



George Z. Georgiou
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Lawyers, Arbitrators & Legal Consultants

PRESENTS

special promotional feature



DATA MANAGEMENT

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THE IMPACT OF THE GENERAL DATA PROTECTION REGULATION ON YOUR BUSINESS

The General Data Protection Regulation (679/2016/EU) (the “GDPR”) comes into force on 25 May 2018. It is important for companies to be familiar with the changes introduced by the GDPR and to plan ahead for a smooth transition.

WHAT DATA DOES THE GDPR APPLY TO?

The GDPR applies to personal data, that is, any information that relates to an identified or identifiable individual. It therefore applies if the identification of a person is possible based on the available data. The rules of the GDPR apply only to the data of living individuals, not of companies.

TERRITORIAL SCOPE

The GDPR applies to all companies and entities within the EU and also to companies or entities established outside the EU if they offer goods or services (either paid or free) within the EU or if they monitor the behaviour of individuals within the EU. The application of the GDPR depends, not on the size of the entity, but rather on the nature of its activities. Enterprises whose activities present a high risk for the rights of individuals, have increased obligations under the GDPR.

PROCESSING

Processing means absolutely any operation that is performed on personal data, including collecting, organizing, storing, filing, erasing.

DATA CONTROLLERS AND DATA PROCESSORS

The data controller determines the purposes for which and the means by which personal data is processed (the “why” and the “how”).

The data processor processes personal data on behalf of the controller and according to its instructions. The processor and the controller must have a contract in place outlining their respective obligations. The GDPR introduces for the first time, extensive liability on data processors. Data processors will also be liable to data subjects for compliance.

KEY RULES TO PROCESSING

- Personal data must be processed in a lawful and transparent manner, ensuring fairness towards the individuals (‘lawfulness, fairness and transparency’).
- There must be specific purposes for processing the data and individuals must be told about

these when their personal data is being collected (‘purpose limitation’).

- Only personal data that is necessary to fulfil that purpose must be collected and processed (‘data minimisation’).
- Personal data must be accurate and up-to-date (‘accuracy’).
- Further use of the personal data for other purposes that are not compatible with the original purpose of collection is not allowed.
- Personal data must not be stored for longer than necessary (‘storage limitation’).
- Appropriate technical and organisational safeguards that ensure the security and integrity of personal data must be implemented (‘integrity and confidentiality’).

An entity can only process personal data in the following circumstances:

- with the consent of the individuals concerned;
- where there is a contractual obligation;
- to meet a legal obligation under EU or national legislation;
- where processing is in the public interest;
- to protect the vital interests of an individual;
- for the organisation’s legitimate interests, but only if the fundamental rights and freedoms of the person whose data is processed are not seriously impacted.

DATA PROTECTION AUTHORITY (“DPA”) ENFORCEMENT POWERS

The GDPR provides a right to compensation for material or non-material damage suffered as a consequence of a breach of its provisions by a data control-

ler or a data processor. There is now direct liability for data processors and a significant increase in fines. For “less serious” breaches such as internal record keeping, data processor agreements, data security and breach notification, data protection officers, data protection by design and default, an administrative fine could be levied of up to €10,000,000 or in the case of an undertaking, up to 2% of the total worldwide annual turnover of the preceding year whichever is higher. For “more serious” breaches such as those relating to data protection principles, conditions for consent, data subjects’ rights and international data transfers, the maximum administrative fine is up to €20,000,000 or in the case of an undertaking, up to 4% of the total worldwide annual turnover of the preceding year whichever is higher.

RIGHTS OF DATA SUBJECTS

Data Subjects have the right to:

- information about the processing of their personal data;
- access to their personal data;
- request for their personal data to be corrected;
- request that personal data be erased when it’s no longer needed or if processing it is unlawful;
- object to the processing of their personal data for marketing purposes;
- request the restriction of the processing of their personal data;
- receive their personal data in a machine-readable format and send it to another controller (‘data portability’);
- request that decisions based on automated processing concerning them are made by natural persons, not only by computers.



Companies need to consider how to adapt their practices to respond to these new rights.

NOTIFICATION OF PERSONAL DATA BREACHES

Data controllers have 72 hours after becoming aware of a data breach to notify their national DPA of the personal data breach except where such a breach is unlikely to result in a risk to data subjects’ rights and freedoms.

After notifying the national DPA, data controllers are also required to notify, without undue delay, data subjects affected by the

personal data breach where the breach is likely to result in a high risk to their rights and freedoms.

TRANSFER OF PERSONAL DATA

The GDPR retains restrictions on the transfer of personal data to third countries. Both data controllers and data processors can transfer personal data to jurisdictions declared adequate by the EU Commission only if they implement appropriate safeguards and there are enforceable rights and legal remedies available to data subjects.

RECOMMENDATIONS FROM THE CYPRUS DATA PROTECTION COMMISSIONER

The Office of the Commissioner for Personal Data Protection in Cyprus has published ten steps that companies can take to prepare for the implementation of the GDPR:

1. Identify which aspects of the GDPR may have impact on your business;

2. Create a list of your business activities that may fall within the GDPR’s scope;
3. Check whether information you provide to data subjects needs to be altered to conform with the GDPR;
4. Examine how the rights of data subjects impact your business activities;
5. Prepare how you will justify, if asked, the legal basis which allows you to undertake certain activities;
6. Review the GDPR’s provisions on consent, especially if your business activities are based on consent;
7. Ascertain whether your security measures conform with the modernised technical and procedural measures required by the GDPR;
8. If you are involved in high-risk processing activities, like processing of special categories of personal data or data relating to criminal convictions and offences on a large scale, you will need to devise new mechanisms and review the GDPR’s provisions on data protection by design and by default; also, companies which process large-scale data or sensitive data should consider the appointment of a data protection officer;
9. If your company operates in more than one EU Member States, you should consider whether you will designate the state of its main establishment;
10. Familiarise yourself with the new obligations imposed on your business.

The GDPR aims to harmonise national data protection laws across the EU and introduces a number of new features that correspond with technological developments. Businesses already complying with the existing data protection laws have a strong starting point. However, businesses should take advantage of the time available before GDPR comes into force to consider the impact of the changes and identify what implementation and compliance strategies they need to put in place.



GEORGE Z. GEORGIU & ASSOCIATES LLC

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- Estate Planning
- EU Law
- Family
- Intellectual Property & Media
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- Property & Construction
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The Firm is ranked in the main legal directories – *Chambers & Partners*, *Legal 500*, *Who's Who Legal* – and has won over 150 awards in 10 years. A dynamic and energetic law firm, the Firm prides itself on its devotion to professionalism, passion for excellence and commitment to the legal services it provides. Since 2013, George Z. Georgiou & Associates LLC has been accredited by Investors in People.

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George Z. Georgiou & Associates LLC
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The EU General Data Protection Regulation (679/2016/EU) will come into force in Cyprus on 25th May 2018.

Are you GDPR ready?



The GDPR aims to harmonise national data protections laws across the EU and introduces new features that correspond with technological developments. Businesses should take advantage of the time available before the GDPR comes into force to consider the impact of the changes and identify what implementation and compliance strategies they need to put in place. Plan ahead for a smooth transition.

George Z. Georgiou & Associates LLC is here to advise you. Find out more about us at www.gzg.com.cy

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