

# PETERKA PARTNERS

THE CEE LAW FIRM

## IMPLEMENTATION OF PROTECTION OF PERSONAL DATA IN BELARUSIAN COMPANIES. KEY POINTS AND QUESTIONS

**PETERKA & PARTNERS BELARUS**

10 August 2022

## **1. LEGAL REGULATION OF PERSONAL DATA PROTECTION IN BELARUS:**

- **Law of the Republic of Belarus N 99-Z "On the protection of personal data" from 7 May 2021**
- **Law of the Republic of Belarus N 455-Z "On information, informatization and protection of information " from 10 November 2008**
- **Order of the National Centre for Protection of Personal Data of the Republic of Belarus N 14 " On Cross-Border Transfer of Personal Data,, from 15 November 2021**

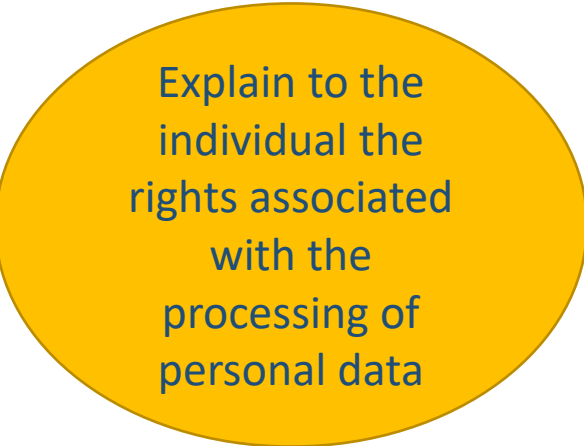
## Main terms

- ❖ **Personal data operator** - a state authority, legal entity in the Republic of Belarus, other organization, individual, including individuals who are entrepreneurs, who independently or jointly with other persons arrange for the processing of personal data or process personal data. Basically, this term is likely to be close to the “data controller” under GDPR.
- ❖ **Authorized person** - a state authority, legal entity in the Republic of Belarus, other organization, individual, including individuals who are entrepreneurs, who process, based on a legal or governmental act or agreement with the operator, personal data on behalf or for the benefit of the operator. So, this term is close to the “data processor” under GDPR.
- ❖ **Personal data** - any information on the identified individual or an individual who can be identified;
- ❖ **Processing of personal data** - any action or set of actions including personal data, including collecting, systemazing, storing, modifying, using, depersonalizing, blocking, distributing, providing and deleting personal data.

## WHAT ARE THE MAIN CATEGORIES OF PERSONAL DATA?

Main	Additional	Special
<ul style="list-style-type: none"> <li>- ID ;</li> <li>- FULL NAME;</li> <li>- Gender;</li> <li>- date, month, year of birth;</li> <li>- Place of Birth;</li> <li>- digital photo portrait;</li> <li>- citizenship;</li> <li>- data on registration at the place of residence and (or) place of stay;</li> <li>- Day of death or declaration of an individual as dead, recognition as missing, incapacitated, partially incapacitated</li> </ul>	<ul style="list-style-type: none"> <li>- Information on parents, guardians, trustees, marital status, spouse, child (children);</li> <li>- higher education, academic degree, academic title;</li> <li>- occupation;</li> <li>- pensions, monthly allowance etc;</li> <li>- tax liabilities;</li> <li>- military duty;</li> <li>- disability;</li> <li>- ongoing enforcement proceedings.</li> </ul>	<ul style="list-style-type: none"> <li>- Information on race and nationality;</li> <li>- political views, membership of trade unions, religious or other beliefs;</li> <li>- health and sexual life;</li> <li>- administrative or criminal liability;</li> <li>- biometric data (including fingerprints of hands, palms, the iris of the eye etc.)</li> <li>- genetic data and information on inherited or acquired genetic characteristics of a person.</li> </ul>

# What should the operator do before receiving personal data from an individual ?

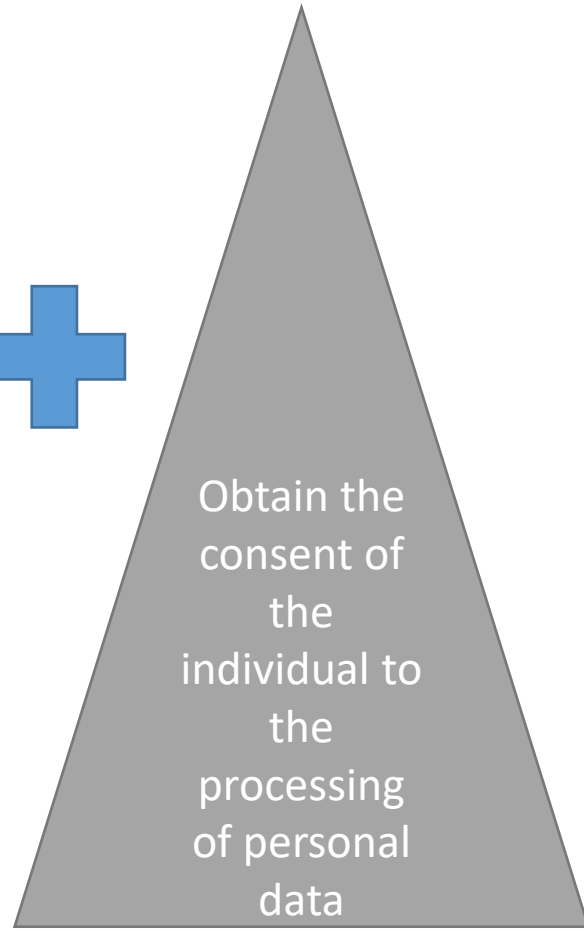


Explain to the individual the rights associated with the processing of personal data



Provide the following information:

- name and location of the organization that needs personal data of the individual;
- purposes of personal data processing;
- list of the personal data to be processed;
- period of processing of personal data;
- information on authorized persons if personal data will be processed by them
- list of actions including personal data;
- general description of the methods of processing;
- other information necessary to ensure transparency of the processing of personal data.



Obtain the consent of the individual to the processing of personal data

# How to obtain the consent of an individual to the processing of personal data



Consent to the processing of personal data is given:

- in writing if required by the law;
- in any other form, including an electronic document or **other electronic form**.

The consent in **other electronic form** may be given by:

- indicating (selecting) certain information (code) in response to the received SMS or email;
- affixing a corresponding mark on internet. For example, a checkmark in front of the text on the granting of the consent on the website during registration;
- other manner.

# What documents need to be created to protect personal data during their processing?

1. Order on the appointment of a structural unit or a person responsible for internal control over the processing of personal data
2. Local regulation "Policy of the organization regarding the processing of personal data" or other similar document.
3. Order of access to personal data.
4. Documents that contain:
  - list of information resources (systems) containing personal data and owners of the data;
  - categories of personal data to be included in the resources (systems):
  - list of authorized persons if personal data are processed by them;
  - period of storage of the processed personal data.

## Is it possible to transfer personal data outside Belarus?

- Cross-border transfer of personal data without any permission is possible to countries that have adopted the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, adopted in Strasbourg on 28 January 1981.
- The legislation does not provide for the need of the physical storage of data in the Republic of Belarus.





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