

SPANISH DATA PROTECTION AUTHORITY

DECISION APPROVING BINDING CORPORATE RULES FOR CONTROLLERS 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 (BCRs) 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 Controller 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 reviewed by the supervisory authorities of the EEA countries to which the BCR were communicated as part of the cooperation procedure.
3. The review concluded that the Controller BCR of Kumon Group comply with the requirements set out by Article 47(1) of the GDPR as well as the Working Document WP256.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 all of which is set forth in the Group's Intra-Group Agreement passed by all the companies affiliated to the BCRs.
 - ii) Expressly confer enforceable third party beneficiary rights to data subjects with regard to the processing of their personal data as part of the BCR. **(Section 6.1 of the Controller BCR and WP 264).**
 - 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 the Controller BCR and WP 264).**

- 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 Controller BCR and WP 264).**
- c) The legally binding nature of the BCRs, both internally and externally. **(Section 1 of the Controller BCR, Intra-Group Agreement and WP 264).**
- 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. **(Sections 3, 4 and 5.1 of the Controller BCR and WP 264).**
- 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 Controller BCR).**
- 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 3.4 and Appendix II of the Controller BCR).**
- g) 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 of the Controller BCR and WP 264).**
- h) The way in which information about binding corporate rules is provided to data subjects. **(Section 3.3 of the Controller BCR).**
- i) 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 Controller BCR and WP 264).**

- j) The claim procedure. **(Section 5.6 and Appendix II of the Controller BCR and WP 264).**
 - k) 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 and Appendix V of the Controller BCR and WP 264).**
 - l) The mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority. **(Section 5.8 and Appendix VI of the Controller BCR).**
 - m) 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. **(Sections 5.7 of the Controller BCR and WP 264).**
 - n) 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 Controller BCR).**
 - o) The appropriate training in data protection for personnel who have permanent or regular access to personal data. **(Section 5.3 and in Appendix IV of the Controller BCR).**
4. The EDPB provided its opinion 07/2021 in accordance with Article 64(1)(f). The Spanish Data Protection Authority took utmost account of this opinion.

DECIDES AS FOLLOWING:

- 5. The Controller 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 Controller 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 Controller BCR of KUMON GROUP are not respected.

ANNEX TO THE DECISION

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

Data Categories	Name, student's name, relationship with student, address, contact information
Transfers Outside the EEA	<ul style="list-style-type: none"> To Kumon Institute of Education Co., Ltd. based in Japan To Kumon Europe & Africa Limited, based in the UK
Purposes	<ul style="list-style-type: none"> Providing relevant services to the student under the Kumon Method Contacting the parent, including to respond to inquiries or seek feedback or report upon the progress of the student Providing IT support and maintenance of the dedicated server and systems used by Kumon Group Companies for managing their region Compliance with governmental rules and regulations
Employees	
Data Categories	Name, ID number, date of birth, corporate email address, company, department/team, job title, working area, job description, employee photo, years or service, employment type, evaluation, compensation (salary, bonus, allowances, fringe benefits), if applicable, termination date and reason
Transfers Outside the EEA	<ul style="list-style-type: none"> To Kumon Institute of Education Co., Ltd. based in Japan To Kumon Europe & Africa Limited, based in the UK
Purposes	<ul style="list-style-type: none"> Personnel and labour management of group companies, including analysis and development of group human resource strategies, schemes, systems and rules Identifying, communicating and cooperating with employees of the Kumon Group Companies in the EEA on various projects Compliance with governmental rules and regulations