

European Commission
DG JUST C.3 – Data Protection
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

Your letter number / day	Our ref.	Recalls/tel.	Bratislava
22.06.2018	00026/2018-Op-50		25.06.2018

Object

Notification of national laws to the Commission under the GDPR

Dear Commission,

The Office for Personal Data Protection of the Slovak Republic would like to inform you about implementing the GDPR and transposing the Data Protection Law Enforcement Directive to national law.

On 29 November 2017 was adopted (new) *Act No. 18/2018 Coll. on Protection of Personal Data and on Changing and Amending of other acts* (hereinafter “Act No. 18/2018 Coll.”) and signed by the President of Slovak Republic on 19 December 2017. Act No. 18/2018 Coll. entered into force on 25 May 2018.

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Act No. 18/2018 Coll. has six parts:

Part one: BASIC PROVISIONS

Part two: GENERAL RULES FOR THE PROTECTION OF PERSONAL DATA OF NATURAL PERSONS WITHIN THEIR PROCESSING

Part three: SPECIAL RULES FOR THE PROTECTION OF PERSONAL DATA OF NATURAL PERSONS WITHIN THEIR PROCESSING BY COMPETENT AUTHORITIES

Part four: PROVISIONS RELATING TO SPECIFIC LEGAL PROCESSING SITUATIONS OF PERSONAL DATA

Part five: THE OFFICE

Part six: COMMON, INTERIM AND FINAL PROVISIONS

Notification according article 51 (4) GDPR:

In part five, chapter one called status, scope of powers and organization of the Office there are provisions relating to Chapter VI of GDPR.





“Section 80 Status of the Office

(1) The Office is a state administration authority with competence over the entire territory of the Slovak Republic, which participates in protection of the fundamental rights and freedoms of natural persons in the processing of personal data and which executes supervision of personal data protection including the supervision of the protection of personal data processed by the competent authorities in carrying out tasks for the purposes of criminal proceedings, unless it is in section 81 paragraphs 7 and 8 laid down otherwise.

(2) The seat of the Office is Bratislava.

(3) The Office for the fulfilment of the supervisory tasks of the supervisory authority over the protection of personal data may establish and cancel the detached workplaces outside its headquarters and determine the territorial area of their competence.

(4) The Office shall in the scope of its power act independently and shall obey the Constitution, constitutional laws, laws, other generally binding legal regulations and international treaties which the Slovak Republic is bounded by.

(5) The Office is a budgetary organisation. The Office shall submit a proposal of the budget as a part of the General Treasury Administration category. Only the National Council of the Slovak Republic may decrease the approved budget of the Office in the course of a calendar year.

(6) Details concerning organisation of the Office shall be regulated by the rules of internal governance, which will issue President of the Office.

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Section 81 Tasks of the Office

(1) The Office is a supervisory authority under this Act or a special law and performs the tasks and exercises the powers conferred on it by this Act and pursuant to a special law.

(2) The Office

a) monitors the application of this Act,

b) expresses its views on draft laws and proposals for other generally binding legislation governing the processing of personal data,

c) provides consultations on the protection of personal data,

d) methodically guides controllers and processors in the processing of personal data,

e) increases public awareness, particularly in the area of risks and rights related to the processing of personal data,

f) increases the awareness of controllers and processors about their obligations under this Act,

g) on request, provides information to the data subject in respect of the exercise of his rights under this Act and, for this purpose cooperates with the supervisory authorities of other Member States;

h) in the exercise of supervision above personal data protection, reviewed the lawfulness of the processing of personal data by the competent authorities in the exercise of the right by the data subject pursuant to Section 63 (5) and inform the data subject of the outcome of the investigation within 30 days of the filing of the





request for verification or of the reasons why the examination did not occur and of the possibility of exercising the right of the data subject to lodge a complaint under § 100 and another legal protection under a special law,

i) monitors developments, in particular in information and communication technologies and business practices if it has an impact on the protection of personal data,

j) cooperates with the European Data Protection Supervisor,

k) submits to the National Council of the Slovak Republic a report on the status of protection of personal data at least once a year; a report on the status of the protection of personal data is published by the Office at its website and provided to the European Data Protection Supervisor and the Commission,

l) cooperates with the supervisory authorities of other Member States, including the exchange of information, and provide them with mutual assistance in order to ensure a common procedure for the protection of personal data under this Act and a special law.

(3) The Office is authorized to perform its tasks

a) instruct the controller and processor or the representative of the controller and processor, if he is entrusted with the task of providing information necessary for the performance of his duties,

b) to obtain from the controller and processor access to the personal data and information necessary for the performance of his duties; this is without prejudice to the provisions on confidentiality under special law,

c) access to the spaces of the controller and processor as well as to any facility and means for the processing of personal data, to the extent necessary for the fulfilment of his duties, if no authorization according to a special law is required,

d) to warn the controller or processor that the planned processing operations are likely to be in breach of the provisions of this Act or a special law,

e) to impose measures, a fine pursuant to section 104 or a fine pursuant to section 105 if the controller, processor, monitoring body or certifying body has violated the provisions of this Act or a special law,

f) order the controller or processor to comply with the request of the data subject to exercise his or rights under this Act or a special law;

g) order the controller or processor to reconcile their processing operations as required in the specified manner and within the prescribed period with the provisions of this Act or a special law;

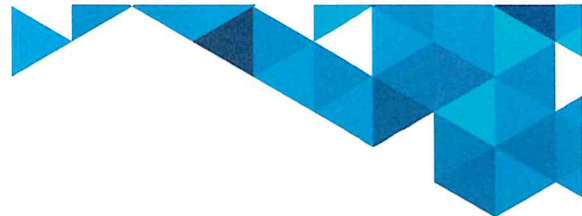
h) order the controller to notify personal data breach to data subjects,

i) order a temporary limitation on the processing of personal data or a permanent restriction on the processing of personal data,

j) to invite the controller or processor for the purpose of submitting an explanation in case of suspicion of breach of the obligations imposed by this Act, a special law or an international treaty which the Slovak Republic is bound to,

k) recommend to the controller or processor measures to ensure the protection of personal data in information systems,





l) order the suspension of the transfer of personal data to the recipient in a third country or international organization.

(4) Except the fulfilment of the tasks under paragraphs 1 and 2 the Office further

a) fulfils the obligation to notify the European Commission in the field of personal data protection,

b) takes measures in order to execute the decisions of the European Commission issued in the field of personal data protection,

c) cooperates in the execution of supervision of personal data protection with supervisory authorities of other member states and similar supervisory authorities abroad.

(5) Disputes arising from contractual or pre-contractual relations between the controllers or the processors and data subjects or other natural or legal persons, the hearing or deciding of which is subject to the respective courts or other authorities pursuant to special acts, shall not be the subject of the supervision of personal data protection.

(6) The Office may charge an appropriate fee corresponding to the administrative cost or may refuse to act on a request if the request is manifestly unfounded or inappropriate, in particular for its recurrent nature. The Office shall prove that the application is unfounded or inappropriate.

(7) When personal data are processed by the courts in the exercise of their jurisdiction, the Ministry of Justice of the Slovak Republic carries out supervision of personal data protection according pursuant to section 90 to 98.

(8) If personal data are processed by intelligence services or the National Security Authority according to special Act, the supervision of personal data protection pursuant section 90 to 98 shall be executed by the National Council of the Slovak Republic pursuant to a special Act.

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Section 82 President of the Office

(1) The Office shall be headed by the President who shall be elected and recalled by the National Council of the Slovak Republic upon proposal of the Government of the Slovak Republic.

(2) The term of office of the President of the Office shall be five years and he may be elected for maximally two consecutive terms. The President of the Office shall remain in the function also after termination of the term of office until the National Council of the Slovak Republic elects another President.

(3) Only a citizen of the Slovak Republic, who is eligible for a deputy of the National Council of the Slovak Republic, enjoys full legal capacity, has a university education of the second degree has at least two years of experience in the field of personal data protection and is irrefragable, may be elected as the President of the Office.

(4) For the purposes of this Act, a person who has not been lawfully convicted of an intentional crime or an offense in which the execution of a custodial sentence is not conditionally postponed if he does not regard him under the law as if he were not convicted or convicted was not healed. Integrity is evidenced by a documented extract from the criminal record not older than three months.

(5) The President of the Office must be independent in the performance of his duties and may not be under the external influence, whether direct or indirect, in the performance of his





duties and the exercise of his powers under this Act and may neither require nor accept instructions from anyone.

(6) The President of the Office shall be obliged to refrain from any action incompatible with his duties under this Act and according to a special law.

(7) The President of the Office shall be a civil servant according to a special law. The salary of the President of the Office shall be four times the average nominal monthly salary of the employee in the national economy of the Slovak Republic for the previous calendar year rounded up to the whole euro upward. Salaries and other requirements of the President of the Office are determined by the Government of the Slovak Republic.

(8) The cessation of office of the President of the Office shall be terminated upon expiry of his term of office or by the election of the new President after the term of office of the President of the Office pursuant to paragraph 2.

(9) Before the term expires, the performance of the function is extinguished

- a) by giving up the function,*
- b) loss of option to the National Council of the Slovak Republic,*
- c) by the effective date of the judgment convicted him of an intentional offense or convicted of an offense and serving a custodial sentence was not conditionally postponed,*
- d) performance of activities not compatible with his obligations under paragraph 6; or*
- e) by the death or by the lawful decision of the court to declare that the President of the Office is dead.*

(10) The President of the Office may be removed from office if

- a) his health condition does not allow him to fulfil the obligations arising from the function on a long-term basis, but at least for one year,*
- b) has breached the obligation of independence under paragraph 5; or*
- c) has breached the obligation of secrecy of facts he has learned in connection with the performance of his duties under Section 84.*

Section 83 Vice-President of the Office

(1) The President of the Office shall be represented by a Vice-President of the Office, who shall be elected and recalled by the Government of the Slovak Republic upon proposal of the President of the Office.

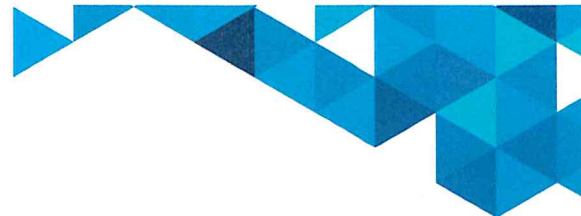
(2) The term of office of the Vice-President of the Office shall be five years and he may be elected for maximally two consecutive terms. The Vice-President of the Office shall remain in the function also after termination of the term of office until the Government of the Slovak Republic elects another Vice-President.

(3) Provisions of Section 82 paragraphs 3 to 6 and paragraphs 8 to 10 shall apply the same to the performance of the function of Vice-President of the Office.

Section 84 Obligations of secrecy

(1) The President of the Office, the Vice-President of the Office and the staff of the Office shall be bound to observe the facts which they have learned during the performance of their duties under this Act or a special law, even after termination of administrative duties, state employment, employment or similar employment relationship.





(2) The obligation of secrecy under paragraph 1 shall not apply if it is necessary for the performance of the tasks of the court and of the law enforcement bodies under a special law; the provisions on confidentiality according to a special law are not affected.

(3) The President of the Office may exempt from the obligation of secrecy under paragraph 1 the Vice-President of the Office and employees of the Office. The National Council of the Slovak Republic may exempt the President of the Office from the obligation of secrecy pursuant to paragraph 1 in a particular case."

Notification according article 84 (2) GDPR:

Act No. 18/2018 Coll. does not lay down the rules on other penalties applicable to infringements of GDPR.

Notification according article 85 (3) GDPR:

In part four of Act No. 18/2018 Coll. there are provisions relating to processing for journalistic purposes and the purposes of academic, artistic or literary expression.

Section 78 (2) Act No. 18/2018 Coll.

"The controller shall process personal data without the consent of the data subject, even if the processing of personal data is necessary for the purposes of informing the public by means of mass media and if the personal data are processed by the controller, who such processing results from the subject matter; this does not apply if the processing of personal data for such purpose by the controller violates the right of the data subject to protect his personality or the right to privacy or the processing of personal data without the consent of the data subject is excluded by a special law or an international treaty which the Slovak Republic is bound to."

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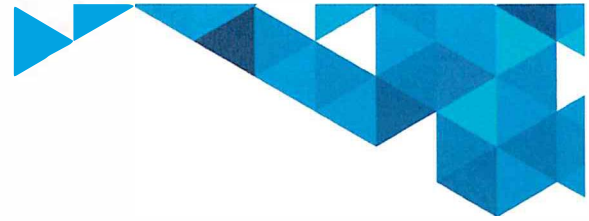
Section 78 (1) Act No. 18/2018 Coll.

"The controller shall process personal data without the consent of the data subject, even if the processing of personal data is necessary for academic purposes, for artistic purposes or for literary purposes; this does not apply if the processing of personal data for such purpose by the controller violates the right of the data subject to protect his personality or the right to privacy or the processing of personal data without the consent of the data subject is excluded by a special law or an international treaty which the Slovak Republic is bound to."

Notification according article 88 (3) GDPR:

In part four of Act No. 18/2018 Coll. there is provision relating to processing in the context of employment.





Section 78 (3) Act No. 18/2018 Coll.

“The controller who is an employer of the data subject may provide or publish personal data in the extent of title, name, surname, job, service or administrative position, employee’s personal number or employee’s employee number, department, place of work, telephone number, fax number or electronic address of workplace and identification data of the employer if it is necessary for the fulfilment of job, service or administrative duties of the data subject. Providing or publishing of personal data cannot violate respect, dignity and safety of the data subject.”

Notification according article 90 (2) GDPR:

Act No. 18/2018 Coll. does not adopt specific rules to obligations of secrecy.

In part three of Act No. 18/2018 Coll. is transposing the Data Protection Law Enforcement Directive.

Sincerely,



Soňa Pótheová
President of The Office for Personal
Data Protection of the Slovak Republic

