



DECISION

For establishing the categories of personal data processing operations, susceptible of presenting special risks for the individuals rights and liberties

Based on the provisions of art.3 paragraphs (5) and (6) of Law 102/2005 for the set up, organisation, and functioning of the National Supervisory Authority for Personal Data Processing, and of art. 6 paragraph (2) letter b) of the National Supervisory Authority for Personal Data Processing Organisation and Functioning Regulation, approved by the Decision no 16/2005 of the Permanent Bureau of the Senate,

For implementing the provisions of art.23 paragraph (1) of Law 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, as further modified and amended, according to which the supervisory authority establishes the categories of processing operations susceptible to present special risks for the personal rights and liberties,

whereas the need to ensure an efficient protection of the rights of the individuals whose personal data are being processed, especially in the case of certain processing operations of the personal data presenting risks for the personal rights and liberties, because of the nature of the processed data, the purpose of processing, the specific status of the targeted categories of individuals or the mechanisms used in the data processing,

whereas the reasons laid down in the Preamble of the Directive 95/46/CE of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and the free movement of such data, according to which, certain processing operations may present special risks for the personal rights and liberties for the individuals targeted due to their nature, sphere of applicability or purposes, but the number of such operations must be very small against the total number of processing operations done,

whereas the modification of the notification form based on which the processing operations presenting specific risks are analysed, based on the Decision no 95/2008 for establishing the printed form for the notifications specified by Law 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data,

Whereas the Approval Report # 376 of February 10th, 2009 of the Investigations Service within the National Supervisory Authority for Personal Data Processing for the issuance of the decision for establishing the categories of personal data processing operations susceptible of presenting special risks for the personal rights and liberties,

the President of the National Supervisory Authority for Personal Data Processing enacts this decision.

Art. 1 – (1) The categories of personal data processing operations susceptible of presenting special risks for the personal rights and liberties are:

a) personal data processing operations in connection with the racial or ethnic origin, political, religious, philosophic convictions, or of similar nature, union affiliation, affiliation to a political party or a religious organization, the personal data concerning the health state or the

sexual life, as well as the genetic and biometric data, and the data allowing the geographic localization of the individuals, for scientific purposes inclusively;

b) personal data processing operations in connection with infractions done by the targeted person or penal convictions, safety measures or administrative sanctions or contraventions, applied to the targeted person, organized within automatic evidence systems, by private law entities;

c) personal data processing operations using electronic means, for the purpose of evaluating personality aspects, as well as the professional competence, credibility, behaviour, or other aspects alike;

d) personal data processing operations using electronic means within evidence systems for the purpose of adopting individual automatic decisions in connection with analysing the solvability, the economic and financial situation, of the facts susceptible to engage the disciplinary, lawless, or penal liability of the natural persons, by private law entities;

e) personal data processing operations of minors within direct marketing activities;

f) personal data processing operations specified under letter a), as well as the personal data of minors, collected by means of the internet or the electronic messages.

(2) The processing operations specified under paragraph (1) impose the performance of a prior control, as per art.23 of Law 677/2001.

Art. 2 – The operators are deemed to notify the National Supervisory Authority for Personal Data Processing with regard to all the personal data processing operations from the category of operations specified under art. 1, at least 30 calendar days prior to starting the processing.

Art. 3 – (1) This decision enters in full force and effects at the date of publishing into the Official Monitor of Romania, Part I.

(2) Upon the entering in full force and effect of this decision, Decision no 89 of July 18th, 2006 for establishing the categories of personal data processing operations, susceptible of presenting special risks for the personal rights and liberties, as well as any other contrary dispositions shall be abrogated.

President of the National Supervisory Authority for Personal Data Processing,

Georgeta Basarabescu

No 11 of March 5th, 2009