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OPINION OF THE COMMISSION FOR PROTECTION OF PERSONAL Reg. held on January 10, 2018, considered a request with ent. № NDMSP0-10-2 / 21.12.2017 by Corresponding Member Vejdi Rashidov - Chairman of the Committee on Culture and Media at the National Assembly of the Republic of Bulgaria. The request states that the Committee on Culture and Media has distributed a bill to supplement the Law on Protection and Development of Culture (LPAA), № 754-01-80, submitted by Cornelia Ninova and a group of MPs. In this regard, the Chairman of the Committee on Culture and Media of the National Assembly addressed the CPDP with a request for an opinion on the bill. Attached to the request for an opinion are: 1. Order of the Speaker of the National Assembly № 750-01-207 / 20.11.2017 on the distribution of the draft law to standing committees; 2. Letter (entry № 754-01.80 / 17.11.2017) to the Speaker of the 44th National Assembly from the submitters of the bill; 3. Draft Law for supplementing the Law for protection and development of culture; 4. Motives to the Bill for supplementing the Law for protection and development of culture; 5. Preliminary assessment of the impact of the draft Law on Supplementing the Law on Protection and Development of Culture. The draft law of the Law on Cultural Activities contains a single paragraph, according to which a new Chapter Five "a" is created in the Law on Cultural Activities - ELECTRONIC CARD FOR CULTURAL ACTIVITIES with Art. 36a-36zh. The proposed amendments to the Law on Cultural Heritage provide that all Bulgarian citizens who turn 18 in the current calendar year will be given the opportunity to receive an electronic card for cultural activities. For 2019, a minimum value of the card of BGN 200 has been set. According to Art. 36a, para. 2 of the project of ZDZZRK, cultural activities are visits to circus, music and music-stage performances and concerts, museums, art galleries and theaters, film screenings, visits to architectural, historical and archaeological, natural, ethnographic and museum reserves and complexes, as well as and the purchase of books. The Council of Ministers, on the proposal of the Minister of Culture, may determine other cultural activities for which the use of the electronic card is possible. The necessary funds for the minimum nominal value of the card in the amount of BGN 200 are provided as expenses under the budget of the Ministry of Culture. The funds on the card may be used only for the performance of the cultural activities specified in Art. 36a, para. 2 of the Law on Public Health Insurance. The reasons for the bill state that the introduction of this mechanism, which is already applied in other European Union countries, aims to: support Bulgarian art; ensuring free access to culture; promoting the development of culture for every young person over the age of 18; additional funding for cultural activities; motivating cultural institutes to create more cultural

products with youth content. At the same time, the Preliminary Impact Assessment of the draft LPDPA states that the proposed change is aimed at supporting, supporting people who create art in its various forms, as well as those whose activities are related to one or another way with the spread of culture. The initiators of the bill emphasize that the need to adopt the proposed legislative solution is indisputable and urgent. In 2015, a national representative survey was conducted on "Challenges to young people's access to culture 2015", prepared by order of the Bulgarian Association of Employers in the field of culture and the Civic Institute. The data obtained from the survey show that the main obstacle to the participation of young people in cultural events are the expensive tickets for them - 53%. Only after that are the lack of such events in the respective settlement - 41% and the lack of family encouragement - 33%. The proposed legislative initiative is precisely an attempt to overcome to some extent this obstacle, which objectively hinders young people's access to culture. The mechanism for using the card is the following: For the purposes of the LRA, data from ESGRAON or a reference based on the population registers are provided to the Ministry of Culture by the Ministry of Regional Development and Public Works. The Minister of Culture annually notifies in writing the persons who are potential recipients of the electronic card in the following calendar year. The procedure for notification shall be determined by an act of the Council of Ministers. The electronic map for cultural activities will be in the form of a computer application and will be used through access to a single national web - based platform, administered by the Ministry of Culture. The unified national web - based platform will contain information on all registered sites in which cultural activities take place and in which the use of the card is possible. Beneficiaries register voluntarily using their personal data in the respective computer platform. Registration is allowed until June 30 for the year following the age of 18, and the card is usable until and after December 31 of the calendar year. For his part, the Minister of Culture annually sends a postal invitation to the persons who are potential beneficiaries of the card in the next calendar year, following the age of 18 by the beneficiary. The conditions and the procedure for exercising the access to the platform shall be determined by an act of the Council of Ministers. The request for an opinion states that the administration responsible for the preparation of an electronic card for cultural activities is the Ministry of Culture, in compliance with the current legislation in the field of personal data processing. Legal analysis: From the point of view of personal data protection, the nature of the request concerns the information about the natural persons - beneficiaries of the Electronic Card for Cultural Activities, which needs to be accessed for the purposes of the Law for Protection and Development of Culture. In particular, these are the Bulgarian citizens who turn 18 during the current calendar year and have a permanent address on the territory of the Republic of

Bulgaria. Due to the fact that the documents attached to the letter do not specify the specific amount of personal data that will be available for the above purposes, in connection with the nature of the request, it should be assumed that this is information on name and permanent address of the adults during the current calendar year. This information can be obtained on the basis of an extract from the population registers. In order to access the requested information for the purposes of issuing an electronic card for cultural activities, the procedure for providing data by ESGRAON, described in Art. 106 of the Civil Registration Act, namely: 1. Bulgarian and foreign citizens, as well as stateless persons to whom they apply, as well as third parties, when these data are relevant to the emergence, existence, change or termination of their legal rights and interests; 2. To state bodies and institutions in accordance with their statutory powers; 3. To Bulgarian and foreign legal entities - on the basis of a law, an act of the judiciary or a permit of the Commission for Personal Data Protection. Insofar as the information on the name and permanent address of the persons is bound only for the purpose of facilitating and expanding the access of young people in Bulgaria to culture, its provision should take into account the public importance and the need to overcome objective difficulties for young people to touch the rich world of books, theater, music, paintings, cinema. In this sense, the proposed legislative changes do not contradict the basic principles of personal data processing. According to Art. 2, para. 2, item 1 of the Personal Data Protection Act (PDPA), the controllers must process personal data for specific, precisely defined and legal purposes and not to process them further in a manner incompatible with these purposes. Each administrator determines the purpose, which requires the processing of a certain type and in a certain amount of personal data. Of course, the purpose of the processing should derive from relevant regulations governing various spheres of public life. The basic principles underpinned by the new legal framework, in particular 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 and on the free movement of persons such data and the repeal of Directive 95/46 / EC (General Data Protection Regulation - applicable from 25 May 2018) are linked to the understanding that access to information in public registers should be encouraged in order to use of registers in the public interest. Evidence of the public benefit from the implementation of the proposed legislative changes can be found in the reasons attached to the request to the draft LPPD, as well as the preliminary assessment of the impact of the draft LPPD. Promoting the development of cultural values in every young person in Bulgaria over the age of 18 has its public significance and in view of the technical and organizational measures taken to protect data, can be carried out in accordance with the principles of personal data protection set out in current legislation. In this sense, the lawful processing of

personal data for the purposes of the proposed legislative changes, suggests the personal data controller - in this case the Ministry of Culture, to align data processing actions with the new standards of personal data protection introduced by Regulation (EU) 2016/679 (General Regulation on Personal Data Protection, Regulation). According to Art. 24 of the General Data Protection Regulation, taking into account the nature, scope, context and purposes of the processing, the controller should put in place appropriate technical and organizational measures to ensure and at all times be able to demonstrate that the processing is carried out in accordance with the rules of the Regulation. In the specific case, already at the stage of building the national web-based platform, the risks of different probability and severity for the rights of natural persons-beneficiaries should be taken into account and appropriate measures (technical and organizational) should be introduced to ensure lawful flow. of the processing activities. In this way the requirements of art. 25 of the Regulation - data protection at the design stage and by default. In this case, it is important to note that the requirements for lawful and conscientious processing of personal data in accordance with the rules of the General Data Protection Regulation also apply to personal data processors who process data on behalf of the data controller. If in the course of the data processing activities for the administrator - Ministry of Culture there is a need to use the services of a personal data processor, the relations and responsibilities should be settled in accordance with the provisions of Art. 28 of the Regulation.

An important obligation for the administrator was introduced by Art. 30 of the Regulation, according to which each administrator is obliged to maintain a register of processing activities for which he is responsible. In this case, the administrator - the Ministry of Culture should maintain a register "Electronic card for cultural activities" with the exhaustively specified in Art. 30 of the Regulation information.

When considering the specific case, the obligation of the administrator - the Ministry of Culture, according to Art. 37 (1) (a) of the Regulation, as a public body, must appoint a data protection officer to monitor compliance with regulatory standards on personal data protection and privacy in processing processes within the Ministry of culture. The General Data Protection Regulation sets out the following tasks for the Data Protection Officer: To monitor compliance with the Regulation, as well as to support the data protection impact assessment. In addition, data subjects (beneficiaries of the Electronic Card for Cultural Activities - Bulgarian citizens who turn 18 in the current calendar year) have the right at any time to contact the Data Protection Officer for information or advice on protection. of their personal data processed for the purposes of the LPC. This also applies to the employees of the administrator, whose personal data are processed by him or who process personal data on his behalf.

The principle of data protection at the design stage explicitly requires the controller to seek the opinion of the data protection officer when assessing the impact on personal data protection. Article 39 (1) (c) in turn entrusts the Data Protection Officer with the obligation to "provide advice on the assessment of the impact on data protection and to monitor the assessment". The designated person for personal data protection will have a comprehensive view of the processes of personal data processing in the Ministry of Culture and will issue opinions and advice related to optimizing and increasing the effectiveness of personal data protection - in this case the activities for processing personal data. personal data related to the register "Electronic card for cultural activities". The General Regulation on Personal Data Protection determines the Data Protection Officer to act as a point of contact with the CPDP, as well as with data subjects on issues related to personal data protection. The administrator - the Ministry of Culture is obliged to inform the CPDP about the name and contacts of the person for personal data protection. In connection with the above and on the grounds of Art. 10, para. 1, item 4 of LPPD, the Commission for Personal Data Protection expresses the following

#### OPINION:

From the point of view of personal data protection, the draft Law for supplementing the Law on Protection and Development of Culture submitted for opinion does not contradict the basic principles of personal data processing. Insofar as the information on the name and permanent address of the Bulgarian citizens, beneficiaries of the Electronic Card for Cultural Activities, is bound only for the purpose of facilitating and expanding the access of young people in Bulgaria to culture, the public importance and necessity from overcoming the objective difficulties for young people in accessing cultural events. In practice, the legislative change is dictated by a task performed in the public interest, for the purposes of which it is necessary to process a minimum number of personal data of individuals. After the adoption of the legal changes, the processing will be carried out on a regulatory basis, which implies the legality and admissibility of actions for processing personal data necessary for the purposes of issuing and using the Electronic Card for cultural activities.

When implementing personal data processing activities for the purposes of the Electronic Card for Cultural Activities within the meaning of the Cultural Protection and Development Act, the personal data controller - the Ministry of Culture should comply with the new standards for personal data protection introduced. with the provisions of Regulation (EU) 2016/679 (General Regulation on Personal Data Protection - applicable from 25 May 2018), as well as the national regulation set out in the Personal Data Protection Act.

## MEMBERS:

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