

REGULATION TO THE LAW OF PROTECTION OF THE PERSON AGAINST THE TREATMENT OF THEIR PERSONAL DATA

No. 37554-JP

Based on articles 24 and 140 subsections 3), 8) and 18) of the Political Constitution; Transitory III of the Law on the Protection of the Person from the Treatment of Personal Data, No. 8968 of July 7, 2011 and Article 28 subsection 2), section b) of the General Law of Public Administration.

Considering:

1^o-That the democratic and constitutional State of Costa Rican law is committed to guaranteeing to any person, respect for their fundamental rights.

2^o-Currently, information and communication technologies have made it possible for people to access conditions to interact in a large number of scenarios, and therefore enter media or technological platforms that may contain personal information and consequently The way in which humanity creates and distributes its knowledge has been profoundly transformed, which in turn creates a risk to their privacy or private activity.

3^o-That, due to the risk to the privacy or private activity of the individual, it becomes necessary to ensure the defense of freedom and equality of the same with respect to the automated or manual treatment of the data corresponding to his person, when they appear in databases of data from public or private organizations.

4^o-By means of Law No. 8968 of July 7, 2011, the Law of Protection of the Person Against the Treatment of Personal Data was enacted, being that the same in its Transitory III imposes the Executive Power to issue the due regulation.

5^o-That given the above, through Executive Agreement No. 212-MJP dated November 22, 2011, published in the Official Gazette La Gaceta No. 11 of January 16, 2012, the Executive Branch formed an Inter-institutional Commission assigning responsibility to write the Regulations to the aforementioned Law.

6º-That the Agency for the Protection of Data of the Inhabitants was formed and integrated as provided in Transitory III of Law 8968, being that the Agency participated in the sessions of the Commission and issued its technical recommendations, which were analyzed and incorporated , when it was deemed appropriate.

7º-That in accordance with numeral 361 of the General Law of Public Administration, the draft Regulation to the Law for the Protection of the Person Against the Treatment of Personal Data, came out for public consultation by means of a notice disclosed in the Official Gazette. , dated August 24, 2012, Scope 119, with a deadline for receiving observations of 10 business days, which ran from August 27 to September 11, both dates of 2012.

8º-That for the attention of the observations a blog was enabled on the website of the Ministry of Justice and Peace, as well as physical and digital documents were received. All the observations, comments and suggestions received within the established term, were duly studied by the Editorial Committee established for that purpose. After carrying out the corresponding analysis, the present text of the Regulations was arrived at.

So,

DECREE:
Regulation to the Law of Protection of the Person
Facing the Treatment of your Personal Data

Chapter I
General disposition

Article 1. Object. The purpose of these provisions is to regulate the Law on the Protection of the Person from the Treatment of their Personal Data, in terms of guaranteeing to any individual, regardless of their nationality, residence or domicile, respect for their fundamental rights, specifically, their right to informative self-determination in relation to your privacy or private activity, as well as the defense of your freedom and equality with respect to the automated or manual treatment of the data corresponding to your person or property.

Article 2. Definitions, acronyms and acronyms. In addition to the definitions established in the Law on Protection of the Person Against the Treatment of Your

Personal Data, for the purposes of these Regulations, the following definitions shall apply:

a) Agency or PRODHAB: Agency for Data Protection of Inhabitants.

b) Database: Any file, file, registry or other structured set of public or private personal data that is processed, automated or manual, on the site or in the cloud, under the control or direction of a person in charge, any that it is the modality of its elaboration, organization or access.

c) Internal, personal or domestic database: Any file, file, registry or other structured set of restricted or unrestricted access personal data, maintained by natural persons, will be considered as a personal or domestic database, as long as the databases data or its content is not commercialized, distributed or disseminated. Any file, file, registry or other structured set of personal data maintained by legal entities, public or private, will be considered as an internal database, as long as the databases or their content is not commercialized, distributed or disseminated. They will retain the quality of the internal database,

(Thus amended the previous paragraph by article 1 of executive decree No. 40008 of July 19, 2016)

d) Publicly accessible databases: Those files, files, registry or other set of data structures that can be consulted by anyone who is not impeded by a limiting rule, or with no other requirement than the payment of a consideration.

e) Commercialize: Sell, trade, exchange or in any way alienate or pledge, for profit in favor of a third party, one or more times, those personal data that appear in databases.

f) Consent of the owner of the personal data: Any expression of free, unequivocal, informed and specific wish that is granted in writing or in digital media for a specific purpose, through which the owner of the personal data or his representative, You consent to the processing of your personal data. If consent is granted in the framework of a contract for other purposes, said contract must have a specific and independent clause on consent to the processing of personal data.

(Thus amended the previous paragraph by article 1 of executive decree No. 40008 of July 19, 2016)

g) Consultation: Request made to a database, in which specific information is required based on defined search criteria, provided that such request does not result in a database translocation or replica.

h) Global contract: Agreement of wills through which the parties express or express their consent, either physically or electronically, and which aims to service a set of queries made by the same applicant to a database containing personal data, through the agreement of a pecuniary remuneration based on volume.

i) Data in the cloud: File, file, registry or other structured set of data that is accessed using the Internet.

j) Distribution, dissemination: Any way in which personal data is distributed or published, to a third party, by any means as long as there is an end to commercialize the data or mediate profit with the database.

(Thus amended the previous paragraph by article 1 of executive decree No. 40008 of July 19, 2016)

k) Manager: Any natural or legal person, public or private entity, or any other body that processes personal data on behalf of the person responsible for the database.

l) File: Any organized set of personal data, whatever the form, purpose or modality of its creation, storage, organization and access.

m) Guarantee of confidentiality: Obligation of any natural or legal person, public or private, who has participation in the treatment or storage of personal data, to comply with the duty of confidentiality required by law.

n) Technological intermediary or service provider: Natural or legal person, public or private that provides infrastructure, platform, software or other services.

(Thus amended the previous paragraph by article 1 of executive decree No. 40008 of July 19, 2016)

o) Scientific research: Process of applying a scientific method that seeks to obtain relevant and reliable information to understand, verify, correct or apply data, including personal data of a non-sensitive nature or which, being sensitive, are not identifiable, in order to obtain knowledge and solve scientific, philosophical or empirical-technical problems.

p) Law: Law of Protection of the Person Against the Treatment of his Personal Data, number 8968.

q) Identifiable natural person: Person whose identity can be determined, directly or indirectly, by means of any information referring to their anatomical, physiological, psychological, economic, cultural or social identity. A natural person will not be considered identifiable if such identification requires time limits or disproportionate activities.

r) Disassociation procedure: Action and effect of dissociating personal data, so that the information obtained cannot be associated or linked to a specific or determinable person.

s) Responsible: Any natural or legal person, public or private, who administers or, manages or is in charge of, or owns, one or more public or private databases, competent under the Law, to decide which is the purpose of the database, what categories of personal data should be recorded and what type of treatment will be applied to them.

t) (Repealed by article 11 of executive decree No. 40008 of July 19, 2016)

u) Deletion or elimination: Procedure by which the person in charge or the person in charge of the database permanently or partially deletes or destroys the personal data of the owner from its database.

v) Owner or interested party: Natural person owning the personal data protected by Law, or his representative.

w) Transfer of personal data: Action by which the personal data of the person in charge of a personal database is transferred to any third party other than the person in charge, his economic interest group, the person in charge, service provider or technological intermediary, in these cases as long as the recipient does not use the data for distribution, dissemination or marketing.

(Thus amended the previous paragraph by article 1 of executive decree No. 40008 of July 19, 2016)

x) Data processing: Any operation or set of operations, carried out through automated or manual procedures and applied to personal data, such as collection, registration, organization, preservation, modification, extraction, consultation, use, communication by transmission, broadcast, distribution or any other way that facilitates access to these, collation or interconnection, as well as blocking, deletion or destruction, among others.

y) Automated data processing: Any operation, set of operations or procedures, applied to personal data, carried out through the use of hardware, software, networks, services, applications, on site or in the cloud, or any other technology of the information that allows the collection, registration, organization, conservation, modification, extraction, consultation, use, communication by transmission, dissemination, distribution or any other way that facilitates access to these, collation, or the interconnection, as well as the blocking, deletion or destruction, exchange or digitization of personal data, among others.

z) Economic interest group: a group of companies that manifests itself through a decision-making unit, that is, the meeting of all the elements of business command or management through an operations center, and is externalized through two basic movements: the criterion of unit of management, either by subordination or by collaboration between companies, or the criterion of economic dependency of the companies that are grouped, regardless of whether the legal personality of the companies is affected, or that their assets are transferred, regardless of your

address and business name. When PRODHAB requires it, the status of economic interest group may be demonstrated at least by means of a notarized sworn statement or equivalent legal document from the jurisdiction of the owner of the database, without prejudice to PRODHAB's investigative powers.

(Thus added the previous paragraph by article 1 of executive decree No. 40008 of July 19, 2016)

Article 3. Scope of application. This Regulation will be applied to the personal data that appear in the automated or manual databases of public or private organizations, and to any form of subsequent use of these data, as long as they take effect within the national territory, or the Costa Rican legislation derived from the conclusion of a contract or under the terms of international law.

The personal data protection regime established in this Regulation shall not apply to databases maintained by natural or legal persons, public or private, for exclusively internal, personal or domestic purposes, as long as these are not in any way marketed.

The databases of financial entities that are subject to control and regulation by the General Superintendence of Financial Entities (SUGEF), will not require registration with the Agency for Data Protection of Inhabitants. Notwithstanding the foregoing, the Agency shall have full jurisdiction to regulate and supervise the protection of the rights and guarantees covered under Law No. 8968 and to exercise all the actions granted for this purpose, on said databases.

(Thus amended the previous paragraph by article 2 of executive decree No. 40008 of July 19, 2016)

The personal data protection regime established in this Regulation shall not apply to data referring to natural persons in their professional capacity, as long as it is done for the profession's own purposes or in compliance with legal provisions.

(Thus added the previous paragraph by article 2 of executive decree No. 40008 of July 19, 2016)

Chapter II

Of the Consent

Article 4. Consent Requirements. Obtaining consent must be:

a) Free: there must be no error, bad faith, physical or psychological violence or intent, which may affect the owner's expression of will;

b) Specific: referring to one or several determined and defined purposes that justify the treatment;

c) Informed: that the owner has prior knowledge of the treatment, to what their personal data will be subjected and the consequences of giving their consent. Likewise, to know who is responsible for the treatment of your personal data, and their place or means of contact;

d) Unequivocal: it must be granted by any means or through unequivocal conduct by the owner in such a way that its granting can be demonstrated without doubt and that it can be consulted later.

(Thus amended the previous paragraph by article 3 of executive decree No. 40008 of July 19, 2016)

e) Individualized: there must be a minimum of consent given by each owner of the personal data.

Article 5. Formalities of consent. Whoever collects personal data must, in all cases, obtain the express consent of the owner for the processing of personal data, with the exceptions established in the Law.

The consent must be granted by the owner, in a physical or electronic document. In the case of consent obtained online, the person responsible must make a procedure available for granting consent in accordance with the Law.

(Thus amended the previous paragraph by article 4 of executive decree No. 40008 of July 19, 2016)

Likewise, the document through which the author of the personal data extends his consent, must be easy to understand, free of charge and duly identified.

Express consent will not be necessary when:

a) There is a well-founded order, issued by the competent judicial authority or an agreement adopted by a special commission of investigation of the Legislative Assembly in the exercise of his office.

b) It is personal data of unrestricted access, obtained from sources of general public access.

c) The data must be delivered by constitutional or legal provision.

Article 6. Burden of proof of consent. In order to demonstrate obtaining consent, the burden of proof will fall, in all cases, on the person in charge of the database.

Article 7. Of the revocation. At any time, the owner may revoke their consent to the processing of their personal data, for which the person responsible must establish expeditious, simple and free mechanisms that allow the owner to revoke their consent.

Article 8. Processing of revocation. The person in charge of the database, upon presentation of the request for revocation of consent, will have a period of five

working days from the receipt of the same, to proceed according to the revocation. Likewise, within the same period of five business days, you must inform those physical or legal persons to whom you have transferred the data of said revocation, which must proceed within five business days from the notification to execute the revocation of the consent.

The revocation of consent will not have retroactive effect.

Article 9. Deadline for confirmation of revocation. When the owner requests confirmation of the cessation of the processing of their data, the person responsible must respond free of charge, expressly within three business days, from the submission of said request.

Article 10. Refusal to revoke. In case of refusal, express or tacit, on the part of the person in charge, to process the revocation of consent, the owner may submit to the Agency the corresponding complaint referred to in the Law and these Regulations.

Article 11. Right to be forgotten. The conservation of personal data that may affect the owner, must not exceed a period of ten years, from the date of termination of the data processing object, unless special regulatory provision establishes another term, which by the agreement of the parties is has established a different term, that there is a continuous relationship between the parties or that there is a public interest to preserve the data.

(As amended by article 5 of executive decree No. 40008 of July 19, 2016)

Chapter III

Of the Rights of the Holders and their Exercise

Article 12. Informative self-determination. It is the fundamental right of every natural person, to know what is stated about him, his assets or rights in any database, of any nature, public or private, the purpose for which his personal information is being used or collected, thus How to demand that it be rectified, updated, supplemented or deleted, when it is incorrect or inaccurate, or is being used for a purpose other than that authorized or that it can legitimately fulfill.

Article 13. Exercise of rights. The exercise of any of the rights of access, rectification, modification, revocation or deletion of personal data by the owner, does not exclude the possibility of exercising one or the other, nor can it constitute a prerequisite for the exercise of any of these rights.

Article 14. Restrictions on the exercise of rights. The exercise of the rights mentioned in the previous article, may be restricted for reasons of national security, public order and public health provisions or to protect the rights of third parties, in the cases and with the scope provided in the applicable laws on the matter. , by resolution of the competent authority, duly founded and motivated.

Article 15 People empowered to exercise their rights. The rights of access, rectification, modification, revocation or elimination will be exercised by the owner or her representative, after accreditation of ownership or representation.

Article 16. Means and forms for the exercise of rights. The person in charge must make available to the owner, the simplified means and forms of electronic communication or others that he considers pertinent to facilitate the holders the exercise of their rights.

Article 17 Means to receive notifications from the owner. In the request for access, rectification, modification, revocation or elimination, for the purposes of the Law and these Regulations, a means of receiving notifications must be indicated.

In case of not complying with this requirement, the automatic notification indicated in the Law on Judicial Notifications, Law No. 8687, of December 4, 2008, published in La Gaceta No. 20 of January 29, 2009, and its amendments, operate. .

Article 18 Of the requests of the holder towards the person in charge. The person responsible must process any request to exercise the personal rights of the owner. The deadline for the request to be met will be five business days, counted from the day following that it has been received by the person in charge, in which case the latter shall note on the acknowledgment of receipt that it delivers to the owner, the corresponding date of reception.

The indicated period will be interrupted in case the person in charge requires additional information from the owner.

Article 19. Request for additional information. In the event that the information provided in the request is insufficient or erroneous to attend to it, the person in charge may request the holder, for once and within the five working days following receipt of the request, to provide the necessary elements or documents to process it. The owner will have a period of five business days, counted from the day after receipt, to meet the requirement.

If no response is given within this period, the corresponding request will be considered as not filed. In the event that the owner meets the information request, the period for the person in charge to respond to the request will be five business days, which will begin to run the day after the owner has met the request.

Article 20. Responsible party's response. In all cases, the person responsible must respond to the requests received from the owner, regardless of whether or not personal data of the latter appear in their databases, in accordance with the term established in the Law and these Regulations.

The response of the person responsible to the owner must refer to the entire record belonging to the owner, even when the request only covers one aspect of the personal data, and must be presented in a readable, understandable and easily accessible format. In case of use of codes, acronyms or keys, the corresponding meanings must be provided.

This report in no case may reveal data belonging to third parties, even when they are linked to the requesting owner.

Article 21. Right of access to information. The owner has the right to obtain from the person responsible, the information related to her personal data, including those related to the conditions, purpose and generalities of their treatment.

You can make information inquiries to the database, with a minimum interval of six months, unless the owner expresses the reasons and evidence to the person in charge of the database, for which he considers there is a violation of his rights. protected in the Law and these Regulations. In the event that the person in charge of the database considers that the reasons are not received and there is the possibility of an abusive use of that right, within five business days of the request, he / she will raise the matter with PRODHAB, who will finally resolve, within the term of ten business days, from the reception of said management.

The person in charge must evacuate the information query within a period of five business days from receipt of the request.

Article 22Refusal by the responsible. The person in charge who denies the exercise of any management of the owner, must justify her response in writing. If the owner considers it pertinent, she may go to the Agency in accordance with Chapter VII "On the Protection of Rights before the Agency" of these Regulations.

Article 23 Right of rectification. The owner may request at any time the person responsible to rectify their personal data that turns out to be inaccurate, incomplete or confusing.

Article 24 Requirements for the exercise of the right of rectification. The rectification request must indicate what personal data it refers to, as well as the correction that is requested to be made and must be accompanied by the pertinent documentation or proof that supports the origin of the request. The person responsible must offer mechanisms that facilitate the exercise of this right for the benefit of the owner.

Article 25 Right of deletion or elimination. The owner may request at any time to the responsible, the deletion or total or partial removal of the owner's personal data, permanently.

Article 26 Exercise of the right of deletion or elimination. The owner may request at any time to the person responsible, the total or partial deletion or elimination of personal data, except in the following cases:

- a) State security;
- b) The data must be maintained by constitutional, legal provision or resolution of a judicial body;
- c) Citizen security and the exercise of public authority;
- d) The prevention, prosecution, investigation, arrest and repression of criminal offenses, or of ethics offenses in the professions;

e) The operation of databases that are used for statistical, historical or scientific research purposes, when there is no risk that people will be identified;

f) The adequate provision of public services;

g) The effective ordinary activity of the Administration, by the official authorities;

h) It concerns personal data of unrestricted access, obtained from sources of general public access;

Chapter IV

Of the Treatment of Personal Data and Security Measures

Article 27 Procedures for treatment. The person in charge will establish and document procedures for the inclusion, conservation, modification, blocking and deletion of personal data, on the site or in the cloud, based on the minimum protocols of action and security measures in the treatment of personal data. . In addition, the person in charge of the database must ensure that the principle of information quality is applied.

Article 28 Treatment conditions. It corresponds to the person in charge or the person in charge, the diffusion, commercialization and distribution of said data, according to what is determined by the informed consent granted by the owner, even when these data are stored or hosted by a technological intermediary.

Article 29 Contracting or subcontracting services. In the contracting or subcontracting of services provided by a technological intermediary or service

provider, it will be considered that whoever contracts said services maintains the responsibility for the processing of personal data. The person responsible must verify that said intermediary or provider complies with the minimum security measures that guarantee the integrity and security of personal data.

(As amended by article 6 of executive decree No. 40008 of July 19, 2016)

Article 30 Data processing by the manager. The person in charge may only intervene in the treatment of personal databases, as established in the contract concluded with the person in charge and her indications.

Article 31. Duties of the manager. The manager will have the following obligations in the treatment of personal databases:

to) Only treat personal data in accordance with the instructions of the person in charge;

b) Refrain from processing personal data for purposes other than those instructed by the controller;

c) Implement security measures and comply with the minimum protocols of action in accordance with the Law, this Regulation and the other applicable provisions;

d) Keep confidentiality regarding the personal data processed;

and) Refrain from transferring or disseminating personal data, except express instructions from the person responsible.

F) Delete the personal data object of treatment, once the legal relationship with the person in charge or by instructions of the person in charge has been fulfilled, as long as there is no legal provision that requires the conservation of personal data.

Article 32 Of the minimum protocols of action. Those responsible must prepare a minimum protocol of action, which must be transmitted to the person in charge for its faithful compliance and where at least the following must be specified:

to) Prepare mandatory and enforceable privacy policies and manuals within the organization of the person responsible;

b) Put into practice a manual for training, updating and raising awareness of personnel on the obligations regarding personal data protection;

c) Establish an internal control procedure for compliance with privacy policies;

d) Establish agile, expeditious and free procedures to receive and answer questions and complaints from the holders of personal data or their representatives, as well as to access, rectify, modify, block or delete the information contained in the database and revoke their consent.

and) Create technical measures and procedures that allow maintaining a history of personal data during its treatment.

F) Constitute a mechanism in which the transferring party, communicates to the receiving party, the conditions in which the owner consented to the collection, transfer and treatment of their data.

These measures, as well as their subsequent modifications, must be registered with the Agency as minimum protocols for action.

Article 33. Power of verification. The Agency may verify, at any time, that the database is complying with the terms established in the minimum protocol of action.

Article 34. Of the security measures in the treatment of personal data. The person responsible must establish and maintain the administrative, physical and logical security measures for the protection of personal data, in accordance with the provisions of the Law and these Regulations. Security measures means the control or group of controls to protect personal data.

Likewise, the person responsible must ensure that the person in charge of the database and the technological intermediary comply with said security measures, to safeguard the information.

Article 35 Factors to determine security measures. The person responsible will determine the security measures applicable to the personal data that is processed or stored, considering the following factors:

- to)** The sensitivity of the personal data processed, in cases that the law allows;
- b)** Technological development;
- c)** The possible consequences of a violation for the holders of their personal data.
- d)** The number of personal data holders;
- and)** Previous vulnerabilities occurred in the treatment or storage systems;
- F)** The risk for the value, quantitative or qualitative, that the personal data could have; and
- g)** Other factors resulting from other laws or regulations applicable to the person responsible.

Article 36. Actions for the security of personal data. In order to establish and maintain the physical and logical security of personal data, the person responsible

must carry out at least the following actions, which may be required at any time by the Agency:

to) Prepare a detailed description of the type of personal data processed or stored;

b) Create and keep up-to-date an inventory of the technological infrastructure, including the equipment and computer programs and their licenses;

c) Indicate the type of system, program, method or process used in the treatment or storage of the data; likewise, indicate the name and version of the database used when appropriate.

(Thus amended the previous paragraph by article 7 of executive decree No. 40008 of July 19, 2016)

d) Have a risk analysis, which consists of identifying dangers and estimating the risks that could affect personal data;

and) Establish the security measures applicable to personal data, and identify those effectively implemented;

F) Calculate the existing residual risk based on the difference between the existing security measures and the missing ones that are necessary for the protection of personal data;

g) Prepare a work plan for the implementation of the missing security measures, derived from the result of the calculation of the residual risk.

The security measures of the databases will be considered undisclosed information and will be exclusively protected by the person in charge of the database. They may be required by the Agency only for on-site consultation and for verification of actions in the presence of an express complaint from affected third parties. For registration purposes, PRODHAB will be notified of the minimum security protocols that the controller has.

(Thus added the previous paragraph by article 7 of executive decree No. 40008 of July 19, 2016)

Article 37. Updates to security measures. Those responsible must update the security measures when the following events occur:

to) The security measures or processes are modified for their continuous improvement, derived from the revisions to the security policy of the person in charge;

b) Substantial modifications in the treatment or storage occur, leading to a change in the level of risk;

c) The technological platform is modified;

d) The systems for processing or storing personal data are violated, in accordance with the provisions of the Law and these Regulations; or,

and) There is an effect on personal data, different from the previous ones.

In the case of sensitive personal data, when the law allows it, the person responsible must review and, where appropriate, update the corresponding security measures, at least once a year.

Article 38 Security vulnerability. The person responsible must inform the owner of any irregularity in the treatment or storage of her data, such as loss, destruction, loss, among others, as a consequence of a security vulnerability or that she has knowledge of the fact, for which she will

Within this same period, an exhaustive review process must be started to determine the magnitude of the affectation, and the corresponding corrective and preventive measures.

Article 39 Minimum information. The person responsible must inform the owner and the Agency, in case of security vulnerabilities, at least the following:

- a)** The nature of the incident;
- b)** The compromised personal data;
- c)** Corrective actions taken immediately; and,
- d)** The media or the place, where you can get more information about it.

Chapter v

Of the Transfer of Personal Data

Article 40 Conditions for transfer. The transfer will always require the unequivocal consent of the owner. The transfer implies the transfer of personal data by the sole and exclusive party of the person responsible who transfers the person responsible for receiving the personal data. Said transfer of personal data will always require the informed consent of the owner, unless otherwise provided by law, also that the data to be transferred has been lawfully collected or collected and according to the criteria that the Law and these Regulations provide. The transfer of personal data of the person in charge of a database to a manager, service provider or technological intermediary or companies of the same economic interest group is not considered a transfer.

Any sale of data from the file or the database, partial or total, must meet the requirements established in the preceding paragraph.

(As amended by article 8 of executive decree No. 40008 of July 19, 2016)

Article 41 Compliance with the minimum action protocols. The transfers of personal data by those responsible will be subject to faithful compliance with the minimum action protocols, duly registered with the Agency.

Article 42 Burden of proof. For the purposes of demonstrating that the transfer of personal data was carried out in accordance with the Law and these Regulations, the burden of proof will lie with the person responsible.

Article 43 Contract for data transfer. The person responsible for the transfer of personal data must establish a contract with the person responsible for the reception, in which at least the same obligations to which the person responsible for the transfer of said data is subject.

Chapter VI

Of the Inscription of the Registry of Databases and Files before the Agency

Article 44 Registration of the database record. The natural or legal persons who own personal databases, in accordance with the Law and these Regulations, must register with the Agency a registry of said databases, providing the following information:

to) Request from the physical or legal owner, duly authenticated by notary public or confronted with the signature. In the case of a legal person, a legal entity in force with a maximum of one month of being issued must be presented;

b) Designation of the person in charge of the personal database before the Agency and before third parties, with indication of the means and place of contact. As well as a letter of acceptance of the position and the responsibilities inherent to it.

c) Identification of those in charge, including their contact information, as well as a letter of acceptance of the position and the responsibilities inherent to it.

(Thus amended the previous paragraph by article 9 of executive decree No. 40008 of July 19, 2016)

d) Database names and their physical location;

and) Specification of the purposes and intended uses of the database.

(Thus amended the previous paragraph by article 9 of executive decree No. 40008 of July 19, 2016)

F) Types of personal data subjected to treatment in said databases;

g) Procedures for obtaining, according to informed consent, personal data.

(Thus amended the previous paragraph by article 9 of executive decree No. 40008 of July 19, 2016)

h) Technical description of the security measures used in the treatment of personal data, in accordance with the provisions of this Regulation;

i) The recipients of transfers of personal data;

j) Copy of the minimum action protocols;

(Thus amended the previous paragraph by article 9 of executive decree No. 40008 of July 19, 2016)

k) List of global contracts and sales of current files, as well as an indication of the pecuniary estimate of each of those contracts.

l)(Repealed by article 11 of executive decree No. 40008 of July 19, 2016)

m) Fax or email signal to receive notifications from the Agency.

Likewise, the person responsible must keep the database record updated at all times before the Agency, as established in these Regulations.

The personal, internal or domestic databases will not be subject to registration with the Agency.

(Thus added the previous paragraph by article 9 of executive decree No. 40008 of July 19, 2016)

Article 45(Repealed by article 11 of executive decree No. 40008 of July 19, 2016)

Article 46. Verification of possible infractions. The Agency may carry out ex officio administrative inspections, in order to verify if there are possible infractions to the Law or to these Regulations. In this case, the assigned official must record the inspection by drawing up a record.

Article 47Manual databases. The Agency may, at any time and on its own initiative, access the manual databases without any restriction, when there is a complaint filed with the Agency or there is evidence of mismanagement of the database or information system. For such purposes, the Agency must establish guidelines that guarantee due compliance with professional or functional secrecy, and in all cases keep a logbook where at least the reason, the accesses and queries made, as well as the assigned official who perform.

Article 48Registration procedure. It begins with the presentation of the application for registration of the registration of the personal database with the Agency. Said request must contain the requirements of these Regulations.

The Agency will have a term of twenty business days, counted from the presentation of the application, to verify the requirements of form and substance presented.

Article 49Correction of defects and filing of the request. If the application for registration of the database record submitted does not meet the requirements of these Regulations, the Agency will require the applicant to correct the omission within ten business days. Once the maximum period has elapsed, without the applicant having complied with the information provided, it will be filed, without prejudice to a new application being submitted.

Article 50Payment. Once all the requirements of form and substance have been fulfilled or the prevention has been remedied, the applicant will be granted a term of ten business days to cancel the annual fee. If the payment of the royalty is not made within this period, the management will be filed without prejudice to the fact that a new application may be submitted.

Article 51. Resolution of registration. The Director of the Agency, will dictate within the term of ten working days following the receipt of the payment of the fee, the resolution of inscription of the registry of the database.

The inscription of the registry of a database before the Agency, does not exempt the person in charge to the fulfillment and monitoring of the rest of the obligations foreseen in the Law and other regulatory provisions.

Article 52Contents of the registration resolution. In the cases in which the registration of the database register before the Agency is appropriate, the following information must at least be entered in the registration resolution:

- to)**The code assigned by the Agency to the database;
- b)**The name of the registered database and the location of the data;
- c)**The identification of the person responsible for the personal database and their means of contact;
- d)**Identification of the manager and his means of contact;
- and)**The category of personal data it contains;
- F)**The procedures for obtaining the data;
- g)**Purpose of processing personal data.

Article 53Inadmissibility resolution. The Director of the Agency, within twenty business days counted from the presentation of the registration application, when the analysis of the requirements determines the inadmissibility of the registration of the database, as provided in the Law and these Regulations will issue a resolution denying it.

Article 54Update and modification of the registered data of the registry. The information registered in the database register must be kept up to date. Any modification to the registration information, which affects the content of the database registration, must be communicated by the person in charge of the database to the Agency within five working days after the modification or change, to in order to update it.

Article 55 Cancellation of the registration of the databases. When the owner or the person in charge of the personal database decides to cancel the registration of the database, they must submit a request to that effect to the Agency, expressly indicating the destination of the personal data or the provisions for its elimination, deletion or destruction. The Agency will have one month to proceed with the cancellation of the registration of the database.

ARTICLE 56.- Means of challenge. Against the final resolution of the registration procedure of the database registry, the filing of the ordinary appeal for reconsideration is filed within the third business day from the respective notification of the final act.

(As amended by article 1 of executive decree No. 41582 of February 21, 2019)

Article 57. Deadline to resolve. The ordinary appeal for reconsideration filed must be resolved by the Agency, within eight business days after its presentation.

(As amended by article 1 of executive decree No. 41582 of February 21, 2019)

Chapter VII

On the Protection of Rights before the Agency

Article 58. Start of the Rights Protection procedure. Any person who has a subjective right or a legitimate interest can denounce, before the Agency, that a public or private database acts in contravention of the rules or basic principles for data protection and informative self-determination, established by the Law and these Regulations.

Likewise, the Agency may automatically initiate a procedure to verify whether a database is being used or not, in accordance with the Law and these Regulations.

The Agency in the processing of the data protection procedure, will apply the principles established in the Second Book of the General Law of Public Administration.

Article 59Causal. The rights protection procedure will proceed when:

to.Personal data is collected for use in a database without sufficient and extensive information being given to the person concerned;

b.Personal data is collected, stored and transmitted by means of mechanisms that are insecure or that in some way do not guarantee the security and inalterability of the data;

c.They are collected, stored, transmitted or in any other way use personal data without the informed and express consent of the data owner;

d.Personal data is transferred to other people or companies in contravention of the rules established in the Law and these Regulations;

and.They are collected, stored, transmitted or in any other way use personal data for a purpose other than that authorized by the owner of the information;

F.Unjustifiably refuses to give a holder access to the data contained in files and databases, in order to verify its quality, collection, storage and use in accordance with the Law and these Regulations;

g.Unjustifiably refuses to delete or rectify the data of a person who has requested it in a clear and unequivocal way;

h.Sensitive data is collected, stored, transmitted or in any other way uses, by private individuals or legal entities, without the consent of its owner or without the law or special regulation that authorizes it;

i.Personal data is obtained from the owners or third parties through deception, violence, fraud, bad faith or threat;

j.Information registered in a personal database whose secrecy you are obliged to keep according to the Law is revealed:

k.Knowing it is provided to a third party, false or different information contained in a data file;

l.Processing of personal data is carried out without being duly registered with the Agency;

m.Personal data of Costa Ricans or foreigners living in the country are transferred to third country databases without the consent of their owners.

n.For other reasons that in the opinion of the Agency affect the rights of the owner in accordance with the Law and these Regulations.

Article 60 Complaint requirements. The data protection request must contain the following:

to)Names, surnames and qualities of the owner or complainant;

b)Name of the owner or person in charge or of the database or any element that allows the accused to be identified;

c)Facts on which the complaint is based exposed one by one, listed and well specified, clearly and precisely;

d)Copy of the request to exercise the corresponding rights, as well as a copy of the attached documents for each of the parties, if applicable;

and)Document stating the response to your management, if applicable;

F)In the event that the non-response is contested, you must attach a copy stating the acknowledgment or receipt receipt of the request to exercise your rights;

g)Documentary or relevant evidence;

h)Claim made;

i)Identification of means to receive notifications;

j)Any other document that it deems appropriate to submit to the Agency's judgment.

Article 61Documentation accreditation. If the owner cannot document the fact that he managed the database, he may prove the management to the Agency, by means of a sworn statement or notarized document that records the fact.

Article 62Rectification, admissibility and filing. The Agency may warn the owner so that within ten business days from the day following receipt of the notification, she clarifies and specifies the information or documentation presented, under penalty of incurring inadmissibility of the complaint and its consequent filing.

Article 63. Admissibility.The Agency shall decide on the admissibility of the request for protection of the owner's right, within a period of five business days from the receipt or rectification of the complaint.

Against the resolution that resolves on the admissibility of the request, the filing before the Agency of the ordinary Appeal of Reconsideration, which the Agency shall resolve within eight business days after the resolution, proceeds within the third business day from the respective notification. his presentation.

(As amended by article 1 of executive decree No. 41582 of February 21, 2019)

Article 64Precautionary measures. In special cases, on an exceptional basis, and at any time, the Agency may order the precautionary measures it deems necessary to comply with the protection of the personal rights of a holder, with respect to the treatment of their data, having to especially consider the principle of proportionality, the instrumentality and provisional nature, as well as weigh the eventual damages caused to the parties by the measure.

To this end, the Agency will give a hearing for twenty-four hours to the person in charge of the database. Once said period has elapsed, the Agency must resolve the measure within a maximum period of three business days.

Article 65Appeal against the resolution that resolves the precautionary measure. Against the resolution that resolves the precautionary measure, only the Appeal of Reconsideration before the Agency will fit, which must be filed within the term of twenty-four hours from the notification. The Agency must resolve the appeal within three working days from the filing of the appeal.

Article 66Budgets for precautionary measures. For the application of the respective precautionary measures, the Agency will weigh the interests at stake and must verify that it is in the presence of the following budgets:

- to.**Good looking appearance;
- b.**Imminent damage and difficult to repair;
- c.**Weighting of the interests at stake, particularly not affecting the public interest.

Article 67 Transfer of charges. Once the complaint is accepted, the Agency will transfer the charges to the appropriate party, so that within three business days, it provides a report on the veracity of the charges and provides the evidence it deems appropriate. The statements made will be considered given under oath.

Failure to render a report within the stipulated period will make the accused facts be considered true.

Article 68. Means of proof. The means of proof will be the following:

a. Physical or electronic documentary;

b. The result of an expert study;

c. Sworn statements of the witnesses, duly authenticated;

Evidence of charge and discharge must be presented together with the complaint or the answer, as appropriate.

Article 69. Final act. The Agency will resolve the procedure for the protection of rights within a period of one month, from the date of the final decision on the admissibility of the complaint.

Article 70 Fixing sanctions. The Agency, in the event that it should correspond as a result of the administrative procedure carried out, will proceed to impose the respective sanctions according to whether they have been determined as light, serious or very serious, as provided by Law, the above taking into account the fact

that generated the infraction, in the same final act. In such case, the infractions in which the person responsible incurred, the amount to be canceled, the term to do so and the account number that the Agency will designate, in turn when appropriate, the term for the modification, must be listed. , suspension or deletion of personal data.

In addition, the Agency may impose written warnings on those actions or omissions that violate the rights enshrined in the Law and these Regulations.

Article 71. Means of challenge.Against the final act of the procedure, the filing before the Agency of the ordinary appeal for reconsideration proceeds within the third business day after the respective notification.

(As amended by article 1 of executive decree No. 41582 of February 21, 2019)

Article 72. Deadline to resolve. The appeal for reconsideration, must be resolved by the Agency within eight business days after its presentation.

(As amended by article 1 of executive decree No. 41582 of February 21, 2019)

Chapter VIII

Of the Collection Procedure

Article 73Start of the Administrative Collection Procedure. When the pecuniary penalties imposed or the corresponding fees are not canceled, within the term given by the Agency in the final act of the procedure for the protection of rights or resolution to that effect, the collection procedure will proceed.

It will correspond to the Administrative Area of the Agency, proceed to manage the collection of said amounts to those responsible.

The initial resolution must contain at least:

- to)** The indication of the corresponding file.
- b)** The identification of the public or private entity, responsible for a personal database, against whom the collection is made.
- c)** Enumeration of the infractions in which the person responsible was incurred or in the omitted fees, as appropriate.
- d)** The amount that must be paid within the term of ten business days, from the notification of the initial resolution, and the account number that the Agency will designate for this purpose.

Article 74. Fines and default interest. Once the term within which the person responsible had to pay the imposed fine has expired, the default interest on the amounts not paid on time will begin to run, from the moment the obligation must have been satisfied, until the date of its effective payment, which will be set according to the current resolution that defines the basis for calculating the interest rate to be charged on debts payable by the taxpayer, issued by the General Directorate of Finance, in accordance with the Code of Tax Standards and Procedures.

Article 75 Opportunity criteria. The Administrative Area must update each January, the amount on which the Bad Debt Statement will proceed for judicial collection, in accordance with the cost benefit analysis according to the Consumer Price Index (CPI) of the Central Bank of Costa Rica. Considering at least:

- to. Examination of the magnitude of the debt.
- b. Existence of the debtor's assets.
- c. Goods excessively taxed.

d. Probable cost of the execution or the filing of legal actions.

and. Indication of the material obstacles that exist, such as debtor not reachable, debtor without activities, among others.

The Administrative Area, in the corresponding cases, will declare the uncollectibility of the debt, attending to the little benefit of its collection in relation to the costs that must be incurred to carry out the management.

Article 76 Final act of the collection procedure. Upon expiration of the term granted to cancel the debt and without the payment being made in a timely manner, the Administrative Area, after applying the opportunity criterion, will issue a resolution transferring to the Legal Area of the Agency, the administrative collection file so that it can be proceed with the corresponding judicial collection process.

Article 77 Payment arrangement. The payment arrangement will proceed in all administrative or judicial collection management, in which the person in charge as a debtor, requests it before the Administrative Area, provided that it has the guarantees and other conditions that are thus required for the particular case. .

The payment arrangement will proceed, as long as the following requirements are met:

to) Cancel the procedural and personal costs incurred in relation to the continuation of the trial, if any.

b) Constitute a sufficient guarantee in the opinion of the Administrative Area, as appropriate, that covers the amount owed, plus interest and arrears due.

In no case may capital, interest or default be forgiven.

Chapter IX

Payment of Royalties

Article 78. Annual Canon for the regulation and administration of databases. In accordance with the Law, all databases, public or private, for the purpose of distribution, dissemination or commercialization, must register with the Agency, and therefore cancel before it, the sum of two hundred dollars, legal tender of the States. United States of America (USD \$ 200.00), at the highest reference exchange rate of sale of the Central Bank of Costa Rica on the day the payment is made. This amount corresponds to the annual regulation and administration fee for the databases.

Article 79. Deadline for payment. The term for the payment of the annual fee will be from January 1 to January 31 of each year. Those responsible for the registrable databases must deposit in the bank account that the Agency determines the amount corresponding to the annual fee.

Article 80Proportional payment. When the processing of personal data begins after the date of the payment of the annual canon of regulation and administration of databases, the person responsible must pay proportionally the corresponding amount of the two hundred dollars legal tender of the United States of America (USD \$ 200.00).

The term for the payment of the annual fee in these cases will be one calendar month from the start date of the processing of personal data or from the date of registration of the database with the Agency, whichever is first. verifiable.

Article 81. Canon for sale of file data. The person responsible must deposit in the bank account that the Agency determines, the sum of one dollar, legal tender of the United States of America (USD \$ 1.00), at the highest reference exchange rate for the sale of the Central Bank of Costa Rica. of the day in which the sale is made, as a fee for each sale of data in the file that corresponds to a person, identified or identifiable, who is registered in a database in a legitimate way.

Payment of this fee must be made in favor of the Agency, within the first ten business days of the month following the sale of data for each file.

Article 82Global contracts. The person responsible for making global contracts, whether they are low, medium or high consumption of consultations, or contractual modalities of online service by application number, must pay the corresponding fee according to the following detail: a) Low consumption of consultations: from one and up to five hundred thousand consultations, 8% of the contractual price; b) Average consumption of consultations: from five hundred thousand and up to nine hundred ninety-nine thousand consultations, 5.5% of the contractual price; c) High consumption of consultations: from one million consultations and onwards, 3% of the contractual price. The payment of this fee must be made in favor of the Agency, together with the payment of the Canon for Regulation and Administration of Databases, or, where appropriate, within the first ten business days of the month following the signing of the global contract. .

(As amended by article 10 of executive decree No. 40008 of July 19, 2016)

Article 83Canon and default interest. Once the term within which the person responsible had to cancel the corresponding canon has expired, the default interest on the amounts not paid on time will begin to run, from the moment the obligation should have been satisfied, until the date of its effective payment, which will be set according to the current resolution that defines the basis for calculating the interest rate to be charged on debts payable by the taxpayer, issued by the General Directorate of Finance, in accordance with the Code of Tax Standards and Procedures.

Article 84.Breach. In case of non-payment of the respective fee, the same collection procedure established in these Regulations will apply.

Chapter X

From the agency

Article 85Employment regime. The Data Protection Agency will be under the Public Employment Regime and excluded from the Civil Service Regime, being empowered to incorporate administrative, technical and professional personnel who meet the needs of the public service.

To become a creditor of this Regime under the principle of proven suitability, a public contest must be held, for which the tests determined by the Agency must be carried out and approved.

Article 86. Types of contests. After conducting the public competition and in order to manage human resources according to needs and promote the administrative career, the Agency will be empowered to carry out internal, extended internal, external competitions, interim appointments or other mechanisms that may guarantee the functioning of the Institution.

Article 87.Job and position manual. The Agency must have the position and position manuals. The Agency will be responsible for the continuous updating of the same.

Article 88Recruitment and selection. The recruitment and selection process must have the following phases:

to)Recruitment: Based on the requirements of the job and position manuals and the Agency's personnel needs, the requirements of each required position will be defined and published. Recruitment can be done both internally and externally to the Agency. Likewise, a register of eligible persons will be established for each position, which will be made up of grades from highest to lowest.

b)Selection: The Agency will define the methodologies, tests, tools and selection criteria that it considers appropriate to apply for the selection of personnel.

c)Conformation of triads or payrolls: They will be conformed according to the position of the participants within the registry of eligible, being able the Agency to choose any of the people who integrate them.

All human resource management and administration processes applied by the Agency must comply with the generally accepted technical standards in this area.

Article 89Trial period. All Agency staff will be subject to a trial period of up to six months.

Article 90Validity: It is effective as of its publication.

Given in the Presidency of the Republic. -San José, on the thirtieth day of October in the year two thousand and twelve.

TRANSITORY I

For a single time, the persons responsible for a database must pay the annual database regulation and administration fee, starting on March 6, 2013, thus canceling the corresponding proportional amount.