

PARLIAMENT OF THE REPUBLIC OF MOLDOVA

LAW

on amending and completing some legislative acts

The Parliament adopts this organic law.

Art. I. – The Article 4, paragraph (1) of the Law on state tax No. 1216-XII of 03 December 1992 (republished in the Official Gazette of the Republic of Moldova, 2004 no. 53-55, art. 302), with further amendments, shall be completed with the item 7¹⁾ with the following content:

„7¹⁾ complainants - where are initiated actions related to violations of the law on personal data protection.”.

Art. II. - The Law No. 982-XIV of 11 May 2000 on access to information (Official Gazette of the Republic of Moldova, 2000, no.88-90, art. 664), with further amendments and supplements, shall be amended as follows:

1. To Article 1, paragraph (1) letter c) is being excluded;
to letter d), the words "including personal information " is excluded.

2. To the Article 5, paragraph (2) letter c), the words "including of personal information" is being excluded.

3. To the Article 7 paragraph (2) letter c), the words "legislation, access to which can be upheld only in compliance with the provisions of the Article 8 of this law" is being substituted for the words "the Law on personal data protection."

4. The Article 8 shall have the following content:

„Article 8. Acces to private information (personal data)

(1) The private information (personal data) is considered to be under official category with limited access and constitutes any data relating to an identified or indentifiable natural person, the disclosure of which would constitute a violation of privacy, intimacy and family life.

(2) The access to private information shall be carried out in accordance with the provisions of the law on personal data protection.”.

5. To Article 12, the paragraph (3) is being excluded.

Art. III. – The Article 53, paragraph (1) letter d) of the Law No. 1260-XV of 19 July 2002 on attorney (republished into Official Gazette of the Republic of Moldova, 2010, no. 159, art. 582), shall be completed to the end with the following text " , in compliance with the current Law " .

Art. IV. – The Article 85, paragraph (1) letter a) of the Civil Procedure Code of the Republic of Moldova No. 225-XV of 30 May 2003 (Official Gazette of the Republic of Moldova, 2003, no. 111-115, art. 451), with further amendments and supplements, shall be completed with a new subdivision with the following text:

“- in case of violations of the law on personal data protection.”.

Art. V. Law No. 355-XVI of 23 December 2005 on the wage system in the public sector (Official Gazette of the Republic of Moldova, 2006, no. 35–38, art.148), with subsequent amendments and supplements, shall be amended and completed as follows:

1. To Article 9 paragraph (3), the words “ and with control functions in the field of labor” shall be substituted for the words “with control functions in the field of labor and in the personal data protection field”;

2. To Annex 3, the section “National Center for Personal Data Protection” to the positions “director” and “ deputy director” figures „5000” and „4500” shall be replaced by the figures „7000” and „6500”, respectively.

Art. VI. Law No. 182-XVI of 10 July 2008 regarding the approval of the Statute, structure, staff-limit and financial arrangements of the National Center for Personal Data Protection (the Official Gazette of the Republic of Moldova, 2008, no. 140-142, art. 578), with the subsequent amendments, shall be amended and completed as follows:

1. The Article 2 shall be edited as follows:

“Art.2 – Financial resources of the National Center for Personal Data Protection shall be approved by the Parliament and included in the state budget. The Center can be funded also from other sources not forbidden by law.”.

2. To Annex no.1:

The Chapter I, item 1, the word “independent” shall be completed with the word ”and impartial”, and the phrase “no. 17-XVI of 15 February 2007” shall be excluded;

Chapter II:

to the item 2, after the word “orders” shall be completed with the word “decisions”;

the item 3:

the letter c) the words “personal data holders” shall be substituted with the words “controllers, processors”;

the letter d) and the letter e) shall have the following content:

“d) issues decisions on authorizing or prohibiting the processing operations of personal data, on suspending or cessation of the personal data processing, carried out with violations of the legal provisions in the field of personal data protection;

e) establishes contraventions and draws up minutes according to the provisions of the Contravention Code of the Republic of Moldova.”.

shall be completed with the letters e¹) – e³) with the following content:

“e¹) notices the law enforcement bodies if there are signs of commission of crimes related to the violation of personal data subjects’ rights”;

“e²) develops guidelines necessary to bring personal data processing in compliance with the provisions of the law on personal data protection”;

“e³) issues orders in the area of personal data protection, and standard forms for notifications and for its own registers;”;

the letter h) shall have the following content:

“h) appoints in position, modifies, suspends and terminates the work relationships, according to law on public officials, employs and dismisses the other staff of the Center;”

the item 4 shall have the following content:

“4. The Center shall submit to the Parliament, the President of the Republic of Moldova and the Government, annually, until March 15, an activity report for the preceding calendar year. The report shall be published, free of charge, in the Official Gazette of the Republic of Moldova and on the website of the Center.”;

the item 5, the word “helped” shall be substituted with the word “assisted”.

the item 6 shall be completed with the letter d¹) with the following content:

d¹) "establishes contraventions and draws up minutes according to the provisions of the Contravention Code of the Republic of Moldova.”

the item 10, shall be completed with the letter d) with the following content:

d) to disclose the information based on limited access to which they have access, as well as after their employment has terminated.”;

Chapter III:

the item 2, the letter a) shall have the following content:

a) Department of the evidence and control of data controllers and processors:

- handles the evidence of the processing operations of personal data, of data controllers and processors, administers the registers instituted by the Center and elaborates the technical rules related to the processing of personal data;
- inspects the notifications submitted personally by data controllers or by the processors;
- carries out prior checks and monitors the compliance by the data controllers or processors of the legal measures taken by the Center;
- establishes contraventions and draws up minutes according to the provisions of the Contravention Code of the Republic of Moldova;

- exercises any other attributions established by the Director of the Center;

the letter c):

to first subdivision, the words “of the natural and legal persons whose rights have been violated”, shall be excluded.

to the second subdivision, the word “dispositions” shall be substituted with the word “decisions”;

to the third subdivision, the word “petitions” shall be substituted with the word “complaints”.

in the annex no. 2, the words “personal data holders” shall be substituted with the words “data controllers and processors”.

Art. VII. – The contravention Code of the Republic of Moldova No. 218-XVI of 24.10.2008 (Official Gazette of the Republic of Moldova No.3-6/15 of 16.01.2009), shall be completed as follows:

1. To complete with Chapter VI¹ as follows:

"Chapter VI¹.

Contraventions affecting the rights and freedoms of individuals to the processing of personal data

Article 74¹. Personal data processing with violation of the Law on personal data protection

(1) The failure to observe the requirements in terms of ensuring the security of personal data during its processing within informational systems of personal data,

shall be sanctioned by a fine of 50 to 150 conventional units for natural person with or without the deprivation of the right to carry out certain activities for a period of 3 months to 1 year, and a fine of 200 to 500 conventional units for legal person with or without the deprivation of the right to carry out certain activities for a period of 3 months to 1 year.

(2) Processing of personal data without notification and / or authorization of supervisory body in the personal data processing field, when notification or the authorization obtaining are mandatory, or the processing of personal data by an unregistered controller in established way,

shall be sanctioned by a fine of 50 to 150 conventional units for natural person with or without the deprivation of the right to carry out certain activities for a period of 3 months to 1 year, and a fine of 200 to 500 conventional units for legal person with or without deprivation of the right to carry out certain activities for a period of 3 months to 1 year.

(3) The violation of the personal data subject's right to be informed, on the access to personal data, on intervention onto personal data, on objection and on not be subject to an individual decision,

shall be sanctioned by a fine of 50 to 150 conventional units for natural person with or without the deprivation of the right to carry out certain activities for a period of 3 months to 1 year, and a fine of 200 to 500 conventional units for legal person with or without deprivation of the right to carry out certain activities for a period of 3 months to 1 year.

(4) Violations of rules on storage and use of personal data,

shall be sanctioned by a fine of 50 to 150 conventional units for natural person with or without the deprivation of the right to carry out certain activities for a period of 3 months to 1 year, and a fine of 200 to 500 conventional units for legal person with or without deprivation of the right to carry out certain activities for a period of 3 months to 1 year.

(5) Trans-border transfer of personal data with violation of the legislation on personal data protection,

shall be sanctioned by a fine of 50 to 150 conventional units for natural person, and a fine of 200 to 500 conventional units for legal person with or without deprivation of the right to carry out certain activities for a period of 3 months to 1 year.

Article 74². Refusal to provide information or hindering the employees of the National Center for Personal Data Protection to the access to

(1) Refusal to provide the information or documents requested by the National Center for Personal Data Protection while running its control prerogatives, submission of inaccurate or incomplete information and the failure to submit the requested information and documents in the completion time provided by law,

shall be sanctioned by a fine of 50 to 150 conventional units for natural person, and a fine of 100 to 500 conventional units for legal person.

(2) Hindering the free access of the employees empowered with control duties of the National Center for Personal Data Protection to the rooms and the territory where personal data filing systems are located, to the personal data processed by controllers and/or persons authorized by the controllers to the processing equipment, programs and applications, as well as to any document or record regarding the processing of personal data,

shall be sanctioned by a fine of 50 to 100 conventional units for natural person, and a fine of 200 to 500 conventional units for legal person.

Article 74³. Failure to fulfill decisions of the supervisory authority in the field of personal data processing

The failure to fulfill in due time the decision of the National Center for Personal Data Protection on the reinstatement of rights of the personal data subject, including on the suspension, blocking, cessation of personal data processing, whole or partial

destruction of processed personal data with violation of the legal provisions on personal data protection,

shall be sanctioned by a fine of 50 to 150 conventional units for natural person with or without the deprivation of the right to carry out certain activities for a period of 3 months to 1 year, and a fine of 200 to 500 conventional units for legal person with or without the deprivation of the right to carry out certain activities for a period of 3 months to 1 year.

2. To complete with article 407¹ with the following content:

" **Article 423⁴**. National Center for Personal Data Protection

(1) The contraventions provided in Articles 74¹ - 74³ shall be established by the National Center for Personal Data Protection.

(2) The director, his/her deputy and the empowered staff with control duties of the National Center for Personal Data Protection shall be entitled to establish contraventions and to draw up the minutes.

(3) Minutes on contraventions shall be submitted for examination to a competent court of law."

Art. VIII. - (1) This law shall come into force 6 months after its publication, except art. V, which shall be apply from the date of 1 July 2012.

(2) Within 6 months from the date of entering into force of this law, the Government shall align its regulatory acts in compliance with this law.

PRESIDENT OF THE PARLIAMENT

Marian LUPU

No. 208, October 21, 2011

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