

**Opinion on the request of the Kosovo Privatization Agency on whether the publication of the occupants names who have illegally used or are currently using the properties of Socially-Owned Enterprises represents violation of the Law on Protection of Personal Data and if the publication of the names of natural persons and legal persons who have privatized (purchased) Socially-Owned Enterprises or their assets represents violation of the Law on Protection of Personal Data.**

Pursuant to Article 38 (paragraph 1) of the Law no. 03/L-172 on the Protection of Personal Data (hereinafter LPPD), the National Agency for Protection of Personal Data (hereinafter Agency) shall advise public institutions in all matters regarding data protection, including interpretation and application of relevant laws.

**Publication of the occupants' names who have illegally used or are currently using the properties of socially-owned enterprises, as well as publication of the names of natural persons and legal persons who have privatized (purchased) socially-owned enterprises or their assets is not in contradiction to the LPPD.**

According to Article 2 (paragraph 1, sub-paragraph 1.1) of the LPPD's, personal data means any information relating to an identified or identifiable natural person (data subject); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his or her physical, physiological, mental, economic, cultural or social identity;

Processing of personal data is any operation or set of operations which is performed upon personal data whether or not by automatic means such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, **dissemination or otherwise making available**, alignment or combination, blocking, erasure or destruction;

The Law No. 03/L-172 on the Protection of Personal Data defines the rights, responsibilities, principles and measures with respect to the protection of personal data. One of the principles of data processing is that personal data shall be processed fairly and lawfully without violating the dignity of data subjects.

Pursuant to Article 5 of LPPD, lawful processing is considered in cases when personal data are processed only if certain criteria are met. One of the criterion for personal data to be processed is when the processing is necessary for compliance with a legal obligation to which the controller is subjected;

Also, Article 5 (paragraph 1, sub-paragraph 1.6) defines that the processing is necessary

for the purposes of the legitimate interests pursued by the controller or by the third party or parties to whom the data are disclosed, except where such interests are overridden by the interests for fundamental rights and freedoms of the data subject.

Personal data shall be processed for clear and legitimate purpose, and that in this case, the legitimate purpose of the Privatization Agency of Kosovo is that through publication of these lists, to have an impact in combating the negative phenomenon of occupation and illegal use of properties of socially-owned enterprises, as well as to protect society from this negative phenomenon.

Pursuant to Article 36, paragraph 4 of the Constitution of the Republic of Kosovo, every person enjoys the right of protection of personal data. Collection, preservation, access, correction and use of personal data are regulated by law. However, all of the rights and freedoms guaranteed by the Constitution may be restricted in accordance with Article 55 thereof. The main conditions according to which may be limited a constitutional right is that the limitation should be done by law, must be respected the principle of proportionality pursuant to Article 55 (paragraph 2), where the fundamental rights and freedoms guaranteed by this Constitution may be limited to the extent necessary for the fulfillment of the purpose of the limitation in an open and democratic society.

The right to protection of personal data is a fundamental right, but not an absolute right, it is a right that must be balanced against other rights. The issue of the use and occupation of Socially Owned Enterprises is discussed in the media and beyond. Therefore, provision of information on who privatized, used or occupied the property is in the public interest, since this will enable clearing the suspicion of using the properties of these enterprises. Public interest is also the increase of transparency and accountability.

Article 5 (paragraph 1, sub-paragraph 1.5) of LPPD defines that the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed; or

Based on this, the Agency considers that the publication of lists by Kosovo Privatization Agency serves the fundamental interest of the public, as the general public interest is to increase transparency and accountability.

Intervention in relation to individual's right for protection of several data is proportionate to the aim sought to be achieved through the publication of the lists.

After achieving the goal, it is a legal obligation of the controller to remove these lists from publication.

**Considering the arguments and reviews above, it can be concluded that the publication of the occupants names who have illegally used or are currently using the properties of Socially Owned Enterprises, and the publication of the names of natural persons and legal persons who have privatized (purchased) socially owned enterprises or their assets is not in contradiction with the Law no. 03/L-172 on the Protection of Personal Data.**