

LAW
on Personal Data Protection

This Law establishes the legal framework necessary for the enforcement of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

The Parliament adopts this organic law.

Chapter I
GENERAL PROVISIONS

Article 1. Purpose of Law

The purpose of this law is to ensure protection of the rights and fundamental freedoms of natural person with respect to the processing of personal data, notably the right to inviolability of intimate, family and private life.

Article 2. Scope

(1) This law regulates relations arising in course of the processing operations of personal data performed wholly or partly by automatic means, and otherwise than by automatic means, which form part of a filing system or are intended to be included in such a filing system.

(2) This Law shall apply:

a) to the processing of personal data carried out in the context of the activities performed by the controllers established on the territory of the Republic of Moldova;

b) to the processing of personal data carried out within the diplomatic missions and consular offices of the Republic of Moldova, as well as carried out by other controllers that do not have permanently establishment on the territory of the Republic of Moldova, but are situated in a place where the domestic law of the Republic of Moldova applies by virtue of international public law;

c) to the processing of personal data carried out by controllers that are not established on the territory of the Republic of Moldova, making use of equipment situated on the territory of the Republic of Moldova, unless such equipment is used only for purposes of transit through the territory of the Republic of Moldova;

d) to the processing of personal data in the context of actions of prevention and investigation of criminal offences, enforcement of convictions and other activities within criminal or administrative procedures, in terms of the law;

(3) The provisions of this law are applicable to the processor, without prejudice to legal actions which could be initiated against the controller himself.

(4) This Law shall not apply:

a) to the processing of personal data carried out by controllers exclusively for personal and family needs, where the rights of personal data subjects are not violated thereby;

b) to the processing of personal data assigned to state secret, according to an established procedure, excepting the information referred to in paragraph (2), d);

c) to the processing operations and cross-border transmission of personal data referring to the perpetrators or victims of genocide, crimes against humanity and war crimes.

Article 3. Definitions

Terms used in this Law shall have the following meanings:

personal data - any information relating to an identified or identifiable natural person ('personal data subject'). An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;

special categories of personal data – data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, social belonging, data concerning health or sex life, as well as data relating to criminal convictions, administrative sanctions or coercive procedural measures;

processing of personal data – any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, keeping, restoring, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

personal data filing system – any structured set of personal data which are accessible according to specific criteria, whether centralized, decentralized or dispersed on a functional or geographical basis;

controller – a natural or legal person governed by public law, or by private law, including public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data expressly provided by applicable law;

processor – a natural or legal person governed by public law, or by private law, including public authority and its territorial subdivisions, which processes personal data on behalf of the controller, on instructions from the controller;

third party – a natural or legal person governed by public law, or by private law, other than the personal data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorized to process the personal data;

recipient – a natural or legal person governed by public law, or by private law, including public authority and its territorial subdivisions, to whom personal data are disclosed, whether a third party or not. The bodies responsible for the national defence, state security and public order, the prosecution bodies and the courts, which may receive personal data in the framework of exercising their duties established by law, shall not be regarded as recipients;

personal data subject's consent – any freely given, expressly and unconditionally indication of will, in written or electronic form, according to the requirements of the electronic document, by which the personal data subject signifies his agreement to personal data relating to him being processed;

depersonalisation of data – is such alteration of personal data so that details of personal or material circumstances can no longer be linked to an identified or identifiable natural person or so link can only be made within an investigation with disproportionate efforts, expense and use of time.

Chapter II

BASIC CONDITIONS FOR THE PROCESSING, STORAGE AND USE OF PERSONAL DATA

Article 4. Characteristics of personal data

(1) Personal data undergoing processing must be:

- a) processed fairly and lawfully;
- b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes. Further processing of data for historical, statistical or scientific purposes shall not be considered as incompatible with the purpose of the collection if is carried out in compliance with the provision of this law, including those for notifying the National Centre for Personal Data Protection, and observing safeguards for personal data

processing, provided by by-laws regulating the statistical activity, historical or scientific research;

c) adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed;

d) accurate and, where necessary, kept up to date. Data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified;

e) kept in a form which permits identification of personal data subjects for no longer than is necessary for the purposes for which the data were collected and further processed. Storage of personal data for longer period for purposes of statistical, historical or scientific research, shall be performed in compliance with appropriate safeguards for personal data processing, provided by by-laws regulating these fields, and only for as long as necessary to achieve those purposes.

(2) The controllers have the obligation to ensure that paragraph (1) is complied with.

Article 5. Processing of personal data

(1) Personal data shall be processed with the consent of personal data subject.

(2) The consent given for personal data processing may be withdrawn at any time by the personal data subject. The withdrawal of consent shall not be retroactive.

(3) Where the personal data subject is physically or legally incapable of giving his consent, the consent for the processing of personal data shall be given in written by his legal representative.

(4) In case of death of the personal data subject, the consent for the processing of his personal data shall be given in written by the successors of the latter, where such consent has not been given by the personal data subject during life.

(5) The personal data subject's consent is not required where:

a) the processing is necessary for the performance of a contract to which the personal data subject is party, in order to take steps at the request of the data subject prior to entering into a contract;

b) the processing is necessary for carrying out an obligation of the controller, under the law;

c) the processing is necessary in order to protect the life, physical integrity or health of the personal data subject;

d) the processing is necessary for the performance of tasks carried out in the public interest or in the exercise of public authority prerogatives vested in the controller or in a third party to whom the personal data are disclosed;

e) the processing is necessary for the purposes of the legitimate interest pursued by the controller or by the third party to whom personal data are

disclosed, except where such interest is overridden by the interests for fundamental rights and freedoms of the personal data subject;

f) the processing is necessary for statistical, historical or scientific-research purposes, except where the personal data remain anonymous for longer period of processing.

Article 6. Processing of special categories of personal data

(1) The processing of special categories of personal data shall be prohibited, except for cases where:

a) the personal data subject has given his consent. Where the personal data subject is physically or legally incapable of giving his consent, the processing of special categories of personal data shall be carried out only with the written consent of his legal representative;

b) processing is necessary for the purposes of carrying out the obligations and specific rights of the controller in the field of employment law, providing safeguards set by law, as well as taking into account that possible disclosure of the personal data processed for this purpose to a third party may take place only if there is an appropriate legal obligation of the controller, therefore;

c) processing is necessary to protect the life, physical integrity or health of the personal data subject or of another person where the data subject is physically or legally incapable of giving his consent;

d) processing is carried out in the course of its legitimate activities by a foundation, association or any other non-profit organization with a political, philosophical, religious or trade-union aim, and on condition that processing relates solely to the members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed to a third party without the consent of personal data subjects;

e) processing relates to data which are voluntary and manifestly made public by the personal data subject;

f) processing is necessary to establish, exercise or defend of legal claims of the personal data subject;

g) processing is necessary for the purposes to ensure national security, where the processing is unlikely adversely to affect the rights of personal data subject and the other appropriate safeguards provided for in this law.

(2) National Centre for Personal Data Protection may order, for grounded reasons, to prohibit the processing of special categories of personal data, even if the data subject has given his consent and the consent has not been withdrawn, provided that the prohibition is not removed in one of the cases referred to in paragraph (1), b) – g).

Article 7. Processing of health-related personal data

(1) By derogation from provisions of Article 6, the processing of personal data relating to health may be carried out, where:

a) processing is required for the purposes of preventive medicine, medical diagnosis, the provision of care or treatment to the personal data subject, or the management of health-care services, acting in the interest of the personal data subject;

b) processing is necessary for protection of public health.

(2) Health professionals, health-care institutions and their medical staff may process personal data concerning health status without the authorization of the National Centre for Personal Data Protection, only if processing is necessary to protect the life, physical integrity or health of the personal data subject. When the abovementioned purposes refer to other persons or to public in general and the personal data subjects have not given their written and unambiguously consent, a prior authorization from the Centre must be requested and received, as provided by law.

(3) Personal data on health status can be processed for the purposes specified in paragraph (1), by or under supervision of a health professional subject to the obligation of professional secrecy or under supervision of another person also subject to an equivalent obligation of secrecy.

(4) Personal data on health status shall be collected from personal data subject or where such processing is required under paragraph (1).

Article 8. Processing of personal data relating to criminal convictions, coercive procedural measures or administrative sanctions

(1) Processing of personal data relating to criminal convictions, coercive procedural measures or administrative sanctions may be carried out only by or under the control of public authorities, within the limits of their competences and on the conditions set by laws regulating these areas.

(2) The Registry of Criminals and Criminological Data is kept by the Ministry of Internal Affairs.

Article 9. Processing of personal data with an identification function

Processing of individual's state identification number (IDNP), fingerprints or any other identifier of general application may be performed if:

a) the personal data subject has given his consent;

b) processing is expressly stipulated by law.

Article 10. Processing of personal data and freedom of expression

Provisions referred to in Articles 5, 6 and 8 shall not apply if processing of personal data is carried out, exclusively for journalistic, artistic or literary purposes, if processing relates to personal data which have been voluntary and manifestly made public by the personal data subject or which are closely related to the personal data subject as a public person or to the public nature of the

events that the person concerned are involved in, in terms of the Law on freedom of expression.

Article 11. Storage and use of personal data at the end of processing operations

(1) The conditions and time periods of personal data storage shall be set by law, taking into account the provisions referred to in Article 4, paragraph (1), e). Upon expiration of the storage time limit, the personal data shall be destroyed as established by law.

(2) Personal data contained in the state records, for no longer than is necessary to be used, may be kept only as an archive document.

(3) At the end of personal data processing operations, if the personal data subject has not given his consent for another destination or further processing, personal data shall be:

- a) destroyed;
- b) transferred to another controller, provided that the original controller guarantees that further processing shall be carried out for purposes similar to those for which the data initially have been processed;
- c) rendered in anonymous data and stored exclusively for statistical, historical or scientific-research purposes.

(4) After the death of the personal data subject, his personal data shall be used for archive purposes and other purposes stipulated by law, with the consent of his successors.

**Chapter III
RIGHTS OF PERSONAL DATA SUBJECT**

Article 12. Informing the personal data subject

(1) Where the personal data are collected directly from the personal data subject, the controller or the processor must provide the data subject with the following information, except where he already has it:

- 1) the identity of the controller or of the processor, as the case may be;
- 2) the purpose of processing for which the data are collected;
- 3) additional information, such as:
 - a) recipients or categories of recipients of personal data;
 - b) existence of the rights of access to data, the right of intervention upon data and the right to object, as well as conditions under which such rights may be exercised;
 - c) whether the answers to the questions intended to collect data are mandatory or voluntary, as well as the possible consequences of denial to respond;

(2) Where the personal data are not collected directly from the personal data subject, the controller or the processor must, at the time of data collection or, if a disclosure to the third parties is envisaged, no later than the time when the data are first disclosed provide the personal data subject with information on the categories of personal data which are intended to be collected or disclosed, as well as with the information specified in paragraph (1), except item 3), c).

(3) Provisions referred to in paragraph (2) shall not apply where:

- a) the personal data subject has already the information;
- b) processing of personal data is carried out for statistical, historical or scientific-research purposes;
- c) provision of information that proves to be impossible or involves disproportionate effort towards the legitimate interest that might be violated;
- d) recording or disclosure of personal data is expressly stipulated by law.

Article 13. The right of access to personal data

(1) Any personal data subject has the right to obtain from the controller, upon request, without delay and free of charge:

- a) confirmation as to whether or not data relating to him are being processed and information as to the purposes of the processing, the categories of data concerned, and the recipients or categories of recipients to whom the data are disclosed;
- b) communication to him in an intelligible form and in a way that does not require additional equipment, of the data undergoing processing, and of any available information as to their source;
- c) information on the logic involved in any automatic processing of data concerning the personal data subject;
- d) information on legal consequences for the personal data subject generated by processing of these data;
- e) information on the exercise of the right of intervention upon the personal data.

(2) Where the personal data concerning health are processed for the purpose of scientific-research, where there is clearly no risk of breaching the rights of the personal data subject, and the data are not used for taking measures or decisions regarding any particular individual, communication of information specified in paragraph (1) may be done within a period of time longer than the one stipulated by the Law on access to information, to the extent to which it could affect the good carrying-out or results of the research, but not later than the research is over. The personal data subject must give his consent to the processing of health-related data for scientific-research purposes, as well as to the possible delay, for this reason, of the communication of information provided for in paragraph (1).

Article 14. The right of intervention upon personal data

Any personal data subject has the right to obtain from the controller or his representative, on request and free of charge:

a) the rectification, update, blocking or erasure of personal data, the processing of which does not comply with this law, in particular because of their incomplete or inaccurate nature;

b) notification of the third parties to whom the personal data have been disclosed, about any operations performed under the provisions referred to in letter a), except where such notification proves to be impossible or involves disproportionate effort towards the legitimate interest that might be violated.

Article 15. Exemptions and restrictions

(1) The provisions referred to in Article 4 (1), Article 12, (1) and (2), Articles 13, 14, 28 shall not apply where the processing of personal data is carried out in the course of activities provided for in Article 2, paragraph (2), d), for the purposes of national defence, state security and public order, protection of the rights and freedoms of personal data subject or of other persons, if their application affects the efficiency of action or the objective pursued in fulfilment of legal duties of a public authority.

(2) The processing of personal data for purposes set in paragraph (1) shall not be carried out for longer period than necessary to achieve the pursued objective.

(3) As soon as the reasons that justified the enforcement of paragraphs (1) and (2) of this Article no longer exist the controllers shall take the necessary measures in order to ensure the observance of personal data subject's rights provided for in Articles 12 – 14.

(4) Public authorities shall keep record of the application of exceptions set in paragraph (1) and shall inform the National Centre for Personal Data Protection, within 10 days, about the personal data processed in terms of this Article.

Article 16. The right of the personal data subject to object

(1) The personal data subject shall have the right to object at any time and free of charge on compelling legitimate grounds relating to his particular situation to the processing of personal data relating to him, save where otherwise provided by law. Where there is a justified objection, the processing instigated by the controller may no longer involve those data.

(2) The personal data subject has the right to object at any time and free of charge without any justification to the processing of personal data relating to him for the purpose of direct marketing. The controller or the processor is obliged to

inform the person concerned about the right to object such operation before his personal data are to be disclosed to third parties.

Article 17. The right not to be subject to an individual decision

(1) Any person shall have the right to request for the rescinding, in whole or in part, of any individual decision which produces legal effects concerning his rights and freedoms, and which is based solely on automated processing of data intended to evaluate certain personal aspects relating to him such as his performance at work, creditworthiness, conduct, or other similar aspects.

(2) A person may be subjected to the decision of the kind referred to in paragraph (1) if that decision:

a) is authorized by a law which also lays down measures to safeguard the personal data subject's legitimate interests;

b) is taken in the course of the entering into or performance of a contract, provided that the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied.

Article 18. Access to Justice

Any person who has suffered damage as a result of an unlawful processing operation of personal data or his rights and interests guaranteed by this law have been violated, shall have the right to refer in a court in order to repair the material and moral damages.

Chapter IV

SUPERVISORY BODY FOR PERSONAL DATA PROCESSING

Article 19. Supervisory body for personal data processing

(1) Control over compliance of personal data processing with the requirements of this law is performed by the National Centre for Personal Data Protection (hereinafter – Centre) that carries out its activity under the conditions of impartiality and independence.

(2) The Centre is a legal entity, has a stamp and a letter-head with the State Emblem of the Republic of Moldova. The Centre has its permanent address in Chisinau.

(3) The Regulation of the Centre, its structure and staff-limit shall be approved by the Parliament.

(4) The Centre's budget shall be approved by a Parliament Decision, after its examination and approval by the relevant Parliamentary Committee.

(5) The Parliament shall submit to the Government the approved budget of the Centre to be included in the draft State Budget Law for the next year.

Article 20. Duties and competences of the Centre

(1) The Centre has the following duties:

a) to supervise the compliance of the legislation on the protection of information and to monitor its application, especially the right to information, the right of access to data, the right of intervention upon the data and the right to object;

b) to authorize the processing operations of personal data as provided for by law;

c) to develop guidelines necessary to bring personal data processing in compliance with the provisions of this law, without affecting the area of competence of other bodies;

d) to provide information to personal data subjects on their rights;

e) to order the suspension or cessation of personal data processing performed with violation of the provisions of this law;

f) to keep the register of personal data controllers, which form and content is approved by the Government; the register shall be public, except for the information referred to in Article 23, paragraph (2), 1);

g) to issue orders in the area of personal data protection, and standard forms for notifications and for its own registers;

h) to receive and analyze notifications on personal data processing;

i) to carry out control of the lawfulness of personal data processing in accordance with the Regulation, which develops and approves it;

j) to make proposals on improving the enacted legislation in the area of personal data protection and processing;

k) to cooperate with public authorities, mass media, NGOs, as well as with similar foreign institutions;

l) to compile and analyze annual activity reports of public authorities with regard to the protection of individuals in respect of personal data processing;

m) to notify the law enforcement bodies if there are indication of committing crimes related to infringement of personal data subjects' rights;

n) to establish contraventions and to draw up minutes according to the Contravention Code of the Republic of Moldova;

o) to inform public authorities, on the situation existing in the field of the protection of personal data subjects' rights, as well as to respond to their claims and requests;

p) to survey the fulfilment of requirements set by the Government with regard to the personal data security within their processing;

q) to inform regularly the institutions and the society about its activity, the issues and priority concerns in the area of the protection of individual's rights;

r) to provide assistance and to perform the requests for assistance in terms of enforcement of the Convention for the protection of individuals with regard to automatic processing of personal data;

s) to carry out other duties as provided for by law.

(2) The Centre has the following competences:

a) to request and receive, free of charge, from natural or legal persons governed by public law, or by private law, information necessary for the exercise of its duties;

b) to obtain from controllers the support and information necessary for the exercise of its duties;

c) to recruit specialists and experts in the activity of prior checking and control of the lawfulness of personal data processing in areas which require special expertise, with whom it shall conclude agreements of confidentiality;

d) to request from controllers the rectification, blocking or destruction of personal data which are inaccurate or obtained unlawfully.

(3) The controllers, regardless of their legal form of organization, provide to the Centre the requested documents and materials on protection of personal data within 15 days if the request does not provide otherwise.

Article 21. Organisation of the Centre's activity

(1) Within its activity, the Centre shall provide the confidentiality of personal data which became known to it.

(2) In order to collect the information necessary to fulfil the supervisory duties, the employees of the Centre shall have the right of free access to the facilities and the territory of location of personal data files, to personal data processed by controllers and/or by processors, to the processing equipment, programs and applications, as well as to any document or recording related to the processing of personal data, in terms of the law.

(3) The Centre shall submit to the Parliament, the President of the Republic of Moldova and the Government, annually, until March 15, the activity report for the preceding calendar year, which shall be published free of charge in the Official Gazette of the Republic of Moldova and on the website of the Centre.

Article 22. The Centre's leadership

(1) The Centre is led by a director appointed by the Parliament upon the proposal of the President of Parliament, a parliamentary fraction or a group of at least 15 MPs, with the vote of the majority of elected deputies, for a term of 5 years. The appointed person may hold the position of director for not more than two consecutive mandates.

(2) The Director carries out general management of the Centre, employs and dismisses the Centre's staff in terms of the Law on public function and the statute of the civil servant, establishes employees' duties, organizes preparation of annual reports and presents them at the Parliament's plenary, represents the institution in the country and abroad.

(3) In exercising his duties, the director is assisted by a deputy, appointed by the Parliament upon proposal of the director of the Centre with the vote of the majority of elected deputies, for a term of 5 years. In the absence of the director of the Centre, the deputy director temporarily fulfils his duties.

(4) Any person holding a citizenship of the Republic of Moldova, with higher education in Law and professional experience of at least 5 years in the field of protection of human rights and freedoms may be appointed as director or deputy director of the Centre.

(5) The positions of the director and deputy director are public dignity functions and are remunerated in accordance with the Law on wage system in the public sector.

(6) While exercising his mandate, the director and the deputy director of the Centre may not be part of parties or other social -political organizations, may not practice other public or private activities, except for didactic and scientific activity, and have no right to hold, directly or indirectly, movables in trade companies or enterprises, which are governed by the Centre.

(7) The exercise of the director and deputy director's mandates expire at the end of their term, if the terms are not extending as provided for by law. Where the regular term of office has expired, the director and deputy director of the Centre remain in the exercise of duty until their successors take over these functions, except for cases when duties' fulfilment is ended before term.

(8) The mandate of the director and deputy director of the Centre expires before term in case of:

- a) resignation;
- b) incompatibility with other public or private functions;
- c) revocation from position;
- d) impossibility to serve the mandate for health reasons established by medical examination;
- e) death.

(9) Proposal of revocation of the director of the Centre from his position can be made by the President of the Parliament, a parliamentary fraction or at least 15 MPs in the following cases:

- a) serious violation of job attributions stipulated by the legislation;
- b) definitive settlement of a conviction sentence for committing a crime.

(10) Proposal of revocation of the deputy director of the Centre from his position may be made by the director of the Centre, a parliamentary fraction or at least 15 MPs in the cases provided for in paragraph (9). The revocation decision shall be adopted with the vote of the majority of elected MPs.

Chapter V

CONTROL OF PERSONAL DATA PROTECTION

Article 23. Notification of the Centre on the processing of personal data

(1) Controllers must notify the Centre, personally or through the representatives authorised by them (processors), before carrying out the processing of personal data intended to serve a purpose. The processing of other categories of personal data than those notified before shall be carried out under a new notification.

(2) The notification should contain the following information:

- a) name and address or headquarters in the Republic of Moldova of the controller and the processor, if any;
- b) the purpose of processing;
- c) the description of category of personal data subjects and of the data to be processed, as well as the sources of those data;
- d) the existence of personal data subject's consent to the processing of data;
- e) the way of informing of personal data subjects about their rights; estimated date for ending the processing operations, as well as further destination of personal data;
- f) the recipients to whom the personal data are intended to be disclosed;
- g) the guarantees for the transfer of personal data to third parties;
- h) proposals on transborder transfers of personal data intended to take place;
- i) persons responsible for personal data processing;
- j) specification of personal data filing systems related to processing, as well as possible relations with other processing operations of data or with other personal data filing systems, whether performed or not, and if there are established on the territory of the Republic of Moldova;
- k) reasons that justify the application of provisions referred to in Articles 10 and 12, (3) where the processing of data is performed exclusively for journalistic, literary or artistic purposes, or for purposes of statistical, historical or scientific-research;

l) general description of measures taken in respect of ensuring the security of personal data processing as provided for by Article 30.

(3) Where the processed personal data are to be transferred abroad, the notification shall also include:

- a) the categories of data intended to be transferred;
- b) the country of destination for each category of data.

(4) Public authorities carrying out the processing of personal data in connection with the activities specified in Article 2, paragraph (2), d) for exercising their legal duties in the sphere of their competence or fulfil the obligations under the international agreements to which Republic of Moldova is a party, must submit an information statement that shall contain:

- a) the name and address of the controller or of the processor, if any;
- b) the purpose and legal grounds for processing;
- c) the categories of personal data subject to processing.

(5) Notification is not necessary when processing is performed for the purpose of keeping a register designed to inform the public or any other person who proves legitimate interest, provided that processing is limited to data necessary for keeping the mentioned register.

(6) The Centre may also establish other cases where notification is not necessary or where it may be performed in a simplified form, when:

1) processing, taking into consideration the nature of personal data, does not affect the rights of personal data subjects, with the condition to specify:

- a) the purpose of such processing;
- b) the data that may be processed;
- c) the categories of personal data subjects;
- d) the recipients to whom personal data may be transmitted;
- e) the period of storage of personal data;

2) processing is carried out under the provisions of Article 6, paragraph (1), d).

(7) In case of processing of personal data which was not notified, the controller or the processor shall submit to the personal data subject, on request, the information referred to in paragraph (2), a)-k), except for cases provided for by paragraph (5).

(8) Every controller to primary notification is given a registration number which shall be indicated on all documents through which personal data are collected, stored or transmitted.

Article 24. Prior checking

(1) If, based on the notification, the Centre establishes that the processing falls under one of the categories referred to in paragraph (2) of this article, it shall mandatory order the conduct of a prior checking, informing the controller or the processor within 5 days from the date of submission of notification.

(2) The categories of the processing operations of personal data subject to transborder transfer and the categories of the processing operations of personal data likely to present specific risks to the rights and freedoms of individuals shall be subject to a prior checking, as follows:

a) processing operations of special categories of personal data, as well as genetic, biometric data, and those that allow the geolocalisation of persons, including for purposes of scientific research;

b) processing operations of personal data by automatic means intended to evaluate certain personal aspects related to him, such as performance at work, creditworthiness, conduct or other such aspects;

c) processing operations of personal data by automatic means within certain filing systems, intended to make an automated individual decision with relation to the analysis of solvency, economic and financial situation, facts exempted from disciplinary, administrative or criminal liability of natural persons, carried out by private entities.

d) processing operations of minors' personal data within direct marketing activities;

e) processing operations of personal data referred to in letter a) and personal data of minors collected via internet or electronic messaging.

(3) Prior checking shall be conducted on the basis of information contained in the notification provided by the controller or the processor. The Centre may also request other information regarding the origin of personal data, the automated processing technology used, and the security measures for personal data processing.

(4) The length of prior checking may not exceed 45 days. If necessary, given the complexity of personal data processing operations, the Centre may extend the term for the conduct of prior checking for another 45 days, about which the controller or the processor shall be informed.

Article 25. Authorisation for personal data processing operations

(1) Within 7 days from the date that the prior checking has been carried out, the Centre shall issue the decision on approval or refusal of the authorisation for the operations referred to in Article 24, (2).

(2) The content and form of authorisation shall be approved by the Centre. The processing of personal data without authorisation or beyond the limits provided for by the authorisation shall be prohibited.

(3) The decision to deny the authorisation for personal data processing shall be based on reasons justifying the refusal and, as the case may be, the way of eliminating circumstances hindering the processing of such data. The decision on refusal to authorise the processing of personal data may be appealed to the competent administrative court.

(4) Denial of personal data processing authorisation shall not preclude the controller from notifying the Centre repeatedly after the elimination of circumstances that have hindered the processing of such data.

Article 26. Control of lawfulness of personal data processing

(1) The control of lawfulness of personal data processing (hereinafter – *control*) aims at checking on whether or not the controller and the processor comply with the requirements and fulfil the conditions stipulated in this law.

(2) The control is carried out by the Centre under an annual approved schedule published on its website.

(3) The Centre shall inform the controller or the processor about its intent to carry out the control 5 days before it starts, except for the cases referred to in Article 27, paragraphs (2) and (4).

(4) Where, following the control carried out there are established violations, the Centre shall issue a decision on suspending the processing operations of personal data, which shall contain instructions for bringing the personal data processing in compliance with the provisions of this law.

(5) The processing operations of personal data shall be suspended until the elimination of circumstances that served as grounds for issuing the decision. The controller or the processor must eliminate those circumstances within 30 days from the date of issuance of the decision on suspension.

(6) Where the controller or the processor has not eliminated the circumstances that served as grounds for suspension within the term set in paragraph (5), the Centre shall issue a decision on cessation of personal data processing operations, ordering or not the blocking or destruction of personal data which are inaccurate or are obtained illegally.

(7) The decision on suspension or cessation of personal data processing operations may be appealed to the competent administrative court.

**Article 27. Procedure of complaints reception and settlement
by the Centre**

(1) Personal data subjects who consider that processing of their personal data does not comply with the requirements of this law, may address a complaint to the Centre within 30 days from the date of detecting violations.

(2) In the process of settling complaint, the Centre may hear the personal data subject, the controller and, as the case may be the processor, the witnesses and may order the conduct of an unscheduled control.

(3) Following the complaint examination, the Centre shall issue a grounded decision either on no violations of the legal provisions, or on the suspension of personal data processing operations, or on rectification, blocking or destruction of inaccurate data or obtained unlawfully. The decision shall be communicated to the interested parties within 30 days from the date of the receipt of complaint.

(4) Provisions of paragraphs (2) and (3) shall apply appropriately where the Centre takes action *ex officio* with regard to the commission of a violation of the personal data subjects' rights acknowledged by this law.

(5) The controller, processor or personal data subject may appeal the decision of the Centre to the competent administrative court.

Article 28. Register of personal data controllers

(1) For the purpose of recording the processing operations of personal data, the Centre shall institute and keep a register of personal data controllers that shall contain the information listed in Article 23, paragraph (2). Any modification of this information shall be communicated to the Centre within 5 days, and the Centre will make the corresponding entries in the register of personal data controllers.

(2) The register of personal data controllers is opened for consultation to the public, except for the section containing information on security measures and confidentiality guarantees. The method of consultation is determined by the Centre.

(3) Recording of controllers and of modifications of the information entered in the register of personal data controllers is performed free of charge.

**Chapter VI
CONFIDENTIALITY AND SECURITY OF PERSONAL DATA
PROCESSING**

Article 29. Confidentiality of personal data

(1) Controllers and third parties who have access to personal data must ensure the confidentiality of those data, except where:

a) processing relates to data which are voluntary and manifestly made public by the personal data subject;

b) personal data are rendered anonymous;

(2) Any person acting on behalf, on the account or in any other way under the authority of the controller will be able to process personal data only on instructions from the controller, unless he is required to do so by law.

(3) The Centre's leadership and employees are obliged to guarantee non-disclosure of the professional secrecy with regard to confidential information to which they have access, even after their functions have been served out.

Article 30. Security of personal data processing

(1) While the processing of personal data, the controller must implement appropriate technical and organizational measures to protect personal data against destruction, alteration, blocking, copying, disclosure, and against other unlawful forms of processing, that shall ensure a level of security appropriate to the risks represented by the processing and the nature of the data.

(2) The controller must, where processing is carried out on his behalf, choose a processor that shall ensure sufficient guarantees in respect of the technical security measures and organizational measures governing the processing to be carried out.

(3) The carrying out of processing by way of a processor must be governed by a contract or legal act stipulating, in particular that:

a) the processor shall act only on instructions from the controller;

b) the obligations set out in paragraph (1) shall also be incumbent on the processor.

(4) The requirements for ensuring security of personal data at their processing within information systems are established by the Government.

Article 31. Depersonalization of personal data

(1) For statistical purposes, historical, scientific, sociological, health research, legal documentation, the controller shall depersonalize the data by withdrawing those which permit the identification of natural person, rendering it in anonymous data, which cannot be associated with an identified or identifiable person.

(2) Where the personal data are rendered anonymous, the confidentiality treatment established for this data shall be cancelled.

Chapter VII

TRANSBORDER TRANSFER OF PERSONAL DATA

Article 32. Transborder transfer of personal data

(1) This article shall apply to the transfer to another state, regardless of used medium or means, of personal data undergoing processing or are intended for processing.

(2) Personal data intended for transfer to another state shall be protected in accordance with this law.

(3) Transborder transmission of personal data undergoing processing or are intended for processing after transfer may take place only with the authorization of the Centre, as provided for by law, and only if the country in question ensures an adequate level of protection of personal data subjects' rights and of data intended for transfer.

(4) The level of protection shall be established by the Centre taking into account the conditions in which personal data transmission takes place, especially the nature of data, the purpose and duration of proposed processing operations, the country of destination, the legislation in force in the country in question and the professional rules and security measures which are complied with in that country.

(5) Where the Centre considers that the country of destination does not ensure an adequate level of protection, it shall prevent any transfer of data.

(6) The Centre may authorise, as provided for by law, the transfer of personal data to another state, which legislation does not ensure at least the same level of protection as the one offered by the law of the Republic of Moldova, where the controller provides sufficient guarantees regarding the protection and the exercise of the personal data subjects' rights, that are laid down by contracts concluded between controllers and natural or legal persons, on which provision the transfer is carried out.

(7) The provisions referred to in paragraphs (3)-(6) shall not apply where the transfer of personal data takes place in terms of the provisions of a by-law or of an international treaty ratified by the Republic of Moldova, in particular if the transfer is necessary for the purpose of preventing and investigating crimes. The by-law or international treaty must contain guarantees regarding the protection of personal data subject's rights.

(8) The provisions referred to in paragraphs (1)-(6) shall not apply where the processing of personal data is carried out solely for journalistic, literary or

artistic purposes, if such data are voluntarily and manifestly made public by the personal data subject or if they are closely related to the personal data subject's status of a public person or to the public nature of the acts in which he is involved.

(9) Transmission of personal data to states that do not ensure an adequate level of protection may take place only:

a) with the personal data subject's consent;

b) if the transfer is necessary for the conclusion or performance of an agreement or contract concluded between the personal data subject and the controller or between the controller and a third party in the interest of the personal data subject;

c) if the transfer is necessary in order to protect the life, physical integrity or health of the personal data subject;

d) if transfer is made from a register which according to the law is intended to provide information to the public and which is open to consultation either by the public or by any person who demonstrates a legitimate interest, to the extent that the conditions for consultation in particular cases laid down in law are fulfilled;

e) the transfer is necessary for the accomplishment of an important public interest, such as national defense, public order or national security, carrying out in good order a criminal trial or ascertaining, exercising or defending a right in court, on the condition that the personal data is processed solely in relation to this purpose and only for longer period is necessary to achieve it.

Chapter VIII ACCOUNTABILITY

Article 33. Accountability for violation of this law

For violation of this law, the convicted persons are liable under the civil, administrative or criminal law.

Chapter IX FINAL AND TRANSITORY PROVISIONS

Article 34.

(1) This law shall come into force 6 months from the date of its publication.

(2) On the date of entering into force of this law, the Law on personal data protection No. 17-XVI of February 15, 2007 (Official Gazette of the Republic of Moldova, 2007, No. 107-111, art. 468) with further amendments and completions shall be repealed.

(3) Within 6 months, the Government shall:

- a) develop and submit to Parliament proposals on bringing the enacted legislation in line with this law;
- b) align its regulatory acts in compliance with this law;
- c) ensure the conformity of regulatory acts of central public administration authorities with this law.

(4) The processing operations of personal data that have been started prior to the effective date of this law, shall be notified to the Centre within 30 days from the date of entering into force of this law, in order to be compulsory registered.

**PRESIDENT OF THE PARLIAMENT
MARIAN LUPU**

Chişinău, July 8, 2011.

No. 133.

***(Official Gazette of the Republic of Moldova
no. 170-175/492 from 14 October 2011)***