



BEST LEGAL - 3rd INTERNATIONAL ANNUAL CONFERENCE (26/9/2016)



PROTECTION OF PERSONAL DATA: RIGHTS AND OBLIGATIONS UNDER CYPRUS LAW

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PROTECTION OF PERSONAL DATA

GENERAL

- ❑ Right of privacy Constitutionally Guaranteed. Can only be restricted by law (e.g. reasons of national security)
- ❑ Directive 95/46/EC: Processing of Personal Data (Protection of the Individual) Law of 2001 (Law 138(I)/2001)
- ❑ Enforcement: Office of the Commissioner for Personal Data Protection (<http://www.dataprotection.gov.cy>)
- ❑ Commissioner's Powers
 - Issuing directives, guidelines and codes of conduct
 - Granting licenses
 - Supervision and investigation (unobstructed access to information)
 - Examining complaints
 - Imposing fines and administrative sanctions
 - Keeping statutory records
 - Cooperating with other national authorities and the Council on D.P. matters

PROTECTION OF PERSONAL DATA

GENERAL

❑ Commissioner's Directives (guidelines)

- Employment
- CCTV monitoring
- Use of the internet
- Use of the internet and mobile phones
- Direct Marketing

❑ Key Definitions (brief)

- “Personal Data”: any information relating to a living person
- “Processing”: Any action relating to personal data
- “Controller”: person who determines the purpose and method of processing
- “Processor”: Any person who process personal data on behalf of a controller
- “Data Subject”: The (identifiable) natural person to which the data relates

PROTECTION OF PERSONAL DATA

GENERAL

❑ Application of the Law

- Controllers established in the Republic of Cyprus
- Controllers not established in the Republic, who use automated or non-automated means within the Republic (unless used solely for the purpose of transferring the data):
 - Designated representative based in the Republic required

PROTECTION OF PERSONAL DATA

RIGHTS OF DATA SUBJECTS

❑ Consent

- Processing without consent of the data subject is permitted only where necessary:
 - for the fulfilment of a legal obligation of the Data Controller
 - for the execution of a contract to which the data subject is a party or for the taking of steps at the application of the data subject and prior to the conclusion of the contract
 - for the protection of a vital interest of the Data Subject
 - for the public interest or if entrusted to Controller or third party by public authority
 - for the satisfaction of a legitimate interest of the Data Controller, or a third party to whom the personal data is disclosed, provided this overrides the rights, interests and fundamental freedoms of the Data Subject

PROTECTION OF PERSONAL DATA

RIGHTS OF DATA SUBJECTS

- ❑ Information (at the time of collection)
 - Controller's identity
 - Purpose of processing
 - The recipients or the categories of recipients
 - Right of access and correction
 - Whether Data Subject's co-operation is required and the possible consequences of refusal

PROTECTION OF PERSONAL DATA

RIGHTS OF DATA SUBJECTS

- ❑ Right of Access (request for information)
 - Personal data and the origin of such data
 - Purposes of processing, the recipients or the categories of recipients and the categories of data which are being or will be processed
 - The progress of processing since last update
 - The reasoning for automated processing
 - Any correction, deletion or blocking of any data not processed in accordance with the Law
 - information about notification of data, corrections, deletions and blocking communicated to third parties, as far as possible

PROTECTION OF PERSONAL DATA

RIGHTS OF DATA SUBJECTS

❑ Right to Object

- In writing, on compelling legitimate grounds directly related to personal situation
- Controller is obliged to respond in writing within fifteen days, stating intention to accept the request of the data subject or the reasons for its intention to refuse the request - Rejection communicated to the Commissioner.
- If the Controller does not respond in time or the response is unsatisfactory:
 - right to appeal to the Commissioner and request examination of request
 - If Commissioner considers the request reasonable and that there is a risk of serious harm to the data subject from further processing, may order the immediate suspension of the processing until final decision

PROTECTION OF PERSONAL DATA

CONTROLLERS' OBLIGATIONS

❑ Fundamental Principles for Processing Personal Data

- Processed fairly and lawfully
- For specific, explicit and legitimate purposes
- Must be relevant, appropriate and not excessive
- Must be stored only for as long as necessary

❑ Notification

- Establishment and operation of a filing system
- Commencement of processing activities
- Combination of filing systems

PROTECTION OF PERSONAL DATA

CONTROLLERS' OBLIGATIONS

- Exceptions to Notification:
 - employment/ contract for services - where necessary for fulfilment of legal or contractual obligation, with the knowledge of the Data Subject
 - clients or suppliers of Controller - data not transmitted or disclosed to third parties
 - processing by an institution, club, company or political party of data relating to members who have given their consent - data not transmitted or disclosed to third parties
 - processing by doctors or healthcare professionals of medical data, as long as the data controller is bound by medical confidentiality or any other duty of confidentiality set out in any law or code of ethics - data not transmitted or disclosed to third parties
 - processing by lawyers in the provision of legal services to their clients, as long as the data controller is bound by an obligation of confidentiality - data not transmitted or disclosed to third parties, except where necessary and connected directly with client instructions

PROTECTION OF PERSONAL DATA

CONTROLLERS' OBLIGATIONS

❑ Transmission License (Non-EU/EEA Countries)

- Controller to Controller OR Controller to Processor
- Commissioner's license required
- Transmission to countries which do not ensure an adequate level of protection is permitted exceptionally after a license from the Commissioner:
 - safeguards: Standard Contractual Clauses (Model Contracts) and/or Binding Corporate Rules (for intra-group transfers)
- Transfers to US - Commission "Decision (EU) 2016/1250 of 12 July 2016 (effective 1/8/2016) on the adequacy of the protection provided by the EU-US Privacy Shield":
 - transfers from a controller or processor in the EU to organisations in the U.S. that have self-certified their adherence to the Principles with the Department of Commerce and have committed to comply with them are allowed"

PROTECTION OF PERSONAL DATA

ENFORCEMENT

❑ Enforcement

- Commissioner: Carries out investigation (on its own initiative or upon receiving a complaint) and imposes administrative sanctions

❑ Administrative Sanctions

- warning
- fine of up to €30.000
- temporary revocation of license
- permanent revocation of license
- order for: destruction of records; cessation of processing; destruction of data.
- The Commissioner is a public law body and its decisions are subject to judicial review under Article 146 of the Constitution

❑ Damages Under Civil Law

Thank you!