

## SPANISH DATA PROTECTION AUTHORITY

### DECISION APPROVING BINDING CORPORATE RULES FOR PROCESSORS OF KUMON GROUP

1. Having regard to Article 47(1) of the EU General Data Protection Regulation 2016/679 (GDPR), the Spanish Data Protection Authority shall approve Binding Corporate Rules (BCR) provided that they meet the requirements set out under this Article.

Whereas:

2. In accordance with the cooperation procedure as set out in the Working Document WP263.rev.01, the Processor BCR application of Kumon Group where first lead by the UK Information Commissioner (ICO). In July 2020, in light of Brexit, the Kumon Group requested to take over the role of BCR Lead from the ICO to the Spanish Data Protection Authority. From that moment these BCR were reviewed by the Spanish Data Protection Authority, as the competent Authority for the BCR (BCR Lead) and two SAs acting as co-reviewers. The application was also circulated to every EEA SA for further review and comments.
3. The review concluded that the Processor BCR of Kumon Group comply with the requirements set out by Article 47(1) of the GDPR as well as the Working Document WP257.rev.01 and in particular that the aforementioned BCR:
  - i) Are legally binding and contain a clear duty for each participating member of the Group including their employees to respect the BCR: (**Introduction, Appendix I of BCR for Processors, Intercompany agreement and WP 265**).
  - ii) Expressly confer enforceable third party beneficiary rights to data subjects with regard to the processing of their personal data as part of the BCRs in Section 6.1 of the BCR: (**Section 6.1, 6.2, 6.4 of BCR for Processors and WP 265**).
  - iii) Fulfil the requirements laid down in Article 47(2):
    - a) The structure and contact details of the group of undertakings and each of its members. (**Appendix I of BCR for Processors and in the Data Protection Intercompany Agreement**).

- b) The data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the categories of data subjects affected, and the identification of the third country or countries. (**Section 1 of the BCR for Processors and WP265**).
- c) The legally binding nature of the BCRs, both internally and externally. (**Introduction and Section 6.2 of the BCR for Processors, Intra-Group Agreement and WP265**).
- d) The application of the general data protection principles, in particular, purpose limitation, data minimisation, limited storage periods, data quality, data protection by design and by default, legal basis for processing, processing of special categories of personal data. (**Section 3.1 of the BCR for Processors and WP 265**).
- e) The measures aimed at guaranteeing data security and the requirements regarding subsequent transfers to bodies not bound by the binding corporate rules. (**Section 5.1 of the BCR for Processors and WP 265**).
- f) The rights of data subjects in regard to processing and the means to exercise those rights, including the right not to be subject to decisions based solely on automated processing, including profiling, the right to lodge a complaint with the competent supervisory authority and before the competent courts of the Member States in accordance with Article 79 of the GDPR, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules (**Section 3, section 6 and Appendix II of the BCR for Processors**).
- g) The requirements in respect of onward transfers to bodies not bound by the binding corporate rules (**Section 4 of the BCR for Processors**)”.
- h) The acceptance by the controller or processor established on the territory of a Member State of liability for any breaches of the binding corporate rules by any member of the Group not established in the Union, as well as the exemption of the controller or the processor from that liability, in whole or in part, only if it proves that that member is not responsible for the event giving rise to the damage. (**Section 6.1 and 6.2 of the BCR for Processors and WP 265**).
- i) The way in which information about binding corporate rules is provided to data subjects. (**Section 3.1 of the BCR for Processors and WP 265**).

- j) The tasks of any data protection officer designated in accordance with Article 37 of the GDPR or any other person or entity in charge of the monitoring compliance with the binding corporate rules within the group of undertakings, as well as monitoring training, complaint-handling and the claim procedures (**Appendix III of the BCR for Processors and WP 265**).
  - k) The claim procedure. (**Appendix II of the BCR for Processors**).
  - l) The mechanisms established within the group of undertakings to verify compliance with the binding corporate rules. Such mechanisms shall include data protection audits and systems for ensuring corrective actions to protect the rights of data subjects. The results of such verification must be reported to the Data Protection Officer, as well as to the Group Management, and shall be available upon request from the competent data protection authority. (**Section 5.4, Appendix V of the BCR for Processors and WP 265**).
  - m) The mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority. (**Section 5.8, Annex VI of the BCR for Processors and WP 265**).
  - n) The cooperation mechanism with the supervisory authority to ensure compliance by any member of the group of undertakings, in particular by making available to the supervisory authority the results of verifications. (**Section 5.7 of the BCR for Processors and WP 265**).
  - o) The mechanisms for reporting to the competent supervisory authority any legal requirements to which a member of the group of undertakings, or group of enterprises engaged in a joint economic activity is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules. (**Section 5.5 of the BCR for Processors**).
  - p) The appropriate training in data protection for personnel who have permanent or regular access to personal data. (**Section 5.3, Appendix IV of the BCR for Processors and WP 265**).
4. The EDPB provided its opinion 06/2021 in accordance with Article 64(1)(f). The Spanish Data Protection Authority took utmost account of this opinion.

DECIDES AS FOLLOWING:

5. The Processor BCR of KUMON GROUP provide appropriate safeguards for the transfer of personal data in accordance with Article 46(1), (2b) and Article 47 (1), (2) GDPR and hereby approves the Processor BCR of KUMON GROUP.
6. However, before making use of the BCR it is the responsibility of the data exporter in a Member State, if needed with the help of the data importer, to assess whether the level of protection required by EU law is respected in the third country of destination, including onward transfer situations. This assessment has to be conducted in order to determine if the guarantees provided by BCRs can be complied with in practice, in light of the circumstances of the possible impingement created by the third country legislation with the fundamental rights and the circumstances surrounding the transfer. If this is not the case, the data exporter in a Member State, if needed with the help of the data importer, should assess whether it can provide supplementary measures to ensure an essentially equivalent level of protection as provided in the EU.
7. Where the data exporter in a Member State is not able to take supplementary measures necessary to ensure an essentially equivalent level of protection as provided in the EU, personal data cannot be lawfully transferred to a third country under this BCR. Therefore, the data exporter is required to suspend or end the transfer of personal data. In such case if a Group Company envisages to transfer personal data to a third country nevertheless, it must notify the competent supervisory authority beforehand to enable that SA to ascertain whether the proposed transfer should be suspended or prohibited in order to ensure an adequate level of protection.
8. The approved BCRs will not require any specific authorization from the concerned supervisory authorities.
9. In accordance with Article 58.2.j GDPR, each concerned Supervisory Authority maintains the power to order the suspension of data flows to a recipient in a third country or to an international organization whenever the appropriate safeguards envisaged by Processor BCR of KUMON GROUP are not respected.

#### ANNEX TO THE DECISION

The Processor BCR of KUMON GROUP that are hereby approved cover the following:

a. Scope:

These BCRs cover the collection of, transfer between, and all other Processing by the Kumon Group Companies (see the list in Appendix I) of Personal Data originating in the EEA. ( 1 Introduction “Who must follow the BCR?”, “How do the BCR apply”, “What activities do the BCR apply to?”, “Whose personal data is covered by the BCR”, “What type of personal data is covered by the BCR?”).

- b. EEA countries from which transfers are to be made transference: Spain, Germany, Republic of Ireland and Greece. (Appendix I of the BCR for Processors and WP 265g).
- c. Third countries to which transfers are to be made transference: United Kingdom and Japan (Appendix I of the BCR for Processors and WP 265)
- d. Purposes of the transfer, categories of data subjects concerned by the transfer, categories of personal data transferred: (specified in the Introduction of the BCR);

Franchise Instructors	
<b>Data Categories</b>	Name, address, study centre name, contact information, professional and educational information, instructor experience and history
<b>Transfers Outside the EEA</b>	<ul style="list-style-type: none"> <li>• To Kumon Institute of Education Co., Ltd. based in Japan</li> <li>• To Kumon Europe &amp; Africa Limited, based in the UK</li> </ul>
<b>Purposes</b>	<ul style="list-style-type: none"> <li>• Providing support to centre instructors/staff to ensure the quality of the service</li> <li>• Providing support to local Kumon Group Companies for managing, improving and expanding Kumon study centres in the country/region</li> <li>• Providing employee and instructor training</li> <li>• Developing and further improving the Kumon learning materials and instructional methods locally and globally</li> <li>• Providing IT support and maintenance of the dedicated server and systems used by Kumon Group Companies for managing their region</li> <li>• Generating statistical information for local, regional and global analysis</li> <li>• Compliance with governmental rules and regulations</li> </ul>
Students studying (or interested in studying) in the Kumon programme	
<b>Data Categories</b>	Name, student ID, name of study centre, address, age, school grade, study progress, length of study
<b>Transfers Outside the EEA</b>	<ul style="list-style-type: none"> <li>• To Kumon Institute of Education Co., Ltd. based in Japan</li> <li>• To Kumon Europe &amp; Africa Limited, based in the UK</li> </ul>
<b>Purposes</b>	<ul style="list-style-type: none"> <li>• Providing relevant services to the student under the Kumon Method</li> <li>• Providing support to centre instructors/staff to ensure the quality of the service</li> <li>• Providing support to local Kumon Group Companies for managing, improving and expanding Kumon study centres in the country/region</li> <li>• Providing employee and instructor training</li> </ul>

	<ul style="list-style-type: none"> <li>• Developing and further improving the Kumon learning materials and instructional methods locally and globally</li> <li>• Providing IT support and maintenance of the dedicated server and systems used by Kumon Group Companies for managing their region</li> <li>• Generating statistical information for local, regional and global analysis</li> <li>• Compliance with governmental rules and regulations</li> </ul>
<b>Parents of Students</b>	
<b>Data Categories</b>	Name, student's name, relationship with student, address, contact information
<b>Transfers Outside the EEA</b>	<ul style="list-style-type: none"> <li>• To Kumon Institute of Education Co., Ltd. based in Japan</li> <li>• To Kumon Europe &amp; Africa Limited, based in the UK</li> </ul>
<b>Purposes</b>	<ul style="list-style-type: none"> <li>• Providing relevant services to the student under the Kumon Method</li> <li>• Contacting the parent, including to respond to inquiries or seek feedback or report upon the progress of the student</li> <li>• Providing IT support and maintenance of the dedicated server and systems used by Kumon Group Companies for managing their region</li> <li>• Compliance with governmental rules and regulations</li> </ul>