

# LAW ON PERSONAL DATA PROTECTION

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## Chapter I

### GENERAL PROVISIONS

#### *Article 1*

- (1) This Law shall govern the protection of natural persons with regard to the processing of personal data as well as the access to such data.
- (2) This Law shall be aimed to guarantee the inviolability of individuals and their privacy by protecting natural persons against illegitimate processing of personal data related to them and regulating the right to access to such data, which have been collected and processed.
- (3) This Law shall not apply to the processing of personal data by a natural person, who is not a personal data controller relating to personal interests and intended for personal use.
- (4) The processing and access to personal data for the purposes of defence, national security and public order as well as for the activities of the executive power and the judiciary in the enforcement of the criminal law, may be governed by special laws.

#### *Article 2*

- (1) Personal data shall mean any information relating to a natural person, which reveals his physical, psychological, mental, family, economic, cultural or social identity.
- (2) The provisions of this Law shall also apply to personal data of natural persons related to their participation in civil associations or in management, control or supervision bodies of legal persons as well as to the discharge of the duties of public authorities.

#### *Article 3*

- (1) Personal data controller shall be a natural or a legal person, a public authority, who determines the type of data to be processed, the purpose of processing, the means of processing and protection, in compliance with the requirements of this Law.
- (2) The personal data controller shall process the personal data alone or shall entrust a processor to process the personal data.
- (3) Public authorities shall process personal data in the cases provided for by law.

#### *Article 4*

- (1) Personal data shall be kept in personal data registers.
- (2) Personal data processed by public authorities shall be information for official use only.

#### *Article 5*

An act issued by a public authority or local government authority, that entails legal implications for a particular person and contains an evaluation of his behaviour, shall not be based solely on the automatic processing of personal data.

### **Chapter II**

## **COMMISSION FOR PERSONAL DATA PROTECTION**

#### *Article 6*

- (1) The Commission for personal data protection hereinafter referred to as “the Commission” shall be an independent public body for protection of individuals with regard to processing of their personal data and access to such data and for control on the compliance with this Law.
- (2) The Commission shall be a legal person funded by the budget and seated in Sofia.

#### *Article 7*

- (1) The Commission shall be a collective body consisting of a Chairman and four members.
- (2) The members of the Commission and the Chairman shall be elected by the National Assembly on proposal of the Council of Ministers for a five-year term of office and may be re-elected for another term of office. Their remuneration shall be determined in the decision of the National Assembly.
- (3) The Chairman and the members of the Commission shall perform their activities under a contract of employment.
- (4) The Commission shall submit by January 31, each year a report on its activities to the National Assembly and the Council of Ministers.

#### *Article 8*

- (1) Eligible to be elected members of the Commission shall be Bulgarian citizens who:
  1. hold an university degree in law or in information sciences or a master’s degree in information technologies;
  2. have length of service of at least ten years in their respective field;
  3. have not been convicted to imprisonment for intentional indictable crimes.

(2) Members of the Commission shall not:

1. be persons who are sole proprietors, managers/procurators or members of managing or supervisory bodies of companies, co-operatives or non-profit organisations;
2. hold any other stipendiary office except when performing research or teaching activities.

(3) Eligible to be elected Chairman of the Commission shall be a person who is a qualified lawyer and meets the requirements laid down in paragraphs 1 and 2.

(4) The term of office of the Chairman or a member of the Commission shall be terminated ahead:

1. in case of a death or interdiction;
2. by a Decision of the National Assembly where he has:
  - submitted a request to be released from the office held;
  - committed serious infringement of this Law;
  - committed an intentional indictable crime where the sentence has entered into force;
  - been unable to fulfil his duties for more than six months;

(5) In the cases referred to in paragraph 3 the Council of Ministers shall propose to the National Assembly to elect a new member for the remainder of the initial term of the Commission.

(6) The time served as a Chairman or a member of the Commission shall be recognised as a service experience under the Law on Civil Servant.

#### *Article 9*

(1) The Commission shall be a standing body, assisted by an administration.

(2) The Commission shall adopt Rules of procedure for its activities and for the activities of its administration and shall publish them in the State Gazette.

(3) The Commission shall decide by a majority vote of all its members.

(4) The Commission shall sit in public. The Commission may decide to have certain sittings in camera.

#### *Article 10*

(1) The Commission shall:

1. analyse and exercise overall control on the compliance with the legislation in the field of personal data protection;
2. keep a register of personal data controllers;
3. carry out checks of the personal data controllers' activities in connection with its activities referred to in item 1;
4. give opinions and authorisations in the cases provided for by this Law;
5. issue mandatory instructions to controllers, related to the protection of personal data;

6. upon prior notification impose temporary ban on personal data processing that breaches the personal data protection rules;
7. consider complaints against controllers who have denied natural persons access to their personal data as well as other controllers' or third parties' complaints in relation with their rights provided for in this Law;
8. participate in the drafting of legislation relating to personal data protection.

(2) The procedure for keeping the register referred to in Article 14, for notifying the Commission, issuing authorisations, giving opinions and considering complaints as well as issuing mandatory instructions and imposing temporary bans on personal data processing shall be laid down in the Rules of procedure referred to in Article 9, paragraph 2.

(3) The Commission shall issue a bulletin, containing information on its activities and decisions made.

#### *Article 11*

(1) The Chairman of the Commission shall:

1. organise and administer Commission's activities in accordance with the law and the decisions of the Commission and shall be responsible for the performance of its obligations;
2. represent the Commission to third parties;
3. appoint and dismiss the civil servants and conclude and terminate contracts of employment of the Commission's administration employees hired under contracts of employment.

#### *Article 12*

(1) The Chairman or the members of the Commission or duly authorised officials from the administration shall carry out checks on the implementation of this Law.

(2) The personal data controller shall be obliged to provide the persons referred to in paragraph 1 access to the registers kept by him and shall not impede the inspection of personal data processing.

(3) The Commission shall carry out checks on request of persons concerned as well as on its own initiative based on its monthly plan for control activities.

(4) If an infringement is established during the check, the Commission shall issue mandatory instructions for the removal of the infringement within a time limit fixed by the Commission.

(5) A statement of offence shall be produced in case of a failure to perform the instructions referred to in paragraph 4.

(6) Where the rights of the natural person provided for in this Law have been infringed, the Commission shall refer the matter to the competent Court in accordance with Article 39 paragraph 3 of this Law.

### *Article 13*

(1) The Chairman and the members of the Commission shall be obliged not to disclose the information that constitutes official secret for the personal data controllers, which has become known to them in the process of exercising their activities, up to three years after the expiry of their term of office.

(2) The obligation laid down in paragraph 1 shall also apply to officials in the Commission's administration for a period of up to three years after the termination of the service or the employment relation.

(3) Upon recruitment the members of the Commission and the officials in the Commission's administration shall submit a declaration in connection with the obligations referred to in paragraphs 1 and 2.

### *Article 14*

(1) The Commission shall keep a register of personal data controllers and of the registers kept by such controllers.

(2) In the register referred to in paragraph 1 shall be recorded the personal data controllers, the type of personal data, the legal grounds, purposes and means of processing the data, the consent required from the natural person and the legal act which provides for the register-keeping procedure.

(3) The register referred to in paragraph 1 shall be open to the public. The fee paid to receive information from the register shall be fixed by the Council of Ministers.

(4) The Commission shall issue a certificate to the registered personal data controllers.

### *Article 15*

(1) Any person who wants to process personal data and to create a personal data register shall notify the Commission in advance by submitting an application and documents according to a model, approved by the Commission.

(2) In the cases referred to in Article 3, paragraph 3 the public body, designated to be a personal data controller, shall inform the Commission within 10 days of its constitution.

(3) Personal data controllers shall notify the Commission before carrying out any wholly or partly automatic processing operation of the personal data collected other than as stated and of the transfer of personal data to another controller or to a third party.

(4) In the cases referred to in paragraph 3 the Commission may decide on carrying out prior check of the controller or to issue mandatory instructions to protect the personal data that are processed or transferred.

#### *Article 16*

(1) The Commission may carry out prior checks within seven days from the notification and issue preliminary instructions with regard to personal data processing and keeping a register by the person referred to in Article 15 paragraph 1 and to guarantee compliance with this Law.

(2) The Commission shall not carry out prior checks on register keeping if the registers:

1. contain personal data of persons who are employed by the personal data controller under employment or service relation;
2. are kept for statistical or research purposes;
3. are provided for in a legal act and are open to the public.

(3) Within 14 days from the notification the Commission shall decide:

1. to register the person referred to in Article 15, paragraph 1 as a personal data controller and to enter into its register the data referred to in Article 14 paragraph 2 providing the requirements of this Law on personal data collection and processing have been met; or
2. to refuse registration on the grounds of this Law.

(4) The refusal of the Commission to register the persons referred to in Article 15 may be appealed against before the Supreme Administrative Court within 14 days.

### **Chapter III**

#### **PERSONAL DATA CONTROLLER**

#### *Article 17*

The personal data controller referred to in Article 3, paragraph 1 shall have the right to process personal data only if these data are:

1. obtained lawfully;
2. collected for purposes specified by law and used solely for the implementation thereof;
3. not excessive in relation to the purposes for which they are processed;
4. the data are accurate and up to date;
5. the data are kept in a form which permits identification of natural persons for a period no longer than is necessary for the purposes for which the data are processed.

#### *Article 18*

Processing of personal data shall be allowed only in the cases where at least one of the following conditions exists:

1. performance of a legal obligation;
2. the natural person's explicit consent;
3. is necessary to protect the life or the health of the natural person;

4. implementation of the terms of a contract between the controller referred to in Article 3, paragraph 1 and the natural person;
5. there is legitimate interest on the part of the controller referred to in Article 3, paragraph 1 or of a third party or a person to whom the data are disclosed providing that the disclosure does not violate the right to protection of the natural person concerned under this Law.

#### *Article 19*

(1) The controller referred to in Article 3, paragraph 1 shall process personal data relating to the natural person providing that he has given his consent save the exceptions provided by law.

(2) Before starting the data processing the controller referred to in Article 3, paragraph 1 shall be obliged to inform the natural person concerned of:

1. the purposes and the means of personal data processing;
2. whether the provision of data is obligatory or voluntary and the implications of a refusal to provide the data;
3. the recipients or categories of recipients to whom the data may be disclosed and the sphere of data use;
4. the rights of access and rectification of the data collected, the name and address of the personal data controller, referred to in Article 3, paragraph 1 and of the data processor if other than the controller.

(3) The information referred to in paragraph 2 shall be submitted by the controller to the natural person concerned prior to data processing, where the personal data of the natural person concerned have been provided by a third party.

(4) Paragraph 3 shall not apply in case of explicit prohibition provided for by law.

#### *Article 20*

(1) The natural person's consent referred to in Article 19, paragraph 1 shall be given freely and unambiguously. It may be given for the whole or part of the data processing and, where necessary, in writing.

(2) The consent referred to Article 19, paragraph 1 shall not be required where data processing:

1. concerns personal data collected and processed in accordance with an obligation provided for by law;
2. is carried out solely for the purpose of scientific research or statistics and the data are anonymous;
3. is necessary to protect the life or health of the natural person concerned or of another person as well as where the person concerned is not capable of giving his consent for physical or legal reasons;

#### *Article 21*

(1) The processing of personal data which reveal racial or ethnic origin, political, religious or philosophical beliefs, membership in political parties, trade-unions, organisations and associations with religious, philosophical, political or labour aims and personal data concerning health and sexual life may be carried out only with the explicit consent in writing of the natural person concerned.

(2) The explicit written consent concerning the data referred to in paragraph 1, shall not be required where:

1. the processing is the obligation of the controller referred to in Article 3, paragraph 1, as provided for by law;
2. the processing is required to protect the life or health of the person concerned or of another person or the person concerned is not capable of giving his consent for physical or legal reasons;
3. the processing concerns data that were made public by the natural person concerned or the processing is necessary for the establishment, exercise or defence of his legal rights;
4. processing is required for the purposes of carrying out medical aid or health services, or the data are processed by a person who is working in medical or health-care institution and is subject to the obligation of professional secrecy;
5. processing of data relating to personal data on crimes, administrative violations or torts shall be carried out solely by or under the control of a competent public authority;
6. processing is required for defence and national security.

#### *Article 22*

(1) The controller referred to in Article 3, paragraph 1 shall publish not later than 31 of March each year, in the bulletin of the Commission for personal data protection the following information on the registers established by him during the last year:

1. the type of the processed personal data in accordance with the criteria for establishing the identity of natural persons;
2. the group of persons whom the personal data processing concerns;
3. registered address, procedure and conditions of lodging an application for access to personal data;
4. description of the purposes for which the personal data are processed and the admissible ways of using them;
5. description of the criteria to which the data storage and destruction are subject.

(2) The controller referred to in Article 3, paragraph 1 shall be obligated to publish in the bulletin of the Commission for personal data protection any alteration in the facts referred to in paragraph 1, items 1 to 5 within 30 days from the alteration.

(3) The controller shall be responsible for the authenticity of the data referred to in paragraphs 1 and 2 and shall be obliged to provide public access to them.

### **Chapter IV**

## **PERSONAL DATA PROTECTION**

### *Article 23*

(1) The controller referred to in Article 3, paragraph 1 shall be obliged to take the appropriate technical and organisational measures to protect data from accidental or unlawful destruction, accidental loss or alteration, unauthorised disclosure or access, unregulated modification or dissemination and any other illicit forms of personal data processing.

(2) The controller shall be obliged to take special measures for protection where processing involves computerised data transfer.

(3) The Commission for personal data protection shall provide in an ordinance the minimum required technical and organisational measures as well as the admissible type of protection.

### *Article 24*

(1) The controller referred to in Article 3, paragraph 1 may process the data alone or by entrusting a processor to carry out the processing on his behalf. Where necessary, due to organisational reasons, more than one processor may be entrusted with the processing, including with a view to delimit their specific duties.

(2) Where the processing is not carried out by the controller, he shall be obliged to appoint a processor and to provide sufficient safeguards for data protection.

(3) The processor shall be selected among persons who have professional and technical abilities to ensure full compliance with all conditions relating to data processing and the protection thereof.

(4) The controller referred to in Article 3, paragraph 1 shall specify the means of processing by a written instruction, which shall be obligatory for the processor and the personal data operator.

(5) The obligations of the processor and the operator including their liability in case of failure to perform such obligations shall be laid down in their appointment orders or in written contracts in connection with the instruction referred to in paragraph 4.

(6) Responsibility provided for in paragraph 5 should not preclude any other kind of responsibility for unlawful actions or omissions committed by the same person.

### *Article 25*

(1) After the completion of the personal data processing, the controller referred to in Article 3, paragraph 1, may:

1. destroy the data, or
2. transfer the data upon permission of the Commission for personal data protection to another controller, if provided so by law and the purposes of the processing are identical;

(2) After the completion of the personal data processing, the controller referred to in Article 3, paragraph 1 shall store the data only in the cases provided for by law.

(3) In the cases where after the completion of processing the controller referred to in Article 3, paragraph 1, wishes to store the personal data processed to use them as anonymous data for historical, scientific or statistical purposes, he shall notify the Commission for personal data protection thereof.

(4) The Commission for personal data protection may prohibit the storage for the purposes referred to in paragraph 3, if the controller had not provided sufficient protection for the data processed as anonymous data.

(5) The decisions of the Commission laid down in paragraph 4 may be appealed against before the Supreme Administrative Court. Where the Supreme Administrative Court rejects the appeal, the controller shall be obliged to destroy the personal data.

## **Chapter V**

### **ACCESS TO PERSONAL DATA**

#### *Article 26*

(1) Any natural person shall have the right to access the personal data related to him.

(2) Where, in the exercising of the natural person's right to access, personal data relating to a third person are revealed, the controller referred to in Article 3, paragraph 1, shall be obliged to provide the natural person concerned access to those parts of the data which relate to him only.

#### *Article 27*

The exercise of the right to access to personal data may not be aimed against the rights and the good name of another natural person, as well as against national security, public order, public health and morality.

#### *Article 28*

(1) The natural person whose data are being processed shall have the right to:

1. be provided with the information referred to in Article 19, paragraph 2;
2. require from the personal data controller:
  - a) to confirm the existence of personal data relating to him, regardless of the stage of processing;
  - b) to delete, to transfer into anonymous data or to block data processing where it is illegitimate or the data are not necessary for the purposes for which they are processed;
  - c) to update or to correct the data;
3. object before the controller referred to in Article 3, paragraph 1 to the unlawful processing of personal data relating to him unless this is excluded by the provisions of a special law;

4. interdict the controller referred to in Article 3, paragraph 1 to provide fully or partly the processed personal data relating to him with the intention to be provided as business information, for advertising or for marketing survey;
  5. to request to be informed before the data under paragraph 4 are disclosed for the first time to a third party.
- (2) Upon request from the natural person concerned the controller referred to in Article 3, paragraph 1 shall be obliged to issue to him:
1. a certificate, attesting that acts under paragraph 1, item 2, letters “b” and “c” have been performed or that their performance was refused on valid grounds;
  2. a certificate attesting that the data and the acts under paragraph 1 are brought to the knowledge of third parties to whom data have been transferred;
- (3) The rights under paragraphs 1 and 2 shall be exercised in person or by a person explicitly authorised by the natural person concerned.
- (4) Within 14 days the controller referred to in Article 3, paragraph 1 shall be obliged to deliver an opinion in writing on any request by the natural person concerned in connection with the exercising of his rights provided for in paragraph 1.
- (5) In case of infringement of the rights provided for in paragraph 1 or of refusal to satisfy the request under paragraph 2, the natural person concerned shall have the right to lodge a complaint according to the procedure provided for in Chapter VII thereof.

#### *Article 29*

- (1) The right to access shall be exercised by submitting a written application to the personal data controller.
- (2) The application may be submitted electronically.
- (3) The application shall be lodged in person or by a person, duly authorised by the person concerned.
- (4) The lodging of an application shall be free of charge.

#### *Article 30*

- (1) The application for access to personal data shall contain:
1. the name, address, and any other data necessary for identifying the natural person concerned;
  2. description of the request;
  3. the preferred form of providing access to personal data;
  4. signature, date of submission and address for correspondence.
- (2) In the cases where the application is lodged by an authorised person, in addition to the data specified in paragraph 1, the respective power of attorney shall be attached.

(3) The applications for access shall be recorded by the controller referred to in Article 3, paragraph 1 in a register.

#### *Article 31*

(1) Access to personal data may be provided in the form of oral or written consultation or examination of the data by the respective natural person or a duly authorised person.

(2) Except where prohibited by law, the natural person concerned may request a copy of the processed personal data to be provided on a preferred medium or by electronic means.

(3) The controller referred to in Article 3, paragraph 1 shall be obliged to comply with the applicant's preferred form of access, except where it is technically not possible or could lead to illegitimate processing of the information requested.

#### *Article 32*

(1) The personal data controller shall consider the application for access and shall deliver an opinion thereon within 14 days.

(2) The time limit laid down in paragraph 1 may be extended on valid grounds up to 30 days where due to objective reasons the extension is required to collect all data requested and it seriously impedes controller's activities.

(3) The controller shall decide to provide the applicant a full or partial access or to refuse to provide access on valid grounds.

#### *Article 33*

(1) The controller referred to in Article 3, paragraph 1 shall notify the applicant in writing of the decision referred to in Article 32, paragraph 3.

(2) Notification provided for in paragraph 1 shall be in the form of personal service or by mail and the recipient shall sign to acknowledge receipt.

#### *Article 34*

(1) The controller referred to in Article 3, paragraph 1 shall refuse access to personal data in the cases where the data are not available or cannot be provided on specified legal grounds. The refusal shall state the authority and deadline for appeal.

(2) The absence of notification provided for in Article 33, paragraph 1, shall be considered a refusal.

### **Chapter VI**

## **PROVIDING PERSONAL DATA TO THIRD PARTIES**

#### *Article 35*

(1) The provision of personal data by the controller referred to in Article 3, paragraph 1, to third parties shall be allowed upon request submitted by them according to the procedure provided for in Chapter V of this Law, in case where:

1. the natural person concerned has explicitly given his consent;
2. the sources of data are public registers or documents containing public information to which access is provided according to a procedure provided for by law;
3. the life and health of the natural person concerned need to be protected as well as where the person concerned is not capable of giving his consent for physical or legal reasons;
4. it is required for the needs of the bodies of the judiciary or the executive power, for competition and consumer protection, and is provided by law;
5. the data are needed for scientific research or statistics and are anonymous;

(2) Personal data shall be prohibited to be provided to third parties:

1. in violation of the notification referred to in Article 19, paragraph 2, items 1, 3 and 4;
2. with respect to which there is instruction for destruction or the time limit of processing and keeping has expired;
3. if they concern a particular natural person or a group of persons and such dissemination disagrees with an important public interest.

(3) Getting familiar with the personal data by a personal data operator or personal data processor in accordance with the instructions of the controller shall not be considered provision of personal data to third parties.

#### *Article 36*

(1) Provision of access to personal data registers and transfer of personal data from one controller to another shall be carried out in accordance with the requirements laid down in this Law and following a permission by the Commission for personal data protection.

(2) The provision of personal data by the controller referred to in Article 3, paragraph 1 to foreign natural and legal persons or foreign public authorities shall be allowed by a permission of the Commission for personal data protection only where the legislation of the receiving country guarantees equivalent or higher level of protection of personal data than the protection provided for in this Law.

(3) Where access to personal data is provided or such data are being transferred in the cases specified in paragraphs 1 and 2, the requirements of Article 35, paragraphs 1 and 2 shall be observed.

#### *Article 37*

(1) Within 30 days from the submission of the request the controller referred to in Article 3, paragraph 1 shall decide whether to provide personal data to a third party or to another personal data controller or to refuse to provide the data on legal grounds.

(2) Notification provided for in paragraph 1 shall be in the form of personal service or by mail and the recipient shall sign to acknowledge receipt.

(3) Persons concerned may appeal against the refusal in accordance with the procedure provided for in this Law.

## **Chapter VII**

### **APPEAL AGAINST ACTIONS OF THE PERSONAL DATA CONTROLLER**

#### *Article 38*

(1) In case where the time limit is extended or partial access to personal data is provided or access to personal data is refused, the natural person concerned may refer the matter to the Commission for Personal Data Protection within 14 days from the notification provided for in Article 33, paragraph 1 or from the expiry of the term specified in Article 32, paragraph 1.

(2) The natural person may refer the matter to the Commission for Personal Data Protection within 14 days from the infringement of his rights provided for in Article 28, paragraphs 1 and 2, or from the moment such infringement has become known to him.

(3) The Commission for Personal Data Protection in the cases laid down in paragraphs 1 and 2 shall make a decision within 30 days whereby it may give mandatory instructions to the personal data controller and fix a time limit to remove the infringement.

(4) The Commission for Personal Data Protection shall forward a copy of its decision to the natural person concerned.

(5) The decision of the Commission for Personal Data Protection in connection with paragraph 1 shall be subject to appeal before the Supreme Administrative Court within 14 days from the receipt thereof.

#### *Article 39*

(1) In the cases specified in Article 38, paragraph 1 the natural person may appeal against the decision of the personal data controller before the respective Regional Court or the Supreme Administrative Court in compliance with the general rules of jurisdiction. The complaint shall be submitted through the respective personal data controller within a month from receiving the notification provided for Article 33, paragraph 1.

(2) The natural person may not refer the matter to the Court providing he has a pending procedure to the Commission for Personal Data Protection or the Commission's decision is being appealed and the Supreme Administrative Court's decision concerning the same decision of the controller has not become effective yet. The Court shall verify the existence of the above circumstances ex officio.

(3) In case of failure to implement the instructions referred to in Article 38 paragraph 3 within the stipulated term, the Commission for Personal Data Protection may refer the matter relating to the infringement committed by the personal data controller to the respective Regional Court or the Supreme Administrative Court in accordance with the general rules of jurisdiction.

(4) The Law on Administrative Procedure and the Law on Supreme Administrative Court shall apply to hearing disputes referred to in paragraphs 1 and 3.

#### *Article 40*

(1) In case of an illegitimate decision as provided for in Article 38, paragraph 1, the Court shall wholly or partly repeal the decision appealed against and bind the respective controller to provide access to the requested personal data.

(2) In the cases referred to in paragraph 1 the access to the requested personal data shall be subject to the procedure provided for in this Law.

(3) The Court may reject the appeal against the decision of the Commission for the Personal Data Protection, to amend it or to repeal it in whole.

#### *Article 41*

The provisions of Articles 38 to 40 shall also apply accordingly in the cases of refused access to personal data referred to in Article 35 and Article 36 paragraphs 1 and 2.

### **Chapter VIII**

#### **ADMINISTRATIVE AND PENAL PROVISIONS**

#### *Article 42*

(1) An official, who without any valid reason, has failed to deliver an opinion on an application for access to personal data within the term fixed shall be liable to a fine from BGN 50 to 200 unless liable to a more serious punishment.

(2) An official who has failed to implement the instructions of the Commission for Personal Data Protection or of the Court and has not provided access to personal data shall be liable to a fine from BGN 100 to 300 unless liable to a more serious punishment.

(3) For any other infringements of this Law offenders shall be fined with BGN 50 to 300 where they are natural persons and a property sanction of BGN 500 to 1000 shall be imposed where they are sole proprietors or legal persons. In case of a repeated infringement the fine or the property sanction respectively, shall be double.

(4) In the cases of infringements committed under paragraphs 1, 2 or 3 the personal data controllers who are natural persons shall be fined with BGN 500 to 2000 and a property sanction of BGN 1000 to 1500 shall be imposed on controllers who are sole proprietors or legal persons. In case of a repeated infringement the fine or the property sanction respectively, shall be double.

(5) A natural person who processes personal data without registration under this Law shall be fined with BGN 300 to 1000. In the cases where a sole proprietor or a legal person has committed the same infringement a property sanction of BGN 1000 to 3000 shall be

imposed. In case of a repeated infringement the fine or the property sanction respectively, shall be double.

(6) Personal data controller who has committed the infringement under Article 22, paragraph 3 shall be fined with BGN 500 to 1000 where a natural person has committed the infringement. If the same infringement was committed by legal person or a sole proprietor a property sanction of BGN 1000 to 3000 shall be imposed. In case of a repeated infringement the fine or the property sanction respectively, shall be double.

(7) Personal data controller who has committed the infringement under Article 23, paragraphs 1 or 2 shall be fined with BGN 1000 to 1500 if a natural person commits the infringement. If the same infringement has been committed by a legal person or a sole proprietor a property sanction of BGN 1500 to 5000 shall be imposed. In case of a repeated infringement the fine or the property sanction respectively, shall be double.

### *Article 43*

(1) Statement for determining the administrative infringements shall be issued by a member of the Commission for Personal Data Protection or by duly authorized officials from the Commission's administration.

(2) The penal provisions shall be issued by the Chairman of the Commission for Personal Data Protection.

(3) The establishment of infringements, the issue, the appeal and the enforcement of the penal provisions shall be performed under the procedure of the Law on Administrative Offences and Sanctions.

## **ADDITIONAL PROVISIONS**

§1. For the purposes of this Law:

1. **“processing of personal data”** shall mean any operation or set of operations which is performed upon personal data, whether or not by electronic or other automatic means including collecting, recording, organisation, storage, adaptation or alteration, updating, retrieval, consultation, use, combination, blocking, disclosure, dissemination or otherwise making available, keeping, erasure or destruction;
2. **“personal data register”** shall mean any documentary, index or automated information fund, structured according to several specific criteria to facilitate the data processing, composed of one or several elements, physically located in one or several places;
3. **“processor of personal data”** shall mean any natural or legal person, who processes personal data under the authority of the personal data controller on the grounds of a contract concluded between them or of an appointment order;
4. **“operator of personal data”** shall mean any natural person who, under the authority and control of the personal data controller or the personal data processor has access to personal data and on the grounds of a contract in writing or an appointment order to processes the data in accordance with an instruction on the procedure and means of personal data processing, issued by the personal data controller;

5. **“provision of personal data”** shall mean any action by which the data are being transferred wholly or partly from one controller to another or to a third party on the territory of the country or abroad;
6. **“anonymous data”** shall mean any data that can not be referred to an identified or identifiable natural person on account of their origin or specific means of processing;
7. **“blocking”** shall mean the storage of personal data while any other processing operation is temporarily discontinued;
8. **“official”** shall mean any natural person empowered by the controller to keep a personal data register, to organise activities relating thereof and to be responsible for performing those activities as well as the personal data controller himself where he is a natural person;
9. **“repeated”** shall be the infringement committed within a year from the entry into effect of the penal provision whereby a punishment has been imposed for the same type of infringement.

## **TRANSITIONAL AND FINAL PROVISIONS**

**§2.** (1) Within one month from the entry into force of this Law the Council of Ministers shall propose the members of the Commission for Personal Data Protection to the National Assembly.

(2) Within 14 days from the submission of the proposal referred to in paragraph 1 the National Assembly shall elect the Chairman and the members of Commission for Personal Data Protection.

(3) Within 3 months of the election the Commission for Personal Data Protection shall adopt and publish in State Gazette the Rules of Procedure referred to in Article 9, paragraph 2.

(4) Within 1 month from entry into force of the decision of the National Assembly referred to in paragraph 2 the Council of Ministers shall provide the required assets and financing to enable the Commission to start operations.

**§3** (1) Within six months from the entry into force of the Rules referred to in Article 9 paragraph 2 all persons who keep personal data registers by the time of the entry into force of this Law shall bring them in compliance with the requirements of this Law and inform the Commission thereof.

(2) The Commission shall carry out prior checks and shall register or refuse to register persons who keep registers by the time of the entry into force of this Law as well as the registers kept by them within three months from the receipt of the notification referred to in paragraph 1.

(3) The decisions of the Commission to refuse registration shall be subject to appeal before the Supreme Administrative Court within a 14-day term.

(4) When the decision of the Commission to refuse registration or the decision of the Supreme Administrative Court to confirm the refusal of the Commission become effective, the person who keeps a register illegitimately shall be obliged to destroy all personal data contained in his register or with the permission of the Commission shall transfer the data to

another controller who has registered his register and processes personal data for the same purposes.

**(5)** The Commission shall control the performance of the obligation under paragraph 4.

**(6)** In a 3-month term from the registration, the controller shall be obliged to publish the particulars referred to in Article 22, paragraph 1 in the bulletin of the Commission.

**§4.** In the Law on Access to Public Information (SG 55/2000) the following amendment shall be made:

1. In Article 2, paragraph 3 the words “personal information” shall be replaced by the words “personal data”;

2. §1, subparagraph 2 shall be amended as follows:

“ 2. “personal data” shall mean any information relating to a natural person and revealing his physical, psychological, mental, family, economic, cultural or social identity.”

**§5** This Law shall come into force on 1 January 2002.

This Law has been adopted by the XXXIX National Assembly on 21 December 2001 and the official seal of the National Assembly has been affixed thereto.

Chairman of the National Assembly: