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OPINION OF THE COMMISSION FOR PROTECTION PERSONAL DATA Reg. № PNMD-01-41 / 14.04.2020 Sofia, 26.05.2020 Subject: Provision of data to municipalities from registers National Population Database and Classifier of current and permanent addresses with primary administrator Ministry of Regional Development and public works, through the environment for inter-register exchange Regix in order to verify the information submitted by parents, which is used only for the admission of children in municipal kindergartens and nurseries and first grade students of municipal schools. The Commission for Personal Data Protection (CPDP) composed of: Chairman Ventsislav Karadzhov and members: Tsanko Tsolov, Maria Mateva and Veselin Tselkov, at a meeting held on 19.05.2020, in connection with those received by the Commission for Personal Data Protection (CPDP) several identical requests for expression of opinion by the same, discussed the issue of the legal possibility to obtain inquiries from municipalities from the register National Population Database and the Classifier of current and permanent addresses with the primary administrator Ministry of Regional Development and Public Works (MRDPW), through the Regix inter-register exchange environment, in order to verify the information provided by parents, which is used for the admission of children in municipal kindergartens and nurseries and first grade students of municipal schools. The requests are related to the refusal or termination of the submission of such reports by the State Agency for Electronic Government and the General Directorate for Civil Registration and Administrative Services at the Ministry of Regional Development and Public Works. The reason is the lack of legal grounds. The CPDP considered it appropriate to express a general opinion on this issue, and to be officially acquainted with the Chairman of the State Agency for Electronic Government and the Director of the General Directorate for Civil Registration and Administrative Services at the Ministry of Regional Development and Public Works. The present analysis is based entirely on the long-standing practice of the CPDP related to the processing of personal data of data subjects from the GRAO register, as well as on the case law on complaints in this regard and the instructions of the European Data Protection Board in this regard. The opinion of the CPDP has an advisory nature for the controller of personal data in applying the relevant legal norms. This opinion has only an explanatory

character on the application of the norms commented in it, without creating rights and / or obligations for the interested parties.

Pursuant to Regulation (EU) 2016/679, the controller of personal data alone or together with another controller determines the rules and procedures for data processing, which must comply with the law and the regulation. The rules of accountability, transparency, good faith and the norms related to administrative and criminal liability regarding the legality of the processing carried out by him / her shall apply to the data processing actions taken by the controller or joint administrators. Legal analysis: Civil registration includes a set of data about a person that distinguishes him from other persons in society and in his family, as a holder of subjective rights such as name, citizenship, marital status, kinship, permanent address and others. The civil registration of natural persons in the Republic of Bulgaria is based on the data in the acts on their civil status and on the data in other acts specified in law. The entry in the population register is made in the municipalities at the permanent address of the natural persons. The birth, marriage and death events are entered in the registers of civil status acts (in the settlement where the event took place) for all persons who are Bulgarian citizens at the time of the event and for persons who are not Bulgarian citizens, but at the time of the event are located on the territory of the Republic of Bulgaria, and the responsibility for civil registration in the territory of the municipality is the mayor of the municipality, according to the provisions of Art. 4, para. 3 of the Civil Registration Act (CRA). According to Art. 22 of the Civil Protection Act, the population register is maintained in electronic form and forms the National Population Database. Regional database "Population" is part of the population register and consists of electronic personal registration cards of individuals with permanent and / or current address in the district.

Local database "Population" is part of the population register and consists of electronic personal registration cards of individuals with permanent and / or current address in the municipality. In Art. 24 of the Civil Procedure Act stipulates that the municipal administration issues certificates on the basis of the population register. The civil status registers and the population register are created and maintained by the Unified System for Civil Registration and Administrative Services (ESGRAON), which is a national system for civil registration of individuals in the Republic of Bulgaria and a source of personal data for them. 100-101 ZGR). According to Art. 3 of the Electronic Government Act (ECA) the primary data controller sends ex officio and free of charge the data to all administrative bodies, to persons performing public functions and to organizations providing public services, which on the basis of law also process these data and have stated desire to receive them. Within the meaning of Art. 2, para. 2 of the WEU, the primary administrator is an administrative body, which by virtue of law collects or creates data for a citizen or organization for the first time and amends or deletes these data. It gives citizens and organizations access to all the

information gathered about them. At the same time, Art. 8, para. 2 of the WEU obliges the administrative bodies, the persons performing public functions and the organizations providing public services to provide all services within their competence and electronically, unless a law provides for a special form for performing certain actions or issuing relevant acts. . This obligation is enshrined in an explicit regulatory requirement for the collection, processing and provision of personal data only in the minimum necessary to provide the service, and guaranteed data processing only for these purposes, except with the express consent of data subjects (Article 16 of the same law). WEU imposes an obligation on the State Agency for Electronic Government to provide and maintain technical infrastructure and information system that will allow the actual and effective implementation of electronic provision of services. According to the Ordinance on the General Requirements for Information Systems, Registers and Electronic Administrative Services, the submission of electronic documents is carried out through a publicly available web-based application in the Unified Portal for Access to Electronic Administrative Services and on the official websites of electronic administrative service providers. In view of the Strategy for Development of the State Administration 2014-2020 adopted by the Council of Ministers and the roadmap to it, the introduction of complex administrative services as an innovative form for the benefit of citizens and businesses is set. In this regard, with a Minutes Decision № 23.8 of a meeting of the Council of Ministers held on 19 June 2013, a Basic Model of Complex Administrative Services was adopted, representing a common universal framework for the introduction of complex administrative services in public administration. According to him, the official gathering of evidence, regulated in Art. 36 of the Administrative Procedure Code in connection with the requirement for one-time collection and creation of data and official notification, provided in Art. 2, para. 1 and Art. 3 of the Electronic Government Act. By Decision № 338 of the Council of Ministers of 23 June 2017, measures were taken to reduce the administrative burden on citizens and businesses by removing the requirement to submit certain official supporting documents on paper. In the appendix to item 1, b. "A" of the Council of Ministers defines the relevant certification services. For the issuance of the certificates from the list of services, the administrations use references from registers, as the data contained in them are extracted from the administrations automatically by electronic means. The ability to provide these services is realized through the Inter-Registry Exchange Environment (RegiX), which provides an interface for automated submission and servicing of standardized requests for administrative services electronically. With the developed components necessary for connecting the information systems of the administrations, the possibility is provided for the users of information to extract data from basic registers, among which are National Population Database, BULSTAT Register, Property Register,

Commercial Register. Through the inter-register exchange is created the opportunity for the implementation of internal electronic administrative services, which is a prerequisite for achieving one of the main objectives of e-government, enshrined in Art. 58a, item 5 of the WEU - comprehensive administrative services to citizens and businesses. This exchange is carried out after identification of each administrative body registered in a common access system maintained by the Council of Ministers (Regix), which issues a unique identification code for access to the separate administration, which allows tracking of each entry into the system for inter-register exchange and establishing the type and volume of data extracted from the respective available registers. Regulation (EU) 2016/679 is the normative act laying down the rules relating to the protection of individuals with regard to the processing of their personal data and on the free movement of such data.

According to Art. 4, point 1 of Regulation (EU) 2016/679, "personal data" means any information relating to an identified or identifiable natural person ("data subject"), 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 physical, physiological, genetic, mental, intellectual, economic, cultural or social identity of that individual. "Data processing" of the subject is any operation or set of operations performed with personal data or a set of personal data by automatic or other means such as collecting, recording, organizing, structuring, storing, adapting or modifying, retrieving, consulting, using, disclosure by transmission, dissemination or other means of making the data available, arranging or combining, restricting, deleting or destroying (Article 4 (2) of the General Data Protection Regulation).

In all cases of actions for the provision of personal data to the subject or third parties from the population registers or from the registers of civil status, they constitute actions for the processing of personal data within the meaning of the General Data Protection Regulation.

The provision of information containing personal data by an administrator, in this case the Ministry of Regional Development and Public Works, to another administrator in the person of a municipality, could be done only in the presence of one of the hypotheses referred to in Art. 6, para. 1 of Regulation (EU) 2016/679 (conditions for lawful data processing) and in strict compliance with the principles set out in Art. 5, para. 1 of the same (principles related to data processing). It is of particular importance in this case to determine exhaustively the amount of data sufficient and necessary for the fulfillment of the objectives set before the administrators.

According to Art. 106, para. 1 of the Civil Registration Act (CRA), the data from ESGRAON are provided to:

1. the Bulgarian and foreign citizens, as well as the stateless persons to whom they refer, as well as third parties, when these data are important for the emergence, existence, amendment or termination of their legal rights and interests;
2. state bodies and institutions in accordance with their statutory powers;
3. 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.

According to Art. 256, para. 1, item 2 of the Preschool and School Education Act (PSAA), the local self-government bodies shall ensure and control the scope of the children and students subject to compulsory pre-school and school education.

According to the provisions of Art. 59. para 1 of the Preschool and School Education Act - the conditions and the order for enrollment, deregistration and transfer to the municipal kindergartens shall be determined by an ordinance of the municipal council, and for the state kindergartens - by an act of the respective financing body. In connection with Art. 7, para. 1 of Ordinance № 5 of 03.06.2016 for preschool education - enrollment, deregistration and transfer to municipal kindergartens for each type of organization are carried out according to an ordinance of the municipal council, and for state kindergartens - by an act of the relevant funding body.

Given Art. 24, para. 1 of the WUA, which states that the kindergarten is an institution in the system of preschool and school education and therefore falls under the hypothesis of Art. 106, para. 1, item 2 of the Civil Protection Act, according to which the data from ESGRAON are provided to state bodies and institutions in accordance with their statutory powers.

The content of Art. 25, para. 1 of the WUA, determining the status of the schools (Art. 25, para. 1. The school is an institution in the system of pre-school and school education, in which ...)

It follows from the above that the municipalities process personal data on the basis of Art. 6, para. 1, p. "C" of Regulation (EU) 2016/679, where processing is necessary to comply with a legal obligation to which the administrator is subject. In this case, recital 41 of the General Data Protection Regulation should be taken into account, according to which a reference to a legal basis or legislative measure does not necessarily require the adoption of a legislative act by Parliament, without prejudice to the requirements of the constitutional order of the Member State concerned. However, such a legal basis or legislative measure should be clear and precise and its application should be foreseeable for the persons to whom it applies. Moreover, insofar as the Ministry of Regional Development and Public Works falls within the scope of the legal definition of "primary administrator" within the meaning of the WEU, there is an obligation for him to provide ex officio and free of charge the data

requested by municipalities under Art. 3 of the same law, after these data have already been processed by the applicant and he, in his capacity of administrative body, has expressed a desire to receive them in order to keep them up to date.

In compliance with the principles of personal data processing, in particular the principle of data limitation, it is necessary to clarify the amount of data that municipalities need to meet the objectives, namely - to verify the facts declared by parents and circumstances.

At the same time, according to Art. 5, para. 1, b (d) of the General Regulation on Data Protection, the obligation of municipalities, in their capacity as controller of personal data, is to keep the data accurate and, if necessary, up-to-date, and to take all reasonable measures to ensure the timely deletion or correction of inaccurate personal data, taking into account the purposes for which they are processed.

In view of the above, and on the grounds of Art. 58, para. 3 of Regulation (EU) 2016/679, the Data Protection Commission stated the following

OPINION:

1. In fulfillment of their normatively established obligations, the municipalities shall make inquiries through one-time access from the registers of ESGRAON on the grounds of art. 106, para. 1, item 2 of the Civil Registration Act in conjunction with Art. 6, para. 1, p. "C" of Regulation (EU) 2016/679, from the following fields: reference for validity of a natural person, reference for permanent address and reference for current address from registers National database "Population", only for persons whose data are already contain in the electronic system for admission of first grade students and in the electronic system for admission of children in municipal kindergartens and nurseries.

2. On this basis, municipalities do not have the right to direct access to the registers of ESGRAON.

3. In compliance with the principles referred to in Art. 5, para. 1, p. "B" and "d" of Regulation (EU) 2016/679, municipalities should process the available data for the purpose of verifying their authenticity.

THE CHAIRMAN:

MEMBERS:

Ventsislav Karadzhov

Tsanko Tsolov

Maria Mateva / p /

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