



N. XENOFONTOS LLC

## **Cyprus: 2019 GDPR review**



The Office of the Commissioner of Personal Data Protection (the “Commissioner”), is the competent and independent supervisory authority for the protection of personal data and privacy.

Recently, the Commissioner announced the imposition of record corporate fines following the entry into force of the GDPR in Cyprus. These fines related to companies within the same group that were found to have made unlawful use of an automated formula to manage and keep an eye on their employees’ sick leave. The fine imposed amounted to €82,000. In order to monitor this sick leave, these companies used the so-called Bradford Factor (or Bradford Formula) that is commonly used in HR management as a means of measuring employee absence.

It was held by the Commissioner that an individual’s sick leave and their frequency amounts to “special categories of personal data” according to article 9 of the GDPR and the companies were blocked from establishing a lawful legal basis for such processing.

Although employers have a right to monitor the frequency of sick-leaves and the validity of medical notes of employees is permitted, such right should not be abused and must always be performed within the limits of the law.

Other noteworthy decisions in 2019 included:

1. Instructing the Cyprus Bar Association to re-examine the mode of publication of first instance courts cases published in the legal online portal;
2. A €14,000 fine to a private doctor who published special categories of personal data of a patient on a social networking platform without the prior consent of that patient and

3. A €9,000 administrative fine imposed on Social Insurance Services for inadequate security measures leading to a data leak and breach back in 2017.

The existing law dictates that where a type of processing, in particular the use of new technologies in the digital age we are living in, and considering the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, companies must, prior to the processing, carry out an assessment of the impact of the envisioned processing that it may have on the protection of personal data. If it is seen that the processing would be high risk, a consultation with the Commissioner would be necessary.

Overviewing the 2019 outcomes, one can conclude that ignorance of privacy laws can be detrimental to organisations that process personal data, with the imposition of heavy fines and by extension, reputational damage.

GDPR compliance requires self-regulation and awareness of practical implementation of legal, technical and organisational measures.

N. Xenofontos LLC can help your organisation with keeping up to date and more importantly, be compliant.

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