

Document 2.1.8 - 4

PROPOSAL of

**THE DPDP's OPINION
REGARDING IDENTITY CHECK AT THE
ENTRANCE OF A BUILDING**

Component 2
Activity 2.1.8 - 4



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Introduction

The collection and processing of personal data on visitors of building (public or private) shall be strictly limited and must meet relevant provisions of the Law The Law on Identity Cards (Official Gazette of the Republic of Macedonia No. 8/95) and the Law on Registration of Birth, Deaths and Marriages (Official Gazette of the Republic of Macedonia No. 44/95), as well as the Law on Protection of Personal Data (Official Gazette of the Republic of Macedonia, No. 7/05, as amended No.103/08, No. 124/10 and No.135/11).

D R A F T

The opinion of the Directorate for Protection of Personal Data

Identity check at the entrance of a building

If personal data are demanded from persons at the entrance of certain types of buildings, it must be established, whether this can be classified as personal data collection within the meaning of Article 2 paragraph 2 of Law on Personal Data Protection, as amended (Official Gazette of the Republic of Macedonia, No. 7/05, as amended No.103/08, No. 124/10 and No.135/11). If the answer is yes, the warden of the building is in the position of a data controller (or data processor, if he performs this task for another entity on the basis of a contract).

The Directorate for Personal Data Protection (DZLP) holds that, in certain cases where the building is not designed for normal public use, the owner or warden (manager) of the building has the right to demand (with regard to his responsibility for the property and the running of the building as well as for security reasons) that visitors provide their basic personal data – that is, their name and surname – and if they are entering the building on duty, also submit their professional identity card. The number on the card as well as the name of the institution issuing the card can be written down on this occasion. If the visitors enter the building on their own personal interest or business, they should submit for checking their personal identity card or passport, the number of which may again be recorded. If the authorised person demands additional data, e.g. the visitor's address, this may already constitute a breach of the duty stipulated in Article 5 of the Law on Personal Data Protection, that is, the duty to collect only those types of personal data that correspond to the asserted purpose and not too extensive in relation to the achievement that that purpose. The purpose in this context is the subsequent identification of the visitor in case of some kind of emergency that might take place during his/her stay in the building. As a rule, such emergency would be investigated by the Police Forces of the RM that do not require other than the aforementioned data to identify and seek out the person. According to Article 5 of the Law on Personal Data Protection, the data collected for this purpose may not be used for any other purpose without the consent of the data subject. According to Article 35, personal data may be stored only for the period of time necessary for their processing.



After the expiration of this period the personal data shall be deleted, unless the Law stipulates otherwise. In the aforementioned “necessary period”, this means several weeks or, at most, several months. When this time elapses, the said purpose clearly no longer exists. It must also be pointed out that, depending on concrete circumstances, every building warden should consider whether the collection of visitors’ personal data is really necessary and whether it could not be replaced by other solution (e.g. a visitors room could be set up at the entrance to the building, or every visitor could be accompanied by the employee whom he or she visits).

If the warden of the building is in the position of a data controller or data processor, he must fulfil any other duties stipulated by the Law on Personal Data Protection. Consequently, without the consent of the visitor, he may process personal data only under the exceptional conditions defined in Article 6 of the Law on Data Protection Act, i.e. only if he carries out data processing under *lex specialis* – a special law (i.e. fulfilment the legal obligation). He may also process the data if the processing meets the criteria for an exception under Article 6, i.e. for example, if the processing is necessary for the protection of the individual’s rights. Also, if the case does not meet the criteria for an exception under Article 28 of the Law on Personal Data Protection, it is necessary to fulfil the notification duty under Article 27 of the said Law. However, if the processing of the visitors’ personal data is not required by a law, the question of whether the aforementioned exceptions apply depends on concrete circumstances and must therefore be answered independently for each case.

The DPDP is informed that very often institutions are making copies of identity documents which are in possession of individuals, like is the Identification card or/and the Passport. Such activity shall be regarded as processing of personal which is not in compliance with the Law on Protection of Personal Data. Copying of identity documents is generally prohibited by any means unless the citizen (document’s holder) to whom the document has been issued or a special law or an international convention binding on Macedonia stipulate otherwise.