

LAW 125(I) of 2018

LAW PROVIDING FOR THE PROTECTION OF NATURAL PERSONS WITH REGARD TO THE PROCESSING OF PERSONAL DATA AND FOR THE FREE MOVEMENT OF SUCH DATA

Official Journal of the EU: L.119, 4.5.2016, page.1 For the purpose of effectively implementing certain provisions of the European Union Act titled «Regulation (EE) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)»,

The House of Representatives votes as follows:

PART I GENERAL PROVISIONS

Short title 1. This Law shall be referred to as the Protection of Natural Persons With Regard to the Processing of Personal Data and for the Free Movement of Such Data of 2018.

Definitions 2.-(1) In this Law, unless the text of the Regulation provides a different meaning –

«Police» shall mean the Cyprus Police;

«genetic data» shall mean personal data relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from the natural person in question;

«personal data» shall mean any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

«binding corporate rules» shall mean personal data protection policies which are adhered to by a controller or processor established on the territory of a Member State for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings, or group of enterprises engaged in a joint economic activity;

«Republic» shall mean the Republic of Cyprus;

«Cross-border processing» shall mean -

- a) processing of personal data which takes place in the context of the activities of establishments in more than one Member State of a controller or processor in the Union where the controller or processor is established in more than one Member State; or
- b) processing of personal data which takes place in the context of the activities of a single establishment of a controller or processor in the Union but which substantially affects or is likely to substantially affect data subjects in more than one Member State;

«International organisation» shall mean an organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries.

«representative» shall mean a natural or legal person established in the Union who, designated by the controller or processor in writing pursuant to Article 27, represents the controller or processor with regard to their respective obligations under this Regulation;

«processor» shall mean a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;

«processing» shall mean any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

«Commissioner» shall mean the Commissioner of Personal Data Protection appointed pursuant to the provisions of Article 19 of this Law;

«enterprise» shall mean a natural or legal person engaged in an economic activity, irrespective of its legal form, including partnerships or associations regularly engaged in an economic activity;

«supervisory authority» shall mean the Commissioner appointed in accordance with Article 19 of this Law, which implements the provisions of Article 51 of the Regulation;

«Regulation» shall mean Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

«Regulation (EU) 765/2008» shall mean Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93;

156(I)/2002
 10(I)/2010
 57(I)/2011
 69(I)/2012
 120(I)/2012

«Cyprus Organisation for the Promotion of Quality» shall mean the Cyprus Organisation for the Promotion of Quality which is designated as the national accreditation body in accordance with the provisions of Standardisation, Accreditation and Technical Notification Law;

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 page.1

«Directive (EU) 2015/1535 » shall mean Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services;

«group of undertakings» shall mean a controlling undertaking and its controlled undertakings;

« personal data breach» shall mean a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

«consent» of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;

«filing system» shall mean any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;

«controller» shall mean the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union law or the law of the Republic;

«information society service» shall mean a service as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council;

«Minister» shall mean the Minister of Justice and Public Order.

(2) Any terms contained in this Law that are not specifically defined by this Law, shall have the meaning attributed to them by the Regulation.

Scope

3. This provisions of the Law shall apply to the Republic in accordance with the provisions of Articles 2 and 3 of the Regulation.

Competent
 authority

4. The competent authority for implementing the provisions of the Regulation and of this Law in the Republic is the Minister of Justice and Public Order.

PART II LAWFULNESS OF CERTAIN PROCESSING OPERATIONS

Processing of personal data by Courts and the House of Representatives.	<p>5. Without prejudice to the provisions of Article 6, paragraph 1 point (e) of the Regulation, the processing of personal data is permitted and is lawful when it is carried out by -</p> <p style="margin-left: 40px;">(a) Courts acting in their judicial capacity for purposes of delivering justice, including the processing of personal data necessary for the publication and adoption of decisions of any court, and</p> <p style="margin-left: 40px;">(b) The House of Representatives within its powers.</p>
Publication or adoption of decisions of the courts	<p>6. The processing of special categories of data laid down in Article 9 of the Regulation is permitted and is lawful when it is carried out for the purpose of publishing or issuing a decision of any court or when it is necessary for the purpose of delivering justice.</p>
Processing on the basis of a Decision of the Council of Ministers	<p>7. The processing of personal data which is vested by virtue of a Decision of the Council of Ministers to a public authority or body for the performance of a task carried out in the public interest or in the exercise of official authority shall be performed lawfully and fairly, in a clear, precise and transparent manner in relation to the data subject, in accordance with the provisions of Article 5, paragraph (1), point (a) and Article 6 paragraph (1) point (e) of the Regulation.</p>
Offering of information society services to a child	<p>8.-(1) When the offering of information society services directly to a child is based on the child's consent, the processing of personal data shall be lawful where the child is at least fourteen (14) years old.</p> <p style="margin-left: 40px;">(2) For a child younger than fourteen (14) years old, the processing of personal data referred to in subsection (1) shall be lawful when consent is given or authorised by the holder of parental responsibility over the child.</p>
Processing of genetic and biometric data	<p>9.-(1) The processing of genetic and biometric data for purposes of health and life insurance is prohibited.</p> <p style="margin-left: 40px;">(2) Without prejudice to Article 5, paragraph (1) point (b) of the Regulation, where the processing of genetic and biometric data is based on a data subject's consent, the further processing of such data requires the separate consent of the data subject.</p>
Combination of filing systems by public authorities or bodies	<p>10.-(1) The combination of large-scale filing systems of two or more public authorities or bodies, is permitted only for reasons of public interest and provided that the provisions of Article 6 paragraph (1), points (c) or (e) or Article 9 paragraph 2 points (g), (h) or (i) of the Regulation are fulfilled.</p> <p style="margin-left: 40px;">(2) In the case where the combination relates to special categories of personal data or to personal data relating to criminal convictions and offences or is to be carried out with the use of the identity card number or any other identifier of general application, it is required to carry out a data protection impact assessment and a prior consultation with the Commissioner.</p> <p style="margin-left: 40px;">(3) The impact assessment referred to in subsection (2) shall be carried out jointly by the public authorities or bodies that intend to combine their filing systems and shall contain the information provided for in Article 35 paragraph</p>

(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.

(4) The Commissioner can authorise the combination of the filing systems referred to in this Article and impose to the public authorities or bodies that intend to combine their filing systems, terms and conditions for the materialisation of the combination.

PART III RESTRICTIONS OF RIGHTS AND OBLIGATIONS

Restriction of rights

11.-(1) Subject to the provisions of Article 23, paragraph (1) of the Regulation, a controller may implement measures to restrict, wholly or partly, the rights referred to in Articles 12, 18, 19 and 20 of the Regulation:

Where the restrictions of the rights relates to a processing operation carried out by a processor, the measures referred to in subsection (1) are implemented in accordance with the provisions of Article 28 of the Regulation.

(2) The implementation of the measures referred to in subsection (1) requires carrying out an impact assessment and prior consultation with the Commissioner.

(3) The impact assessment referred to in subsection (2) shall contain the information provided for in Article 23 paragraph (2) and 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.

(4) Subject to the provisions of Article 14 paragraph (5) of the Regulation, the controller shall inform the data subject for the implementation of the measures referred to in subsection (1).

(5) The Commissioner may impose to the controller terms and conditions for the implementation of the measures referred to in subsection (1) and for the information to the data subject referred to in subsection (4).

Derogation in relation to the communication of a data breach

12.-(1) A controller may be exempt from the obligation to communicate a personal data breach to the data subject, wholly or partly, for one or more of the purposes referred to in Article 23, paragraph 1 of the Regulation.

(2) The exemption to the obligation to communicate a personal data breach referred to in subsection (1) requires carrying out an impact assessment and prior consultation with the Commissioner.

(3) The impact assessment referred to in subsection (2) shall contain the information provided for in Article 23 paragraph (2), Article 35 paragraph (7) of the Regulation.

(4) The Commissioner may impose to the controller terms and conditions for the exemption to the obligation to communicate a personal data breach referred to in subsection (1).

PART IV
IMPACT ASSESSMENT DURING THE PREPARATION OF LEGISLATIVE
MEASURES

Carrying out an impact assessment after the adoption of legislative or regulatory measures

13.-(1) Before the adoption of a law or Regulations by virtue of law, which regulate a specific processing operation or set of operations, an impact assessment and prior consultation with the Commissioner is required.

(2) The provisions of subsection (1) shall not apply, if the Commissioner considers that the impact assessment carried out during the adoption of a law or Regulations by virtue of law is adequate and that it is not required to carry out an additional impact assessment prior to the initiation of the specific processing operation or set of operations regulated by this law or Regulations.

PART V
DATA PROTECTION OFFICER

Designation of the data protection officer

14.-(1) The data protection officer is designated in accordance with the provisions of Article 37 of the Regulation.

(2) The Commissioner may establish and make public a list of processing operations and cases requiring the designation of a Data Protection Officer, in addition to the cases referred to in Article 37 paragraph 1 of the Regulation.

(3) The Commissioner may publish on the Office's website a list of controllers and processors who designated a data protection officer and their contact details, provided that the controller and the processor wish to be included in the list.

Obligation to professional secrecy or confidentiality of the data protection officer

15.-(1) Subject to the provisions of any law regulating 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.

PART VI
ACCREDITATION OF CERTIFICATION BODIES

Accreditation of certification bodies

16.-(1) The accreditation of certification bodies shall be carried out by the Cyprus Organization for the Promotion of Quality in accordance with the provisions of Article 43 of the Regulation.

(2) For the accreditation of a certification body, the Cyprus Organization for the Promotion of Quality shall receive a favorable opinion from the Commissioner, that the applicant certification body fulfills the requirements of Article 43 paragraph (2) points (a), (b) and (e) of the Regulation.

(3) The Cyprus Organization for the Promotion of Quality shall revoke the

accreditation of a certification body where the requirements for accreditation are not, or are no longer, met or where actions taken by a certification body infringe the provisions of the Regulation or of this Law.

(4) The Commissioner may demand from the Cyprus Organization for the Promotion of Quality to revoke the accreditation of a certification body provided that the Commissioner detects that the requirements for accreditation are not, or are no longer, met or where actions taken by a certification body infringe the provisions of the Regulation or of this Law.

(5) In the case where the Cyprus Organization for the Promotion of Quality does not revoke the accreditation of a certification body in accordance with subsections (3) and (4), the Commissioner shall report the case to the European Commission.

PART VII

TRANSFER OF SPECIAL CATEGORIES OF DATA TO A THIRD COUNTRY OR INTERNATIONAL ORGANISATION

Transfer of special categories of personal data based on appropriate safeguards or binding corporate rules

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.

Transfer of special categories of personal data based on derogations for specific processing situations

18.-(1) A transfer carried out by a controller or processor, of special categories of personal data to a third country or an international organisation, 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).

PART VIII
THE COMMISSIONER FOR PERSONAL DATA PROTECTION

Appointment,
qualifications, term
of office of the
Commissioner

19.-(1) The Commissioner for Personal Data Protection shall be appointed by the Council of Ministers, upon the recommendation of the Minister.

(2) The person appointed as Commissioner shall possess the qualifications for the appointment of a Supreme Court Judge.

(3) The term of office of the Commissioner shall be for a period of six (6) years, renewable for one more term.

(4) Subject to the provisions of Article 53, paragraph 4 of the Regulation and section 20 of this Law, the Commissioner shall not be dismissed during his or her term of office for reasons other than mental or physical incapacity or physical handicap rendering him or her incapable of exercising his or her duties.

(5) The Commissioner is appointed as the supervisory authority for the purposes of the Regulation and shall be responsible for monitoring the application of the Regulation and of this Law in the Republic and of other legislative measures relating to the processing of personal data.

Dismissal of the
Commissioner

20.-(1) The Commissioner shall be dismissed, if during his or her term of office:-

(a) takes any action incompatible with his or her duties or engages in any incompatible occupation, whether gainful or not; or

(b) is convicted for the offence provided for in subsection (3) of section 21 of this Law.

(2) The Council of Ministers shall publish in the Official Gazette of the Republic the dismissal of the Commissioner referred to in subsection (1) and the date of effect of the dismissal.

Rights and
obligations of the
Commissioner

21.-(1) The Commissioner shall receive remuneration which shall be determined by the Council of Ministers.

(2) The Commissioner-

a) in the performance of his or her duties, tasks and powers shall act according to his or her conscience and in accordance with the provisions of the Regulation and of this law,

b) during his or her term of office and after its expiry, he shall be bound by a duty of professional secrecy or confidentiality,

c) as a witness or expert he or she may provide any evidence before a

court for the application of the Regulation and of this Law, as well as of other legislative measures relating to the processing of personal data,

- d) after the expiry of his or her term of office, he shall refrain from any action incompatible with his or her duties and shall not engage in any incompatible occupation, whether gainful or not, for a period of two (2) years.

(2) 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 or her 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.

Office of the
Commissioner

22. 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.

Duties and
powers of the
Commissioner

23.-(1) The Commissioner shall perform the duties entrusted to him or her and exercise the powers conferred by the provisions of the Regulation, this Law and any other law.

(2) The Commissioner may, subject to the principle of hierarchy, authorise in writing, any officer of his or her Office, who holds a position of authority, to exercise on his or her behalf such duties and powers under such conditions, exceptions and reservations which the Commissioner shall determine in his authorisation.

(3) The Commissioner may, upon his or her discretion, give publicity to a case which concerns the performance of his or duties and the exercise of his or her powers:

Where a case relates to cross-border processing, the Commissioner shall consult with the lead authority and other concerned authorities his or her intention to give publicity to the case, in accordance with the provisions of this subsection.

(4) The Commissioner shall have no competence to supervise processing operations carried out by courts of the Republic when acting in their judicial capacity.

Additional duties

24. Subject to the provisions of Article 57 of the Regulation and in addition to

of the
Commissioner

the duties provided for in that Article, the Commissioner performs the following duties: -

(a) may publish on the Office's website the means of lodging complaints and requests;

(b) shall examine a complaint and, where possible, depending on the nature and type of the complaint, shall inform the complainant in writing for the progress and outcome within thirty (30) days of the submission of the complaint:

If the complaint is deemed unfounded or does not fall within the competence of the Commissioner, he shall inform the complainant in writing within thirty (30) days of the filing of the complaint;

(c) shall inform, where appropriate, the data subject, the controller and the processor for the time limits provided for in Articles 60 to 66 of the Regulation;

(d) may not investigate a complaint or discontinue its investigation for reasons of public interest and shall notify to the data subject, within a reasonable period, the reasons for not investigating or for terminating the investigation of the complaint;

(e) may establish and make public the list of processing operations and cases that require the designation of a Data Protection Officer, in accordance with the provisions of section 14 of this Law; and

(f) may publish on the Office's website, the list of controllers and processors who designated a data protection officer as provided for in section 14 of this Law.

Additional powers
of the
Commissioner

25. Subject to the provisions of Article 58 of the Regulation and in addition to the powers provided for in that Article, the Commissioner shall exercise the following powers: -

a) Subject 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 or her tasks and the exercise of his or her powers, including confidential information, except for information covered by legal professional privilege;

b) Subject to the provisions of Article 58, paragraph 1, point (f) of the Regulation, the Commissioner shall have the power to enter, without necessarily informing the controller or the processor or their representative in advance, in any office, professional premises or mean of transport, with the exception of residences;

c) For the exercise of the investigative powers provided for in Article 58, paragraph (1) of the Regulation and in this section, the Commissioner may be assisted by an expert or/and the police;

d) In the exercise of his or her investigative powers, the Commissioner

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2 of 1975
12 of 1975
41 of 1978
162 of 1989
142 of 1991
9(l) of 1992
10(l) of 1996
89(l) of 1997
54(l) of 1998
96(l) of 1998
14(l) of 2001
185(l) of 2003
219(l) of 2004
57(l) of 2007
9(l) of 2009
111(l) of 2011
165(l) of 2011
7(l) of 2012
21(l) of 2012
160(l) of 2012
23(l) of 2013
16(l) of 2014
42(l) of 2014
186(l) of 2014

may seize documents or electronic equipment by virtue of a search warrant in accordance with the Criminal Procedure Law;

- e) In addition to the corrective powers provided for in Article 58, paragraph 2 of the Regulation, the Commissioner shall require the Cyprus Organization for the Promotion of Quality to revoke the accreditation of a certification body, when the Commissioner ascertains that the requirements for the certification are not or are no longer met or where actions taken by the certification body violate the provisions of the Regulation or of this Law;
- f) The Commissioner shall denounce the Cyprus Organization for the Promotion of Quality to the European Commission , in the case where the Cyprus Organization for the Promotion of Quality does not revoke an accreditation of a certification body in accordance with subsections (3) and (4) of section 16 of this Law;
- g) In addition to the authorisation and advisory powers provided for in Article 58, paragraph 3 of the Regulation, the Commissioner shall have the power to: -
 - i. authorise the combination of filing systems provided for in section 10 of this Law and impose terms and conditions for the materialisation of the combination,
 - ii. impose terms and conditions in relation to the application of the measures for the restriction of the rights referred to in section 11 of this Law,
 - iii. impose terms and conditions for the exemption to the obligation to communicate the data breach referred to in section 12 of this Law,
 - iv. impose explicit limits for the transfer of special categories of personal data referred to in sections 17 and 18 of this Law,

- v. recommend to the Minister the conclusion of agreements with other countries and conclude, establish and sign the Memoranda of Understanding provided for in section 35 of this Law;
- h) Subject to the provisions of Article 58, paragraph 5 of the Regulation, the Commissioner shall notify to the Attorney General of the Republic and/ or to the police any contravention of the provisions of the Regulation or of this law, that may constitute an offense in accordance with provisions of section 33 of this Law; and
- i) The Commissioner shall confer the powers provided for in section 27 of this law to members or staff of the seconding authority who participate in a joint operation in the Republic.

Annual Report 26. The Commissioner shall submit an annual activity report to the President of the Republic and to the President of the House of Representatives which shall published on the Office’s website.

Joint Operations 27.-(1) Subject to the provisions of Article 62 of the Regulation, the Commissioner may participate in joint operations with supervisory authorities of other member states.

(2) Where a joint operation takes place in the Republic, the Commissioner may confer powers, including investigative powers, to the members or staff of the seconding supervisory authority who participate in the joint operation.

Judicial remedy against decisions of the Commissioner 28. Every natural or legal person shall have the right to an effective judicial remedy against a decision of the Commissioner concerning them, before the Administrative Court.

PART IX
PROCESSING OF PERSONAL DATA IN SPECIFIC SITUATIONS

Processing and freedom of expression and information 29.-(1) The processing of personal data or special categories of personal data or personal data relating to criminal convictions and offenses, which is carried out for journalistic or academic purposes or for purposes of artistic or literary expression, is permitted, provided that those purposes are proportionate to the aim pursued and respect the essence of the rights as set out in the Charter of Fundamental Rights of the European Union and in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which was ratified by the ratifying law on the European Convention for the Protection of Fundamental Rights and in Part II of the Constitution.

Law 39 of 1962

(2) The provisions of Article 14 and 15 of the Regulation shall apply to the extent that they do not impair the right to freedom of expression and information and journalistic secrecy.

Processing and public access to official documents 30. Personal data in official documents held by a public authority or body for the performance of a task carried out in the public interest shall be disclosed in accordance with the provisions of the Right of Access to Documents of the Public Sector Law.

Law 184(l) of 2017

Safeguards and 31. The processing which is carried out by a controller or a processor for

derogations relating to processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be used for taking a decision which produces legal effects concerning the data subject or similarly significantly affects him or her.

PART X ADMINISTRATIVE FINES AND OFFENSES

Administrative fines 32.-(1) The Commissioner shall impose administrative fines in accordance with Article 83 of the Regulation.

(2) Where the administrative fine referred to in subsection (1) remains unpaid, it shall be collected as a civil debt due to the Republic.

(2) An administrative fine imposed to a public authority or body, which relates to non-profitable activities shall not exceed two hundred thousand (200,000) euro.

Offenses and sanctions 33.-(1) An offense shall be committed by: –

(a) a controller or a processor who does not maintain the record of processing activities provided for in Article 30 of the Regulation or does not update this record or does not make the record available to the Commissioner on request or provides false, inaccurate, incomplete or misleading information to the Commissioner in relation to this record,

(b) a controller or a processor who does not cooperate with the Commissioner in accordance with the provisions of Article 31 of the Regulation,

(c) a controller who does not notify to the Commissioner a personal data breach, in accordance with the provisions of Article 33, paragraph 1 of the Regulation,

(d) a processor who does not notify to the controller without undue delay a personal data breach, in accordance with the provisions Article 33, paragraph 2 of the Regulation;

(e) a controller who does not communicate a personal data breach to the data subject, in accordance with the provisions of Article 34 of the Regulation;

(f) a controller who does not carry out an impact assessment, in breach of the provisions of Article 35, paragraph 1 of the Regulation or

of section 13 of this Law;

(g) a controller or a processor who prevents the data protection officer to perform his or her tasks, in particular those relating to the cooperation with the Commissioner.

(h) a certification body which issues or does not withdraw a certification, in accordance with the provisions of Article 42 of the Regulation;

(i) a controller or a processor who transfers personal data to a third country or an international organisation, in breach of Chapter V of the Regulation;

(j) a controller or a processor who transfers personal data to a third country or an international organisation, in breach of the explicit limits imposed by the Commissioner in accordance with sections 17 or 18 of this law;

(k) a person who, without right intervenes, in any way, in a filing system or acquires knowledge of the personal data thereof or removes, alters, damages, destroys, processes or uses in any way, discloses, communicates, renders them accessible to non authorised persons or allows these persons to acquire knowledge of the said data, for gainful purposes or not;

(l) a controller or a processor who prevents or impairs the exercise of the Commissioner's powers provided for in Article 58 of the Regulation and in section 17 of this law;

(m) a controller or a processor who does not comply with the provisions of the Regulation and of this law when carrying out a processing activity which does not constitute an offense in accordance with the provisions of this section;

(n) a public authority or body which proceeds to the combination of large scale filing systems in breach of the provisions of section 10 of this law;

(2) If a person is convicted for committing any of the offenses referred to in subsection (1) paragraphs (a) to (l) he or she shall be subject to imprisonment which shall not exceed three (3) years or to a fine which shall not exceed thirty thousand (30,000) euro or to both of these penalties.

(3) If a person is convicted of committing any of the offenses referred to in subsection (1) paragraphs (m) and (n) he or she shall be subject to imprisonment which shall not exceed one (1) year or to a fine which shall not exceed ten thousand (10,000) euro or to both of these penalties.

(4) If a person is convicted of committing any of the offenses referred to in subsection (1) paragraphs (g) to (j), which damages the interests of the Republic or impairs the free governing of the Republic or compromises national security, he or she shall be subject to imprisonment which shall not

exceed five (5) years or to a fine which shall not exceed fifty thousand (50,000) euro or to both of these penalties.

(5) For the implementation of the provisions of this section-

- a) Where the controller or the processor is an enterprise or a group of undertakings, the legal responsibility lays with the person designated as the supreme executive instrument or body of the enterprise or group of undertakings,
- b) Where the controller or the processor is a public authority or body, the legal responsibility lays with the head of the public authority or body or with the person who exercises substantial administration of the public authority or body.

PART XI FINAL PROVISIONS

Regulations 34. The Council of Ministers shall issue Regulations for the effective implementation of the provisions of the Regulation and of this Law, upon the recommendation of the Commissioner.

International cooperation 35.-(1) In the absence of an appropriate legal measure taken by the Commission, binding for the Member States, the Commissioner may recommend to the Minister the conclusion of agreements with third countries or international organisations for the fulfillment of the purposes referred to in article 50 of the Regulation.

(2) The Commissioner may conclude, establish and sign memoranda of understanding with equivalent authorities of other countries or with international organisations.

Repealing of Law 36. Upon entry into force of the provisions of this law, the Processing of Personal Data (Protection of Individuals) Laws of 2001 to 2012 shall be repealed.
138(I)/2001
37(I)/2003
105(I)/2012

PART XII TRANSITIONAL PROVISIONS

Transitional provisions 37.-(1) The appointment of the Commissioner, which was made by the Council of Ministers on the basis of Decision no. 79.538, dated 28.9.2015, for four (4) years, is valid until the expiration of his or her term of office.

(2) Acts issued by the Commissioner under the provisions of the Processing of Personal Data (Protection of Individuals) Law, which is repealed, shall continue to be valid until their expiration or replacement.

(3) Until the Cyprus Organisation for the Promotion of Quality is successfully submitted to the peer evaluation provided for in Article 10 of Regulation (EC) No 765/2008 as regards the procedures for the assessment of adherence for which accreditation is requested, an applicant certification body may be accredited by another accreditation organisation, in accordance with the

provisions of the Accreditation, Standardization and Technical Information Law and the provisions of Regulation (EC) No 765/2008.