

Cyprus' notifications under the GDPR articles 88(3), 90(2) and 49(5)

Processing of personal data in the employment context under Article 88(3)

CY has not included in its national legislation (Law 125(I)/2018) any implementing provisions for the processing of personal data in the employment context under Article 88(3).

Obligation of secrecy under Article 90(2)

Several provisions have been included in Law 125(I)/2018, with regard to the obligation of secrecy:

Section 15, which relates to the obligation to professional secrecy or confidentiality of the data protection officer provides that:

15(1) Subject to the provisions of any law that regulates issues of professional secrecy or confidentiality, the data protection officer is bound to professional secrecy or confidentiality in the performance of his or her duties.

(2) The obligation to professional secrecy or confidentiality of the data protection officer shall not affect the investigative powers of the Commissioner, provided for in Article 58, paragraph 1 of the Regulation and in paragraphs (a) and (b) of section 25 of this Law.

Section 21(1)(b), which relates to the rights and obligations of the Commissioner, provides that:

The Commissioner, during his term of office and after its expiry, he shall be bound by a duty of professional secrecy or confidentiality.

Section 21(2) also provides that:

In the case where the Commissioner, in contravention of the Regulation and of this Law, discloses, in any way, information or personal data to which he has access to as a result of his capacity, or allows anyone to acquire knowledge thereof, commits an offense and in the case of conviction, is subject to imprisonment which shall not exceed three (3) years or to a fine which shall not exceed thirty thousand euro (€30.000) or to both of these penalties.

Section 22, which relates to the Office of the Commissioner, provides that:

The Commissioner shall have an office that may be staffed by permanent, temporary and open-ended contract public servants:

The Commissioner shall be involved in the procedure for the selection of the Office's staff and the staff shall be subject to the exclusive direction of the Commissioner:

The staff of the Commissioner's Office shall be bound to professional secrecy or confidentiality, even after the expiry of their service.

Section 25(a), which relates to the additional powers of the Commissioner, provides that:

Without prejudice to the provisions of Article 58, paragraph 1, points (a) and (e) of the Regulation, the Commissioner shall have access to all the personal data and to all the information required for the performance of his tasks and the exercise of his powers, including confidential information, except for information covered by legal professional privilege.

Limitations to the transfer of specific categories of data for important reasons of public interests under Article 49(5)

Section 17, which relates to the transfer of special categories of personal data based on appropriate safeguards or binding corporate rules, provides that:

17.-(1) When the controller or the processor intends to transfer special categories of personal data to a recipient in a third country or to an international organisation and the intended transfer is based on appropriate safeguards provided for in Article 46 of the Regulation or on binding corporate rules provided for in Article 47 of the Regulation, the controller or the processor shall inform the Commissioner for the intended transfer before the said data are transferred.

(2) Notwithstanding the provisions of Articles 46 and 47 of the Regulation, the Commissioner may, for important reasons of public interest, impose explicit limits to the controller or the processor for the transfer of the special categories of personal data referred to in subsection (1).

(3) In the case where the appropriate safeguards or the binding corporate rules referred to in subsection (1) were adopted by the Commission or in accordance with the consistency mechanism provided for in Article 63 of the Regulation, before imposing the limits referred to in subsection (2), the Commissioner shall consult, where appropriate, with the Commission, the lead authority and the other concerned authorities.

Section 18, which relates to the transfer of special categories of personal data based on derogations for specific processing situations, provides that:

18.-(1) A transfer carried out by a controller or processor, of special categories of personal data, to a third country or an international organization, which is based on derogations for specific situations provided for in Article 49 of the Regulation, requires carrying out an impact assessment and prior consultation with the Commissioner.

(2) The impact assessment referred to in subsection (2) shall contain the information provided for in Article 35 paragraph (7) of the Regulation and, where applicable, a description of the technical and organisational security measures provided for in Articles 24, 25, 28 and 32 of the Regulation.

(3) Notwithstanding the provisions of Article 49 of the Regulation, the Commissioner may, for important reasons of public interest, impose explicit limits to the controller or the processor for the transfer of special categories of personal data referred to in subsection (1).