

**REPUBLIC OF ALBANIA  
THE ASSEMBLY**

**D R A F T L A W**

No. \_\_\_\_\_ date \_\_\_\_\_

**"On the protection of personal data"**

In virtue of articles 35 and 81 of the Constitution, on the proposal of the Council of Ministers, the Assembly of the Republic of Albania,

**DECIDED:**

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1**

*Scope of the law*

The present law guarantees the protection of personal data and of their treatment.

**Article 2**

*Definitions*

For the purposes of this law:

- a) Personal data - shall mean any data relating directly or indirectly to an identified or identifiable natural/legal person;
- b) Personal sensitive data - shall mean personal data relating to:
  - 1. racial and ethnic origin, political opinion or party affiliation, religious and other convictions;
  - 2. health conditions, sexual life and criminal records.
- c) Data processing - shall mean any act carried out with or without support of electronic equipment with a view to accumulation, registration, organisation, protection, elaboration, modification, selection, extraction, confrontation, usage, suspension, communication, distribution, deletion and destruction of data;
- d) Data subject - shall mean any natural or legal person to whom the personal data relates;
- e) Person in charge of data processing - shall mean any natural or legal person legally entrusted with the processing of personal data of others;
- f) Data user - shall mean any natural or legal person, other than the data subject, authorised for the processing of data by the person in charge of data processing.
- g) Anonymous data - shall mean any data whereby no legal or natural person can be identified directly or indirectly;
- h) Public - shall mean at least one natural or legal person, domestic or foreigner.

**Article 3**

### *General Rule*

Personal data shall not open to processing by the public with the exception of the cases foreseen in article 4, and in other cases as foreseen by law.

### **Article 4** *Exemptions*

The provisions of this law shall not apply on the following cases:

- a) Processing of personal data from the data subject;
- b) Processing of anonymous data;
- c) Processing of classified data;
- d) Data obtained in the course of criminal investigations and court proceedings;
- e) Processing of data for the purposes of national security and crime prevention.

The general principles laid down in this law shall also apply to those data that are qualified as intellectual property and/or trade secrets.

## **CHAPTER II** **PERSONAL DATA PROCESSING**

### **SECTION I** **Condition for the processing of personal data**

### **Article 5** *Modalities of personal data processing*

Personal data processing shall be conducted:

- a) as envisaged by law;
- b) following a definite, clear and legitimate purpose;
- c) in an accurate way and making use of updated data;
- d) within the scope of the original purpose and the envisaged time limits;
- e) in a safe and harmless way;
- f) making use of only such data that are relevant and necessary for the accomplishment of the original purpose;
- g) in a way which permits identification of the data subject for no longer than is required for the purpose for which those data are stored.

### **Article 6** *Notification of data subject*

Prior to personal data processing, the person in charge of the data processing shall notify the data subject at least as to:

- a) the name and address of the person in charge of data processing as well as all other persons who will process the data;
- b) the purpose or purposes of the processing;
- c) a description of the category or categories of personal data to be processed;
- d) the recipients or categories of recipient to whom the data might be disclosed;
- e) possibility of transfer of data to third countries;
- f) a general description on the security of processing.

## **Article 7**

### *The Person in Charge of Data Processing*

In order to effectively guarantee the fair processing of personal data, the person in charge of data processing and any other person involved with the processing shall meet certain requirements relating to experience, reliability and technical capacity.

Other subjects who deal with data processing shall observe the rules determined by the person in charge of data processing.

Any person who processes personal data shall be authorised in a written form by the person in charge of data processing, save for the cases when the processing is required by law.

The authorised data user may not forward the data to any third party.

## **Article 8**

### *Security of processing*

The person in charge of data processing must implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves information technology and the transmission of data over a network, and against all other unlawful forms of processing.

In the case of sensitive data, such measures shall ensure a level of security proportional to the risk posed by the processing and the nature of these data.

## **SECTION II**

### **Rights of the data subject**

## **Article 9**

### *Preliminary consent clause*

Personal data processing by other subjects shall only be permitted if the data subject has unambiguously given his/her consent.

The preliminary consent may relate to the entire processing procedure or to one or more parts of the said procedure.

The preliminary consent shall be deemed valid only if it was given freely upon the condition that the data subject is notified in accordance with the requirements of article 6 of the present law.

In the case of sensitive personal data, the preliminary consent shall be deemed valid only if it was given in writing.

## **Article 10**

### *Waiving of the preliminary consent*

The preliminary consent of the data subject is not necessary in the following cases:

- a) when the processing of data is necessary for the fulfilment of a contractual relationship in which the data subject is a party or intends to become a party;
- b) the processing of data is necessary for the fulfilment of a legal obligation pending on the data subject;
- c) the processing of data is necessary for the fulfilment of a duty of public or state interest by the data user;
- d) when the processed data are extracted by public registries, lists, acts or other publicly known documents;

- e) when the processing of data is necessary for safeguarding life and physical integrity of the data subject or of a third person, provided that the data subject is unable to provide his/her consent due to physical or legal impediment;
- f) when processing of data is needed in the course of criminal investigations and court proceedings.

#### **Article 11**

##### *Right of access to one's own personal data*

Every person has the right of access, at any time, in the processing of his/her personal data. The person in charge with the data processing and other persons involved in the processing of personal data shall provide any requested information to the data subject with 10 days from the day when the request was lodged.

#### **Article 12**

##### *The data subject right to object*

The data subject has the right to object any processing of his/her personal data, safe in the cases foreseen in articles 4 and 10 of the present law.

Any person is entitled to request the correction or deletion of false or inaccurate data or any other data that are collected in violation of the law.

The person in charge of data processing shall respond to the request of the data subject in a written form and within 15 days from the day when the request was lodged.

#### **Article 13**

##### *Forwarding of personal data abroad*

Personal data may only be forwarded from the Republic of Albania to a foreign user, when:

- a) the data subject has unambiguously given his/her consent;
- b) is permitted by law, and;
- c) the conditions of data processing, as defined with by the present law, are satisfied by the foreign jurisdiction where the user operates.

### **CHAPTER III**

#### **PEOPLE'S ADVOCATE AS THE SUPERVISOR OF PERSONAL DATA PROTECTION**

#### **Article 14**

##### *The People's Advocate Role*

The Advocate of the People supervises the implementation of the present law.

The Advocate of the People designates one of the commissioners to deal with the right to information for the data of public interest and the protection of personal data.

#### **Article 15**

##### **Competencies according to the Law "On the Advocate of the People"**

The powers of the Advocate of the People in the field of the freedom of information for the data of public interest and personal data protection are regulated by the Law "On the Advocate of the People" and the provisions of the present law.

#### **Article 16** Competencies according to this Law

In the case of any violation of the provisions of this law, the Advocate of the People shall require the interruption of the actions and/or omissions that have caused the violation and the taking of measures in order to avoid such violation.

The subject to whom the request is addressed shall notify the Advocate of the People, in a written form, about:

1. the interruption of the processing of data within 3 days from the submission of the request;
2. the taking of the requested measures within 30 days from the submission of the request.

If the abovementioned subject does not comply with the request of the Advocate of the People, he/she takes all necessary steps as envisaged by the law "On the Advocate of the People" as well as inform the public in relation with the fact of the illegal use of the data, the identity of the violator and the data that are being processed.

#### **Article 17** *The Personal Data Protection Registry*

A personal data protection registry is created at the Office of the Advocate of the People.

Before the initiation of the data treatment, the person in charge of data processing shall notify the Advocate of the People who enlists such notification in the Personal Data Protection Registry. The notification shall contain the following information:

- a) the purpose of data treatment;
- b) categories of data that are going to be treated and the legal ground for the treatment;
- c) the data subjects that are effected by the data treatment;
- d) categories and subjects to whom the data are conveyed;
- e) the data sources;
- f) time limits for the treatment of data;
- g) technical facilities for the treatment;
- h) name and address of the data user, the address of the place where the data shall be handled as well as a copy of the written authorisation envisaged in article 14 of the present law;
- i) any foreign countries to which the data may be transferred.

#### **Article 18** *The data registry number*

As from the moment of the registration, the person in charge of data protection shall be given a registry number. The registry number shall be communicated to the person in charge of data protection.

Any change with regard to the information specified in article 17, shall be reported to the Advocate of the People within 8 days from their occurrence.

The Advocate of the People shall reflect the changes into the registry.

### **CHAPTER IV** **The Appeal**

**Article 19**  
*General Rule*

The violations of the provisions of this law, insofar as they do not qualify as criminal offences, constitute administrative offences and are regulated by the provisions of the law "On Administrative Offences".

**Article 20**  
*Administrative Appeal*

Everybody who believes that his/her rights, as recognised by this law, are infringed, is entitled to lodge an administrative appeal.

The procedure for the administrative appeal is provided for by law.

**Article 21**  
*Judicial Appeal*

Everybody who believes that his/her rights, as recognised by this law, are infringed, is entitled to lodge a judicial appeal.

The procedure for the judicial appeal is provided for by the provisions of the Code of Civil Procedure on judicial review of administrative action.

**Article 22**  
*Causation of the Damage*

Everybody is entitled to seek reparation for the infringement of his/her rights, as recognised by this law, if such infringement causes damage.

The procedure for the claiming and the awarding of the reparation is provided for by law.

**CHAPTER V**

**TRANSITORY AND FINAL PROVISIONS**

**Article 23**

All those subjects whose activity is totally or partially subjected to the provisions of this law, shall take all necessary measures of a technical-administrative nature within one year from the day of the entry into force of this law, in order to adjust their activity to the provisions of the present law.

**Article 24**  
*Entry into Force*

The present law shall come into effect 15 days after its publication in the Official Gazette.

**Skender GJINUSHI**  
**SPEAKER OF THE ASSEMBLY**