personal data protection guidelines and standard operating procedures;
- Definition of roles and responsibilities;
- Identification and authentication;
- Management of records;
- Controls the session;
- External connections / connection;
- Telecommunications and remote access;
- Monitoring;
- Virus protection;
- Planning to change / contingencies;
- Maintenance / operation;
- Configuration Management;
- Copies / backups for recovery;
- Media;
Physical environment / surroundings;
- Personal protection;
- Training staff to respond to events threatening the security of the data;
- Setting time limits for storage of personal data;
- Procedures for destruction / deletion / deletion carriers.

Cryptographic protection is a system of technical and organizational measures, which are used to protect data from unauthorized access during transmission, dissemination or.

The main measures of cryptographic protection are:
- Standard cryptographic capabilities of the operating systems;
- Standard cryptographic capabilities of systems for database management;
- Standard cryptographic capabilities of communications equipment;
- Systems for the distribution and management of cryptographic keys;
- Regulatory system for electronic signature.

Which entities are authorized to process personal data?
The administrator can process the data independently or through assignment to a data processor. Where it is necessary for organizational reasons, the processing can be assigned to more than one processor, including the purpose of differentiating their specific duties.

In cases where data processing is not performed by the administrator, it is required to determine the processor and to provide adequate safeguards for their protection.

Relations between the controller and data processor shall be governed by statutory instrument, written contract or other act of the administrator, which defines the scope of duties assigned by the administrator of the processor.

For damages caused to third parties by the acts or omissions of the processor, the controller shall be jointly responsible.

The processor and any person acting under the authority of the controller or processor who has access to personal data must not process them except on instructions from the controller.

What should be the actions of the administrator after the processing of personal data?
Under Article 25, Paragraph 1 of the Law on Personal Data Protection, after achieving the purpose of processing personal data or before suspending the processing of personal data controller is obliged to:
- Destroyed;
- Transfer to another administrator, informing in advance the commission law on personal data if the transfer is provided for by law and there is an identity of the purposes of the processing.

After achieving the purpose of processing personal data administrator shall store them only in cases provided by law.

In cases where after achieving the purpose of processing, the administrator wants to store the processed personal data as anonymous data for historical, scientific or statistical purposes, it shall inform the Commission.

Commission for Protection of personal data in those cases may prohibit the storage of personal data, if the administrator does not provide sufficient protection of the processed data as anonymous data.

3. Right of access to personal data of bulgarian citizens.
The rights of individuals associated with the provision of access to their personal data are set out in Chapter Five of the law on protection of personal data.

Under Article 26, Paragraph 1 of the Law on Protection of Personal Data, any individual has the right of access concerning his personal data.

How is the right of access where such access by the possibility exists to disclose personal data to a third party?

Under Article 26, paragraph 2, when in exercising the right of access of the individual can disclose personal data of third parties, the administrator must provide the data subject with access to part of them related Only for him.

What information related to his personal data may request the individual?

Within the meaning of Art. 28, paragraph 1, in the exercise of their right of access the individual has the right at any time to ask the administrator of personal data:

- Confirmation as to whether relating thereto data is processed, the purposes of the processing, the categories of data and the recipients or categories of recipients to whom the data are disclosed;
- Communication to him in an intelligible form, containing personal data are processed, as well as any available information as to their source;
- Information about the logic involved in any automatic processing of personal data relating to him.

Furthermore, the individual has the right at any time to ask the administrator to:

- Delete, correct or block his personal data processing does not meet the requirements of this Act;
- Notify third parties, which have been disclosed personal data of any deletion, rectification or blocking except when it is impossible or involves a large effort.

What are the administrative rules that can access the personal data?

Under Article 29, Paragraph 1 of the Law on protection of personal data, the right of access, right of rectification or blocking of personal data carried out by a written request to the data controller.


The application shall be filed personally by the individual or by explicitly authorized person by power of attorney.

The application shall contain:

- Name, address and other data to identify the data subject;
- A description of the request;
- Preferred form of provision of information;
- Signature, date of application and mailing address.

On application by an authorized person to apply and the application notarized power of attorney.

Applications shall be filed in the registry administrator.

In ensuring the right of access to personal data, the Act on Data Protection regulates specific procedures namely:
- The administrator of personal data provides information about the personal data of the individual free;
- Upon the death of the individual rights of access to personal data shall be exercised by his heirs.
- The personal data of the individual can be provided in the form of verbal or written reference or review of the data from the data subject or explicitly authorized by him to another person.
- Natural person may request a copy of the processed personal data on a preferred carrier or submission electronically, except where prohibited by law.
- The personal data controller is obliged to comply with the form preferred by the applicant to provide information on personal data.

What are the rights of the individual and how they are exercised in relations between him and the administrator?
Within the meaning of Art. 34a, paragraph 1, the individual to the data subject has the right to:
- Protested against the controller to the processing of personal data if legal grounds; where the opposition is justified, the personal data of the individual can no longer be treated;
- Object to the processing of personal data for direct marketing purposes;
- To be informed before personal data are disclosed for the first time to third parties or used on their behalf for the purposes of direct marketing, and to be given the opportunity to object to such disclosure or use.
- The administrator shall inform the individual rights related to the use of personal data for direct marketing purposes.

4. Practical aspects.
What show some data from the annual report for 2014. the Commission for Protection of personal data [1]?
In the past year a significant number of complaints against the political parties and coalitions of parties. The first group covers appeals unlawful processing of personal data of applicants by including their full name, personal identification number and signature of the lists for registration to the Central Election Commission.
Sectors of activity of the personal data against which most often do complaints from individuals in 2014 were as follows (Fig. 1):
- Political entities - 549 complaints
- Telecommunications - 137 complaints
- Banks and credit institutions - 36 complaints
- Judiciary, notaries, bailiffs - 17 complaints
- Media and Internet - 14 complaints
- Local Government - 6 complaints
For 2014 the Commission for Personal Data Protection received a total of 1,100 complaints concerning the processing of personal data. Of the above number, 496 were complaints about use of personal data on voters lists for the registration of political parties and coalitions of parties in the Central Election Commission to participate in elections to the European Parliament and 53 complaints were in relation to production elections for deputies. In open meetings are considered 596 complaints.
Fig. 1. Sectors of activity, against which most often received complaints from individuals. Source: [1]

458–548, and in 2011 – In comparison, the number of complaints in 2013 was 550, in 2012.

The chart given below (Fig. 2) is presented increase in the number of complaints submitted to the Commission for the protection of personal data in the last four years:

Fig. 2. Complaints by years (counts). Source: [1]

For the reporting period, the Commission for Personal Data Protection, as a College in developing administrative proceedings before him under Art. 38, para. 1 of the Law on Protection of Personal Data 161 provides solutions that can be divided according to the following criteria:

1. Good, which has upheld the appeal and imposed an administrative penalty - 45 decisions six decisions issued and mandatory instructions of the personal data;
2. To stop the administrative proceedings because of other proceedings before the authorities of the Ministry of Interior or the prosecution - 18 decisions;

3. declaring the appeal inadmissible - 25 decisions;

4. announcement appeal irregular - 18 decisions;

5. Decisions approving agreements between the parties in the administrative procedure - second decisions.

Commission for Protection of personal data regarded as unreasonable by not establishing 53 complaints of violation of the rules for the processing of personal data and the lack of violated rights of the applicants.

Of administrative proceedings which ended because of inadmissible complaints in 9 enters refusal by the applicant in which the Commission for Personal Data Protection in practice declined jurisdiction. Established violations by data controllers can be assigned to these groups disorders:

- The processing of personal data in violation of the principles of legality and proportionality of personal data processed principle of the processing of personal data for specific, clearly defined and legitimate purposes (Art. 2, para. 2 of the Law on Protection of Personal Data) - imposed penalties amounting to 88,000 Levs

- The processing of personal data without a statutory requirement for the admissibility of the processing of personal data (Art. 4 of the Law on Protection of Personal Data) - imposed sanctions in the amount of 181,000 lev

- The processing of personal data without being taken by data controllers technical and organizational measures to protect data against accidental or unlawful destruction or accidental loss, unauthorized access, modification or distribution, and other unlawful forms of processing (Art. 23 of the Law on Protection of Personal Data) - imposed sanctions in the amount of 28,000 lev

- The refusal of data controllers to assist the Commission for the protection of personal data in the exercise of its supervisory powers (art. 22, par. 5 of the Law on Protection of Personal Data) - imposed sanctions amounting to 1,300 Levs

- Violation of Art. 5 of the Law on protection of personal data - processing of sensitive personal data - imposed sanctions amounting to 15,000 lev.;

- Violation of Art. 20 of the Law on protection of personal data - failure to inform the individual of data controllers - imposed sanctions in the amount of 11,000 lev

The amount of the penalties imposed by the Commission for the protection of personal data laid down by it for administrative acts in 2014 amounted to 476,400 Levs collected in 2014 amounts set out the Commission’s decisions on protection of personal data in the amount of 206,205 lev (37,672 Levs of them are forcibly collected by the National Revenue Agency of the Republic of Bulgaria).

CONCLUSION:

Strategic objective of the Bulgarian government is the introduction of complex administrative services in all public administrations in 2015. The basic model of integrated administrative services complements and builds the model for administrative services of the “one stop shop”. As stated in the annual report for 2014, the Commission for Protection of personal data [1], this process will inevitably have an impact on the activities of the Commission for Protection of personal data on improvement and expansion
of electronic services to businesses and individuals by the Commission for the protection of personal data and their integration with integrated portal for access to electronic administrative services.

Taking into account the experience gained in the field of control activities and to establish conditions for uniform application of the rules on data protection by administrators of similar activity Commission for Personal Data Protection relies on a change of approach for the selection of data controllers for inclusion in the annual inspection plan and focus on the conduct of sectoral checks. The leading criterion in defining the sectors of social and economic life, which will be subject to verification, is the processing of personal data in a very large number of individuals (eg in the "Education" and / or "Health").

In continuation of its policy of raising public awareness on the issues of data protection in the focus of the Commission for the protection of personal data remains vulnerable groups in society. In the coming period the Commission for Personal Data Protection will build on already realized in 2012, activity on protection of personal data of children and adolescents by directing its efforts towards synergies with partner institutions and stakeholders. Early prevention among vulnerable groups of society is a reliable guarantee for the successful exercise of the right to protection of personal data and prevent its misuse.

The focus of the Commission for Personal Data Protection in 2015 and identifies the need for legislative changes to electoral law in order to define clearly the obligations of all actors in the electoral process and ensure adequate protection of personal data of voters.

Given employed in managerial positions authorities on data protection to the European Union in 2015, the Commission for Personal Data Protection will strengthen its international activity of all levels to a maximum contribution to the work of European data protection, European policy and strengthening the role of Bulgaria as an active member of the European Union.

A significant focus of the Commission for Protection of personal data internationally remains the preparation of the institution to implement the new legal framework on data protection, which, after three years of discussion is in its final stage. And in 2015 the main efforts will be aimed at creating the necessary preconditions for the introduction of new European requirements at national level both in a wide range of data controllers and to specific sectors of activity, such as areas "Police" and "Justice". An important factor for successful preparation for the introduction of new higher standards for the protection of personal data is to increase the proficiency and specialized expertise of the administration of the Commission for Personal Data Protection.

Commission for Protection of personal data will continue to invest in this area. Another priority related to the upcoming final of European reform, which remains relevant in the agenda of the Commission for Protection of personal data is introduced in Bulgarian legislation the new figure - employee data protection, respectively. the training of those persons by the Commission for Personal Data Protection. The mandatory introduction of this figure will significantly strengthen the right to protection of personal data and will contribute to the full functioning of the system of protection of personal data in the Republic of Bulgaria.
Commission for Protection of personal data will continue to implement active measures and in view of the priorities of the Republic of Bulgaria - full accession to the Schengen area.

References:

4. Ordinance №1 from 30.01.2013g. Issued by the Commission for Personal Data Protection;
5. www.cpdp.bg
6. LEX.BG.