LEGAL OBLIGATIONS OF PERSONAL DATA FILING SYSTEM CONTROLLERS
IN ACCORDANCE WITH
THE ACT ON PERSONAL DATA PROTECTION
(Official Gazette N°103/03)

This publication is ment for all personal data filing system controllers in the Republic of Croatia as a guide through legal obligations in processing of personal data of natural persons.

WHO IS PERSONAL DATA FILING SYSTEM CONTROLLER?

Personal data filing system controller (data controller) can be a natural person (except natural persons, who are processing personal data exclusively for a personal or domestic use), natural person, state or other body, which is determining the purpose and the art of personal data processing. When the purpose and the art of personal data processing are prescribed by the law, the same law defines also a data controller.

A data controller can be a person or a body in the public of private sector, processing personal data on the basis of a consent of a natural person or on the basis of legal competences.

Therefore, data controllers can also be ministries processing personal data of their employees, associations, trade unions or political parties processing personal data of their members, educational institutions processing personal data of their students or banks processing personal data of their clients.

In case you have any doubts regarding your status, if you are not sure whether you are a data controller, you can address to the Personal data protection agency.
WHAT IS PERSONAL DATA?

Personal data means any information relating to an identified natural person or an identifiable natural person (hereinafter: data subject). An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.

WHAT IS PERSONAL DATA PROCESSING?

Personal data processing means any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction, as well as the implementation of logical, mathematical and other operations on such data.

Personal data can be processed manually, by technological means or in computer data basis.

A set of such data compiles a Personal data filing system.

WHAT ARE YOUR OBLIGATIONS TOWARDS PERSONAL DATA PROTECTION AGENCY?

Obligation to keep records on personal data filing systems
For each personal data filing system that you maintain you must create and maintain a record, which you have to send to the Central Register of the Personal data protection agency.

The personal data filing system contains the basic information about the filing system and in particular the following:

1. filing system title,
2. title or name of the filing system controller and his/her seat and address,
3. processing purpose,
4. legal basis for the establishment of the filing system,
5. categories of persons to whom the data relate,
6. types of data contained in the filing system,
7. methods of collection and storing data,
8. time periods for storing and using such data,
9. name or title of the filing system user, his/her address and seat,
10. an indication whether the data have been transferred into or abroad from the
Republic of Croatia with the indication of the state or international organization and foreign user of such personal data and the purpose for this transfer to Croatia or abroad as prescribed by an international agreement, act or other regulations, or a written consent of the person to whom this data refer to,

11. an indication of personal data protection measures in place.

The manner of keeping the records of personal data filing systems is layed down by the Regulation on the manner of keeping the records of personal data filing systems and the pertinent records form (Official Gazette №105/04).

WHEN YOU DO NOT HAVE TO SUBMIT RECORDS ON THE PERSONAL DATA FILING SYSTEMS TO THE CENTRAL REGISTER?

Records on personal data filing systems maintained by the authorised state bodies within a framework of personal data processing activities for the purposes of state security, defence and the prevention of occurrences determined in the National Security Strategy of the Republic of Croatia as security risks (corruption, organized crime, terrorism) do not have to be compiled in the Central Register.

OBLIGATION TO SUBMIT A PRIOR NOTIFICATION TO THE PERSONAL DATA PROTECTION AGENCY

Prior to the creation of a personal data filing system, data controllers shall be under the obligation to submit to the Personal data protection agency their notification of the planned creation of a personal data filing system together with data as well as of any plans to further process such data, prior to initiating any processing activity.

If you have created personal data filing systems until 4. July 2003 (the day when the Act on personal data protection has entered into force), you were obliged to deliver notifications until 4. January 2005.

We are therefore inviting you to send notifications to the Agency, if you have not yet done so, via instructions on Agency's website www.azop.hr, thus http://registar.azop.hr

WHAT IF A SPECIAL LAW REGULATED PERSONAL DATA PROCESSING?

The obligation to submit a prior notification to the Personal Data Protection Agency set out in Paragraph 1 of this Article does not apply to the creation of personal data filing systems in cases when a special act determines the
processing purpose, data or data categories to be processed, the category or categories of data subjects, the users or user categories to whom such data shall be disclosed to and the time period during which such data shall be disclosed.

In cases referred to in Paragraph 2 herein personal data filing system controllers are under the obligation to submit the data on the creation of personal data filing systems, as well as any data amendments concerning personal data filing systems to the Personal Data Protection Agency, at the latest within 15 days after such creation or amendment occur.

YOUR OBLIGATIONS IN CASE OF SUPERVISION ACTIVITIES CARRIED OUT BY THE AGENCY

In case the Personal data protection agency is carrying out supervision over fulfillment of your legal obligations, you are obliged to enable her an access to files and other documentation as well as to the means of electronical processing, regardless the level of data secrecy.

WHAT ARE YOUR FUNDAMENTAL LEGAL OBLIGATIONS IN RELATION WITH PROCESSING OF PERSONAL DATA OF NATURAL PERSONS?

Purpose of personal data collecting

Personal data may be collected for a purpose known to the data subject, explicitly stated and in accordance with the law, and may be subsequently processed only for the purposes it has been collected for or for a purpose in line with the purpose it has been collected for.

Personal data must be relevant for the accomplishment of the established purpose and shall not be collected in quantities more extensive than necessary for achieving the purpose defined. Personal data must be accurate, complete and up-to-date.

You are therefore obliged to complete, change or erase incomplete, inaccurate or not updated personal data either upon data subject's request or ex-officio and inform the person to whom the data relate and the users of such personal data of any amendments, alterations or deletions of such personal data undertaken within 30 days.
WHAT ARE YOUR OBLIGATIONS PRIOR TO THE BEGINNING OF PERSONAL DATA COLLECTING?

Obligation to inform before personal data collecting

Prior to collecting any personal data you must inform the data subject, whose personal data are being collected, about:

► your identity
► the purpose of personal data processing
► personal data users or personal data user categories
► whether such data provision is voluntary or mandatory, as well as about possible consequences of withholding data.

In cases of mandatory provision of personal data, the legal basis for the personal data processing shall be indicated as well.

The above-mentioned information are provided to the data subject regardless of whether the data are collected directly from the subject or from other sources.

IN WHICH CASES YOU DON NOT HAVE TO INFORM THE DATA SUBJECT PRIOR TO PERSONAL DATA COLLECTING?

Previously enumerated information do not have to be provided to the data subject if personal data are provided for use or are collected from the existing personal data files in order to be processed for statistical purposes or for the purposes of historic or scientific research, or if such processing of personal data has been explicitly determined by law.

WHEN CAN YOU COLLECT AND SUBSEQUENTLY PROCESS PERSONAL DATA?

Personal data may be collected and subsequently processed:
- with the consent of the data subject,
- in cases established by law,
- for the purpose of protecting the life or physical integrity of the data subject or another person in cases when the data subject is physically or legally unable to give his/her consent,
- if data processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller
personal data filing system controller,
- if the data subject discloses such data on his/her own.

WHAT ARE SPECIAL CATEGORIES OF PERSONAL DATA AND WHEN CAN YOU COLLECT AND SUBSEQUENTLY PROCESS SUCH DATA?

**Special categories of personal data** are personal data pertaining to racial or ethnic origin, political opinions, religious or other beliefs, trade-union membership, health or sex life as well as personal data regarding criminal and misdemeanour proceedings.

Special categories of personal data can be collected and subsequently processed:

- with the consent of the data subject
- in cases established by law, thus in order for data controllers to comply with their legal obligations
- for the purpose of protecting the life or physical integrity of the data subject or another person in cases when the data subject is physically or legally unable to give his/her consent,
- if the data subject discloses such data on his/her own,
- if the processing is carried out within the scope of legal activity of an institution, association or any other non-profit body with political, religious or other aim, provided that such processing relates solely to the members of the body and that the data obtained are not disclosed to a third party without a prior consent of the data subject.

Special categories of personal data shall be specially marked and protected.

A Government regulation (**Regulation on the procedure for storage and special measures relating to the technical protection of special categories of personal data**, Official Gazette N°139/04) prescribes the manner, in which the data referred to in Paragraph 2 of this Article shall be stored, as well as special measures of technical protection.

WHAT ARE YOUR OBLIGATIONS WHEN PERSONAL DATA ARE BEING TRANSFERRED ACROSS THE CROATIAN BORDER?
You can transfer personal data of natural persons across the Croatian border to other countries or international organisations on the basis of an international agreement, a law or some other legal act or a written consent of the data subject. Personal data can easily be transferred to those states and international organisations, which have an adequately level of personal data protection.

It is the Personal data protection agency who is compiling a list of states and international organisations having an appropriate data protection level. www.azop.hr

In case you want to make a cross-border data transfer and you doubt whether there is an adequate data protection level in the country data are being transferred to, you are obliged to ask for an opinion of the Personal data protection agency.

OBLIGATION TO PROTECT AND KEEP THE SECRECY OF PERSONAL DATA

Personal data in personal data filing systems shall be adequately protected from accidental or deliberate abuse, destruction, loss, unauthorized alteration or access.

The personal data filing system controller and user shall be obliged to undertake appropriate technical, staffing and organisational measures aimed at protecting personal data, necessary for the protection of personal data from accidental loss or destruction and from unauthorized access, unauthorized alterations, unauthorized dissemination and all other forms of abuse, and to determine the obligation of all persons entrusted with the processing of personal data to maintain the confidentiality of these data.

If you are processing special categories of personal data, such data must be specially marked and protected. Please consult the Regulation on the procedure for storage and special measures relating to the technical protection of special categories of personal data (Official Gazette N°139/04).

OBLIGATION TO ENSURE THE RIGHTS OF DATA SUBJECTS AND PROTECTION OF RIGHTS

A data subject has the right to know if his/her personal data are being processed and which ones. He/she has the right to get access to the personal data filing system records and his personal data and to know who is the data user.
The personal data filing system controller shall, at the latest within 30 days from receiving a request about it, provide the following to every data subject or his/her legal representative or plenipotentiary:
1. deliver a confirmation as to whether or not data relating to data subject are being processed,
2. communicate to data subject in an intelligible form of the data undergoing processing and of any available information as to their source,
3. allow access to the personal data filing system records and to the personal data in the personal data filing system relating to the data subject, and allow the copying of such files,
4. deliver excerpts, certificates or printouts of the personal data held in the personal data filing system relating to the data subject, which must contain an indication of the purpose and legal basis for their collecting, processing and use,
5. deliver a printed copy containing the information on who obtained access to the data, for what purpose and on what legal basis regarding the personal data of the data subject,
6. provide information about the logic involved in any automatic processing of data concerning him/her.

**WHEN ARE YOU NOT OBLIGED TO PROVIDE INFORMATION ON PROCESSING OF DATA SUBJECT'S PERSONAL DATA**

Your obligations can be restricted in the way and under conditions established by special acts if deemed necessary for the protection of state security, defence and public safety; for the prevention, investigation, detection or persecution of any criminal act or breaches of ethical codes for regulated professions; for the protection of important economic or financial interests of the state, cultural assets and for the protection of data subjects or the rights and freedoms of others, within the scope necessary for the fulfilment of purposes for which the limitation in question has been determined.

Your obligations and rights may be restricted by special acts in case the personal data are processed exclusively for the purpose of scientific research or for the purpose of establishing statistics and stored for a longer period to be used exclusively for statistical purposes.