

Ensuring the conduct of elections and protection of voters' personal data

Office for Personal Data Protection of the Slovak Republic (hereinafter referred to as the "Office") with regard to the upcoming elections to municipal self-government bodies the need to protect the personal data of voters.

The conditions for the exercise of the right to vote and the organization of elections are regulated by law no. 180/2014 Coll. on the conditions for the exercise of the right to vote and on amendments certain laws (hereinafter referred to as "Act No. 180/2014 Coll."). This law also imposes municipalities a number of obligations for which it is necessary to process personal data.

Introduction

The operator, in this case municipality, is obliged to take measures to: with personal data for the purposes of exercising the right to vote and its security treated in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council (hereinafter referred to as the "Regulation") and Act no. 18/2018 Coll. on the protection of personal data and change a addition some laws (further len "the law no. 18/2018 Coll. "). The municipality is primarily obliged to identify and describe all processes in connection with the electoral agenda, in which personal data are processed data subjects and the processing of personal data in accordance with the principles of:

- **legality** - the controller in order to be able to process personal data legally, must have an adequate legal basis in accordance with Art. 6 par. 1 Regulations / § 13 par. 1 of Act no. 18/2018 Coll.,
- **fairness and transparency** - especially in terms of information provision obligations in relation to the persons concerned who are entitled to be informed of the processing of their personal data,
- **purpose limitation** - personal data can only be obtained for specific, explicit stated and legitimate purpose and may not be further processed in a way that does not is compatible with this purpose,
- **minimization of personal data** - the operator has a duty to consistently comply with the processing of only those personal data which he has for the purpose of enforcement the right to vote is enabled by Act no. 180/2014 Coll. It is necessary that the municipality it processed only personal data according to the law on documents and sheets no. 180/2014, it is also desirable that the one who produces the forms for performance elections to ensure that personal entries are not made arbitrarily data beyond the scope of Act no. 180/2014 Coll.; for non-disclosure and non-acquisition personal data beyond the scope of the law, it is appropriate to teach in this direction as well "Entitled persons" ensuring the conduct of elections,

¹Operators of the permanent list of voters are in the context of § 9 par. 1 of Act no. 180/2014 Coll. village. "The permanent list of voters (hereinafter referred to as the "permanent list") is compiled and maintained by the municipality, in the capital of Slovakia. of the Republic of Bratislava and in the city of Košice the city district (hereinafter referred to as the "municipality"). He writes to the permanent list village voters who, have a permanent residence in a village's constituency lives - citizens whose permanent list."

1. Records of processing activities

Records of processing activities according to Art. 30 Regulations / § 37 of the Act no. 18/2018 Coll. (sample here: <https://dataprotection.gov.sk/ucou/nzde/484>) is necessary update the purpose of the processing of personal data, which is to ensure performance and the conduct of the elections, for example according to procedure : below :

Purpose of processing: Ensuring the course of elections, the agenda of elections, ensuring the agenda of the municipality according to law no. 180/2014 Coll.

Legal basis: Act no. 180/2014 Coll. ; *The indication of the legal basis is optional.*

Categories of persons concerned: voters, members of the local and precinct election commission, candidates

Categories of personal data: ordinary personal data; the municipality may optionally complete this field also to provide an exact list of personal data.

Categories of beneficiaries: *to be filled in by the municipality*

Planned period for deletion: *to be filled in by the municipality in accordance with special regulations and the registry order*

Precautions: *to be completed by the municipality* ; for example, a link to the documentation received will suffice security measures, or describe in detail the individual organizational and technical measures - election documentation is stored in locked rooms, access to electronic data files is secured with passwords and in accordance with the settings access rights, the data shall be made available only to authorized persons who act in accordance with with the instructions given by the operator and others .

2. Information obligation

Above all, the municipality must be prepared to fulfill the information obligation towards concerned. With regard to the information obligation, it should be noted that municipalities must already have, in accordance with Art. 13 or 14 of the Regulation / § 19 or § 20 of Act no.

²Applies only to municipalities that do not have the given purpose of processing in their records of processing activities already defined.

18/2018 Coll. fulfilled the complex information obligation they usually have published on the official notice board or on the website of the municipality. Comprehensive information the obligation means that it involves and informs the persons concerned of any purpose of processing personal data performed by the municipality, it is therefore necessary to rely on records on processing activities, where the individual purposes of processing are to be defined and continuously updated.

We recommend that despite the existence of a comprehensive information obligation, which should already include the purpose of securing elections, in accordance with the principle of transparency, the municipalities have taken appropriate measures to provide the person concerned all information referred to in Art. 13 or 14 of the Regulation / § 19 or § 20 of the Act no. 18/2018 Coll., which relate to the processing of personal data for a defined purpose, which is to ensure the conduct of elections under Act No. 180/2014 Coll., Namely in a concise, transparent, comprehensible and easily accessible form, worded clearly and simply, especially in the case of information specifically for the elderly who we place it in a more vulnerable category of affected persons. This makes the village easier to prepare as well to address a possible situation envisaged by Regulation / Act no. 18/2018 Z.z., When the person concerned requests that his information be provided orally. So the goal can only be the elaboration of an "excerpt" from the complex information obligation, while within this document it is possible to subsequently provide a link, for example in the wording - more information on the processing of personal data is available on the official notice board / website municipality / on the notice board or in person at the employee of the first contact office.

What, for example, can this information obligation to voters look like?

Operator	Indicate the municipality
Responsible person - contact	Contact the responsible person shall be provided
the right of access to personal data	Yes
the right to correct personal data	Yes
the right to delete personal data	not
the right to restrict the processing of personal data	yes
the right to the transfer of personal data	not
the right to object to the processing of personal data	not
the right to file a motion to initiate proceedings pursuant to Section 100 Act no. 18/2018 Coll.	Yes
purpose of processing	ensuring the conduct of elections

legal basis	Act no. 180/2014 Coll. on performance conditions electoral law and amending certain laws
retention period	to be filled in by the municipality
recipients	to be filled in by the municipality
legitimate interests	not
transfer to a third country	not
automated decision-making, including profiling,	no
Provision of personal data, in particular in relation to the voter's obligation to prove his or her identity	identity with an identity card or other official document that it contains the image of a voter and all the information about him in the voter list is legal requirement in accordance with Act no. 180/2014 Coll. on the conditions for the exercise of the election law and amending certain laws.

It should also be pointed out that the operator only demonstrates compliance its obligation to inform the person concerned within the meaning of Article 13 or 14 of the Regulation / § 19 or 20 of Act no. 18/2018 Coll. and not whether the person concerned has actually become acquainted with the content of the information obligation by reading it, ie there is no obligation to, for example the document by which the operator fulfills the information obligation was also itself signed by the person concerned or would even be required to be signed. Equally important and necessary is to deal with the provision of information in the language national minority / in a form intended for the blind and partially sighted in municipalities according to a special regulation.

The municipality must not forget that it is obliged to fulfill the information obligation according to Art. 13 or 14 of the Regulation / § 19 or 20 of Act no. 18/2018 Coll. also internally, in relationship with members of the local and precinct election commission whose personal data as well as in relation to individual candidates for council and the mayor, where the purpose of the processing is different from the above situation, this purpose of processing is the registration of candidates for municipal elections council or for the election of the mayor of the municipality. As a way of fulfilling this form the obligation to provide information orally is also possible form, or in the form of a separate document. If personal information have not been obtained directly from the candidate as the person concerned (Article 14 of the Regulation / § 20 of the Act no. 18/2018 Coll.) We pay attention to exceptions from the information obligation according to par. 5 of the provision in question.

How the operator can fulfill the information obligation in the relationship to voters?

There are several options, especially the need for operators to think also on the adequacy and suitability of individual measures, for example from a point of view administrative complexity. An example is the publication of information on the bulletin board

in the polling station, on the municipality's website, placement of information boards, possibly the possibility of fulfilling the information obligation at the same time as publishing the information on the conditions of the right to vote and the right to be elected on the official board of the municipality and on the website the seat of the municipality, if it has been established, according to § 21 par. 1 of Act no. 180/2014 Coll. or simultaneously with delivery of the notification according to § 21 par. 3 of Act no. 180/2014 Coll., Which are intended for each household, and in which the municipality states the time of the elections, the constituency, polling station, brief method of adjusting the ballot paper and the obligation of the voter to prove oneself before voting with an identity card.

3. Security measures

In conjunction with Art. 25 and Art. 32 Regulations / § 32 and § 39 of Act no. 18/2018 Coll. is a the controller is obliged to assess the risks in the processing of personal data and taking into account the seriousness of the possible interference with the rights and freedoms of the persons concerned adequate security measures, by which we mean technical measures and organizational.

Part of security measures is, in particular, to ensure the obligation to that any person acting under the authority of the operator, or intermediary and has access to personal data processed only on the basis of instructions for the operator (obligation to instruct in the context of Article 32 (4) of the Regulation and Art. 29 Regulations / § 39 par. 4 of Act no. 18/2018 Coll. and § 36 of Act no. 18/2018 Coll.), or in accordance with a special regulation or international agreement which is Slovak Republic bound. In practice, an authorization may also mean an authorization for performance of an act or a similar document, of which they may or may not be attached be at the same time instructions for the processing of personal data.

According to § 11 par. 4 of Act no. 180/2018 Coll. anyone who is eligible to get acquainted with the data in the voter list, he is obliged to keep about them secrecy. This obligation is also reflected in Act no. 18/2018 Coll. in § 79, which imposes the obligation of the operator and the intermediary to be bound by confidentiality on the personal data of natural persons who come into contact with personal data at the operator or intermediary. In case they are in the polling station present in addition to members of the precinct election commission, its recorder and others other persons who have expressed an interest in observing the conduct of the elections, and the counting of votes must be such that, in particular, those persons cannot inspect the list of voters, or made extracts, write-offs, photographic records or videos.

In connection with the fulfillment of obligations pursuant to § 24 par. 2 of Act no. 180/2014 Coll., specifically with the obligation of the voter to sign the takeover of the ballot paper by hand and envelopes in the voter list will need to be individual district members election commissions proceeded with this act in such a way as to prevent unauthorized use making personal data available to other voters whose personal data are contained on the same page of the relevant voter list. This can be achieved

for example, by translating blank papers into the personal data of other voters located on the list of voters, which will allow the voter concerned to see only his or her signature when signing personal information. In the case of voting outside the polling station, seconded members the district election commission shall take the same measures when signing the voter protection of personal data of other voters registered on the electoral roll

As part of its activities, the Office also met with suggestions from citizens who objected non-compliance with the discrete zone. The situation can be solved, for example, by marking discrete zone by marking its contours on the floor, or correcting by members the Electoral Commission that voters come to the polling station on an ongoing basis and to take over ballots took place gradually, thus ensuring the confidentiality of the data voters.

4. Selected application problems in securing elections

Something has changed about the processing of the birth number in the conditions of the new legal privacy adjustments?

Birth number is no longer a special category of personal data (not included to Art. 9 Regulations / § 16 of Act no. 18/2018 Coll.); birth number processing adjustment is defined in § 78 par. 4 of Act no. 18/2018 Coll. " When processing personal data a universally applicable identifier may be used for the purpose of identifying a natural person according to a special regulation, only if its use is necessary to achieve for the purpose of processing. Consent to processing generally applicable the identifier must be explicit and must not be precluded by a specific regulation in the case of his processing on the legal basis of the consent of the data subject. Publish in general the usable identifier is prohibited; this does not apply if the universally applicable identifier published by the person concerned himself. ". Publish a universally applicable identifier continues to prohibit, nor does the consent of the person concerned, this prohibition on the publication of a personal identification number can't break.

In order for the controller to be able to process personal data in a lawful manner the persons concerned must have a so-called legal authorization resp. relevant legal basis. In this case, the processing of the birth number is carried out on a legal basis, which is a special law. According to § 9 par. 3 of Act no. 180/2014 Coll. about the voter in permanent the list shall contain the following information: a) name and surname, b) birth number, if it is an alien, date of birth, unless birth number assigned, c) nationality, d) name municipality, street name, if the municipality is divided into streets, inventory number and reference number of the house permanent residence.

Obtaining the consent of the data subject with the processing of his personal data is in such cases redundant and confusing for the person concerned, as the controller has a relevant legal basis for the processing in question in accordance with Art. 6 par. 1 letter c) Regulations / § 13 par. 1 letter c) of Act no. 18/2018 Coll., in connection with Act no. 180/2014 Coll.

My personal data is made available to the members of the election commission, I am a voter worried they might be abused?

According to § 11 of Act no. 180/2014 Coll. list of voters for each election the district is prepared by the municipality from a permanent list. This voter list will be submitted by the municipality the district election commission no later than one hour before the start of the voting and whoever is authorized to become acquainted with the data in the voter list, is obliged to maintain about them confidentiality and processes them only in accordance with the instructions (instructions) of the operator.

Processing of personal data of voters, including birth number for enforcement purposes contrary to Regulation / Act no. 18/2018 Coll. Every operator, in this In this case, the municipality is responsible for the security of personal data and is obliged to comply security measures to ensure the protection of personal data.

What if a candidate list of an independent candidate or a candidate list political party contains personal data that is not a local election commission created in accordance with the exhaustively defined list of personal data in law no. 180/2014 Coll. process?

Act no. 180/2014 Coll. defines a particular situation in which it occurs to the processing of personal data and at the same time determines the list of personal data that is the operator obliged to process may process them only to the extent that for it is established by a generally binding legal regulation and it is not appropriate to extend it a list of personal data beyond what is provided by a special law.

First and foremost, the operator should ensure that to provide personal data beyond the list of personal data defined in Act no. 180/2014 Coll. did not occur, for example by creating uniform candidate lists, which would did not allow the data subjects to provide optional data / enter data beyond those stipulated by law, the so-called providing personal data "for safety".

In the case of obtaining personal data, which is not stipulated by law no. 180/2014 Coll. In order to ensure the conduct of the elections, the operator would have to further processing have a relevant legal basis in accordance with Art. 6 par. 1 Regulations / § 13 par. 1 of Act no. 18/2018 Coll., For example with the consent of the person concerned. The deletion of that part of the candidate list which goes beyond the scope of the law seems to be a suitable solution contains "unnecessary" personal data, unnecessary for the given purpose of processing. This the approach is also appropriate in terms of compliance with one of the basic principles of processing, namely the principles of data minimization.

If the registration authority receives a list of candidates for registration, of which it is a part there is also a voter list to support the candidate in the election, which contains the data beyond the requirements of a special law, how should such data be handled?

The situation is similar to the previous case. In the signature in question In the document, each voter shall state the name and surname, date of birth, permanent residence means the name of the municipality, the name of the street, if the municipality is divided into streets, and the house number. On every one

the name, surname, title, date of birth and address shall be given on the signature sheet permanent residence of the candidate. The operator, in this case the candidate to the deputy, resp. the mayor of the municipality, who processes personal data for the purpose of obtaining the required number of signatures of voters supporting his candidacy is hereby bound the list of personal data defined by Act no. 180/2014 Coll. Beyond this as follows may receive additional personal data, such as telephone number, e-mail address only if it has an adequate legal basis for such a purpose

the consent of the person concerned. In terms of the need regulation on personal data protection is it should be noted that the principle of consent is strictly formalized. Consent must be free, granted, specific, unambiguous and informed, to which the obligation relates in particular information of the data subject of the right to withdraw consent to the processing of personal data. It is necessary to inform those who will spread the petition to the extent to be affected persons have drawn attention to the provision of data only to the extent provided by law.