

Home »Practice» Opinions of the CPDP for 2018 »Opinion of the CPDP on the publication of the website of the Agency for Social Assistance of Personal Data, incl. medical information, in view of the application of special measures for adoption of a child with a health problem, special need or over seven years of age. medical information, with a view to the application of special measures for the adoption of a child with a health problem, special need or over the age of seven

OPINION OF THE COMMISSION FOR THE PROTECTION OF PERSONAL DATA Reg. № NDMSPO-01-1026 / 2018 Sofia, 29.10.2018

SUBJECT: Publication of the website of the Agency for Social Assistance of Personal Data, incl. medical information, with a view to applying special measures for adoption of a child with a health problem, special need or over seven years of age

Commission for Personal Data Protection (CPDP, Commission) composed of: members: Tsanko Tsolov, Tsvetelin Sofroniev and Veselin Tselkov, at a meeting held on 10.10.2018, considered a file with registration № NDMSPO-01-1026 / 03.10.2018 by Ms. Ana Ananieva, Deputy Executive Director of the Agency for Social Assistance (ASA), on concerning the publication on the website of the Agency for Social Assistance of Personal Data, incl. medical information, with a view to implementing special measures for the adoption of a child with a health problem, special need or over the age of seven. Ms. Ananieva informed the CPDP that according to Ordinance № RD-07-7 of 5.10.2010 on the terms and conditions for keeping and storing the registers for full adoption, ASA takes special measures for a child with a health problem, special needs or age over seven years. Special measures are taken on the basis of a reasoned decision of the Adoption Council (AD) of the relevant Regional Directorate for Social Assistance (RDPA), when within 6 months from the entry of the child in the register of children who may be adopted under the conditions of full adoption, the CA has not identified a suitable adoptive parent or none of the designated at least three adoptive parents has applied for adoption for the specific child or when, despite efforts, it is not possible to determine a suitable adoptive parent. Information about the child's profile is sent by the RDSP to the ASA and is updated once a month from the 15th to the 20th and contains a profile of the child, which includes: age, gender, special needs - information about permanent disability and opportunity for social adaptation. The information shall indicate the Adoption Council which has decided to take special measures. The published data are non-identifying the child, and in terms of permanent disability indicate the treatment (without prescribing the specific health institution), the prescribed drug therapy, diagnosis, the need for continued therapy. This is especially important for prospective adoptive parents who visit the website of the SAA and get acquainted with the child's profile, in order to assess their ability and willingness to adequately respond to the special needs of the child and provide the necessary medical care. With a view to publishing sensitive information on the SAA website on

children's health and in compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data According to the opinion provided by the DPOP, the SAA, within its functional powers and as a controller of personal data, had the obligation to process and store, but not to publish personal data for children with disabilities on the grounds of Article 2, paragraph 2, item 3 of the Personal Data Protection Act Information published so far under Article 21 of Ordinance № RD-07- 7 / 05.20.2010 for the conditions and procedure for keeping and storing the registers for full adoption contains detailed health information within the meaning of Article 27, paragraph 1 of the Health Act, which is a secret protected by law, in accordance with the provisions of Art. 28, para. 3 in connection with Art. 28c of the cited provision. An opinion was requested from the Ministry of Labor and Social Policy, according to which the publication of information on the website of the SAA should not be suspended. As a controller of personal data, the SAA is obliged to legally apply the regulations in the field of personal data and the General Regulation on Personal Data Protection, therefore actions should be initiated, together with the Ministry of Labor and Social Policy, to review and analyze on the compliance of Ordinance № RD-07-7 / 05.10.2010 with the Regulation not only in connection with the publication of data in the child's profile. Taking into account the above, a new model of the profile for publication on the website of the ASA has been proposed to be provided to the RDSP when preparing information about the child, against which the Adoption Council has decided to take special measures. In connection with the above, Ms. Ananieva asks the CPDP for methodological support in the lawful application of 20, para. 1 and Art. 21, para. 1 of Ordinance № RD-07- 7 / 05.10.2010 on the conditions and procedure for keeping and storing the registers for full adoption, as well as with regard to the proposed draft summary information for the child profile for taking special measures. Attached to the request are: - Layout of the information published so far; - Draft summary information for a child to take special measures. Legal analysis: Ordinance № RD-07-7 of 5.10.2010 on the terms and conditions for keeping and storing the registers for full adoption determines the terms and conditions for keeping and keeping a register of children who may be adopted in the conditions of full adoption; keeping and storing the National Register of Adoptive Parents for full adoption; maintaining a National Electronic Information System for children who can be adopted under the conditions of full adoption. The Ordinance determines the conditions and the procedure for entry in the registers; conducting a social survey of a person who wishes to adopt a child under the conditions of full adoption; issuance and termination of a permit for entry in the National Register of Adoptive Parents for full adoption; directing adoptive parents to social service providers for training and support; taking special measures for the adoption of a child with a

health problem, special needs or over the age of seven. Section III of Ordinance № RD-07-7 of 5.10.2010 regulates the National Electronic Information System for children who can be adopted under the conditions of full adoption. According to the provisions of Art. 15 of the Ordinance, the Social Assistance Agency develops and maintains a National Electronic Information System for children who can be adopted under the conditions of full adoption, taking security and interoperability measures in accordance with generally accepted standards that ensure data integrity and the connection with other information objects; provides conditions for access to public data and guarantees the protection of personal and other data on individuals, as well as the protection of data on the storage of their documents. The Social Assistance Agency shall take special measures for the adoption of a child with a health problem, special needs or over the age of seven, when within 6 months from the entry of the child in the register the Adoption Council has not determined a suitable adoptive parent. - Fewer of the three adoptive parents have not submitted an application for adoption for the specific child or when, despite the efforts made, it is not possible to determine a suitable adoptive parent for the child. The measures shall be taken on the basis of a reasoned proposal from the Adoption Council. The adoption council shall attach to the proposal an extract from the minutes of the meeting at which the decision to publish the information was taken. Special measures for the adoption of a child with a health problem, special needs or over the age of seven are implemented by officials taking the necessary steps to publish on the website of the Social Assistance Agency general information about the child prepared by the relevant regional directorate for social services. assistance. The information is updated once a month from the 15th to the 20th and contains a profile of the child, which includes: age, gender, special needs - information about permanent disability and the possibility of social adaptation. The information shall indicate the Adoption Council which has decided to take special measures. The above-cited provisions reflect that in the register under Art. 21, para. 1 on the website of the Social Assistance Agency is summarized information about children with health problems, special needs or when they are seven years old. According to the provisions of Art. 22, para. 2 an adoptive parent, entered in the register, who wishes to adopt a child, whose profile is posted on the website of the Social Assistance Agency, and / or who wishes to receive additional information about the child, should submit an application to the Adoption Council, which decided on taking special measures. The adopter also attaches a declaration of non-dissemination of information to the application. The additional information includes data on: 1. the needs of the child; 2. his health condition; 3. the development of the child; 4. photo of the child; 5. other important information. The information under para. 2 shall be provided in accordance with the provisions of the Personal Data Protection Act. The provision of art. Article 4 (1) of Regulation

(EU) 2016/679 defines "personal data" as any information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is a person who can be identified, directly or indirectly, in particular by an identifier such as name, identification number, location data, online identifier or one or more features specific to the natural, the physiological, genetic, mental, intellectual, economic, cultural or social identity of that individual. The data in the draft summary information for a child for taking special measures, which will be published on the website of the Social Assistance Agency, represent a "profile" of the person and in themselves could not lead to the identification of the child (in the register under Article 21, paragraph 1, names, PIN, date of birth, place of birth, place of residence, etc. shall not be published). Therefore, their publication in the proposed type and volume is in principle not contrary to Regulation (EU) 2016/679.

At the same time, it is noteworthy that the proposed profile includes a section "Diagnoses". Account should be taken of the fact that diagnoses generally contain "health information" within the meaning of Art. 27 et seq. Of the Health Act and are subject to special regulations and protection. In this regard, from the point of view of proportionality, it is more appropriate not to publish the information about the diagnoses of the child, but to provide as part of the additional information under Art. 22, para. 2 of Ordinance № RD-07-7 of 5.10.2010

The additional information in question undoubtedly leads to the identification of the child during its processing, incl. provision of potential adopters should be applied in addition to the special requirements of Art. 22 of the Ordinance and the general rules of Regulation (EU) 2016/679.

It is important to take into account the special purpose of publishing information on the website of the SAA, namely the adoption of special measures for the adoption of a child with a health problem, special needs or over the age of seven. These categories of children need special attention and focused efforts in order to be able to find suitable adoptive parents who will take the necessary care of their upbringing and meet their needs in relation to the special needs of children. The published information is necessary in order to acquaint the future adoptive parents, who have shown interest in the respective child, more precisely in his profile, with the specifics and needs, as well as the care that should be given to the child. The information is published for public benefit and is necessary for the performance of a task of public interest or in the exercise of official powers conferred on the administrator. The Social Assistance Agency has both the authority and the obligation to take special measures for the adoption of children with health problems, special needs or those who have reached the age of seven, incl. for their removal from the specialized institutions offering social services and their integration into society.

In connection with the above and on the grounds of Art. 58, para. 3 of the General Data Protection Regulation, the Commission for Personal Data Protection expressed the following

OPINION:

1. The information in the draft profile of a child with a health problem, special needs or over the age of seven, which will be published on the website of the Social Assistance Agency on the grounds of Art. 21, para. 1 of Ordinance № RD-07-7 of 5.10.2010 on the terms and conditions for keeping and storing the registers for full adoption, could not lead to identification of the child, therefore its publication in the proposed type and volume does not contradict of Regulation (EU) 2016/679.
2. The diagnoses of children with a health problem, special needs or over the age of seven shall contain "health information" within the meaning of Art. 27 et seq. Of the Health Act and are subject to special regulations and protection. In this regard, from the point of view of proportionality, the information about the diagnoses of the child should not be published, but the additional information under Art. 22, para. 2 of Ordinance № № RD-07-7 of 5.10.2010
3. The additional information under art. 22, para. 2 of Ordinance № № RD-07-7 of 5.10.2010 allows direct or indirect identification of the child during its processing, incl. provision of potential adopters should be applied as the special requirements of Art. 22 of the Ordinance and the general rules of Regulation (EU) 2016/679.

MEMBERS:

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Veselin Tselkov / p /

Downloads

Opinion of the CPDP regarding the publication on the website of the ASA of personal data, incl. medical information, with a view to implementing special measures for the adoption of a child with a health problem, special need or over the age of seven

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