

**The NATIONAL SUPERVISORY AUTHORITY FOR PERSONAL DATA  
PROCESSING**

**DECISION**

**For establishing a model of authorisation for the transfer abroad of the personal data based on art.29 paragraph (4) of Law 677/2001 on the protection of individuals with regard to the processing of the personal data and the free movement of such data**

Whereas the Approval Report no. 1 of February 5<sup>th</sup>, 2009 concerning the need to establish a model of authorisation for the transfer abroad of the personal data based on art. 29 paragraph (4) of Law 677/2001, as further modified and amended,

Considering the quality of Romania as full member of the European Union,

Whereas the dispositions of art. 25 (2) of the Directive 95/46/CE of the European Parliament and the European Union Council on the protection of natural individuals with regard to the processing of personal data and the free movement of such data, according to which a member state may authorize the transfer of personal data to a third country which does not ensure an adequate protection level, when the operator provides enough warranties for the protection of private life and of personal rights and liberties, as well as their exercise,

Whereas the provisions of the reasons (56) and (57) of the Directive 95/46/CE according to which, for the purpose of developing the international commerce, the protection of individual guaranteed in the European Union does not oppose to the transfer of data into third states which ensure an adequate protection level, the transfer being only prohibited to the countries which do not ensure the protection standards laid down in the Directive 95/46/CE,

Whereas the dispositions of art. 21 paragraph (3) letter c), reported to art. 29 paragraph (4) 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 may supervise the transfer of personal data to a state whose legislation does not provides a protection level equal at least to the level ensured by the Romanian legislation when the operator provides sufficient guarantees with regard to the protection of the fundamental rights of the individuals, guarantees that must be laid down in the contracts signed between the operators and the natural or legal persons who disposed the transfer,

Whereas the Decision of the President of the National Supervisory Authority for Personal Data Processing no 90/2006 concerning the cases when the notification of processing certain personal data is not necessary, and the Decision of the President of the

National Supervisory Authority for Personal Data Processing no 100/2007 for establishing the cases when the notification of personal data processing is not necessary, as well as the Decision of the President of the National Supervisory Authority for Personal Data Processing no 28/2007 on the personal data transfer to other states,

Whereas the Decision of the President of the National Supervisory Authority for Personal Data Processing no 95/2008 for establishing a 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 provisions of art. 3 paragraph (5) of Law 102/2005 on the set up, organisation, and functioning of the National Supervisory Authority for Personal Data Processing, as further modified and amended, and of art. 6 paragraph (2) letter. b) and art. 8 of the National Supervisory Authority for Personal Data Processing Organisation and Function Regulation, approved by the Decision no 16/2005 of the Standing Bureau of the Senate,

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

Art. 1

To approve the model of authorisation for the transfer abroad of personal data based on art. 29 paragraph (4) of Law 677/2001, as modified and amended, shown in Annex.

Art. 2

The annex is part of this decision.

Art. 3

The decision is published in the Official Monitor of Romania, Part I, and enters in full force and effect at the publication date.

Art. 4

Upon the entering in full force and effect of this decision, any contrary dispositions shall be annuled.

**President of the National Supervisory Authority for Personal Data Processing,**

**Georgeta Basarabescu**

No 10 of March 2<sup>nd</sup>, 2009

**AUTHORIZATION**

No.... of .....

**for the transfer abroad of the personal data based on the provisions of art. 29 paragraph (4) of Law 677/2001, modified and amended**

Based on art.21 paragraph (3) litter c), reported to art. 29 paragraph (4) of Law 677/2001 on the protection of individuals with regard to the processing of the personal data and the free movement of such data, as further modified and amended,

Whereas:

The nature of the personal data transmitted:

.....

The purpose of processing:

.....

The state of destination:

.....

The warranties for the protection of the fundamental rights of the individuals, laid down in the contract signed between .....<sup>1</sup> and .....<sup>2</sup> ;

the President of the National Supervisory Authority for Personal Data Processing

***AUTHORISED***

The transfer of personal data to .....<sup>3</sup>, performed by .....<sup>4</sup>, to .....<sup>5</sup>, transfer notified under registration number.....<sup>6</sup>.

This authorisation does not exempt the data controller from complying with the other obligations undertaken as per Law 677/2001, as modified and amended, including the obligation to undertake the control of the National Supervisory Authority for Personal Data Processing.

As per the Law, the National Supervisory Authority for Personal Data Processing may enact any measures, in case of observing the violation of the obligations undertaken by the data controller.

President of the National Supervisory Authority for Personal Data Processing,

**Georgeta Basarabescu**

<sup>1</sup> Specify the name of the data exporter.

<sup>2</sup> Specify the name of the data importer.

<sup>3</sup> Specify the state(s) to where the personal data are to be transferred.

<sup>4</sup> Specify the name of the data exporter.

<sup>5</sup> Specify the name of the data importer.

<sup>6</sup> Specify the notification registration number in the personal data processing evidence register.