

**COMMISSIONER
FOR PERSONAL DATA PROTECTION
(CYPRUS)**

**Year Review
2004**

This is the second Annual Report issued by the Commissioner. It states the main activities of the Commissioner's Office during the year 2004, which is the third year since its establishment.

PART I: The legislation

The Law for Processing of Personal Data (Protection of Individuals) came into force in November 2001. Ms. Goulla Frangou was appointed by the Council of Ministers in January 2002 as the Commissioner for Personal Data Protection, for a period of four years. The Commissioner's Office was established in May 2002 and in 2004 it consisted of five officers and four secretarial staff.

The Law was introduced in the context of the harmonization process and specifically with Directive 95/46/EC of the European Parliament and Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

At the same time, the Cyprus Parliament ratified the Convention of the Council of Europe for the protection of individuals with regard to the automatic processing of personal data, which came into force on 1 June 2002.

The Law applies to natural living persons and covers automated, partially automated and in some cases non-automated processing operations, both in the public and the private sector. It defines the rights of the data subjects and the obligations of the controllers and it sets the principles for lawful processing of personal data carried out in the Republic.

Under the Law, the Commissioner is an independent authority and has the competence to keep the registers and grant the licenses provided by the Law, to issue guidance, rules and recommendations, to conduct administrative inquiries, to impose sanctions for breaches of the Law, to express an opinion on any regulation relating to the processing and protection of personal data and to cooperate with Data Protection Authorities of member-states of the European Union and the Council of Europe.

In 2004, with the enactment of the Law regulating electronic communications and postal services, which transposes, inter alia, the Directive 2002/58/EC on privacy and electronic communications, the responsibilities of the Commissioner were extended to cover the part of the Law which deals with secrecy of communications, traffic and location data, telephone directories and unsolicited communications.

PART II: Activities of the Office

Notifications

The Law provides that all controllers (with some exceptions) should notify the Commissioner about the establishment and operation of filing systems or the processing of personal data they are carrying out. The Notification describes the purpose of processing, the categories of data subjects and the personal data that is being processed, the retention period and the third parties to whom the data may be transferred or communicated.

The Commissioner keeps a Register of Notifications, which is available for inspection by the public.

The submission of Notifications is considered to be a useful instrument for the conducting of audits and it also promotes transparency.

In 2004, 249 Notifications had been submitted, which raised to 1619 the total number of Notifications. Although the deadline for the submission of the notifications has expired in 2003, we believe that there is still a great number of organizations, mainly in the private sector, that did not fulfill this legal obligation. The Commissioner will continue her efforts and awareness policy in this field.

Early in 2004, three Municipalities were fined for omitting to submit Notifications for their processing operations/ filing systems to the Commissioner.

Licenses

Subject to the provisions of the Law, transmission of data that have undergone processing or are intended for processing after their transmission to any country, outside the European Union is allowed after a license issued by the Commissioner.

In 2004, 10 applications for a license to transmit data to third countries were submitted. Four licenses had been issued, mostly to private organizations. Three applications were not examined as they related to transmission to countries-members of the E.U. Three applications are still pending.

A license is also needed for the combination of filing systems. "Combination" according to the Law, means a form of processing which involves the possibility of connection of the data of one filing system with the data of a filing system or systems kept by another controller or other controllers or kept by the same controller for another purpose. In the year under review the Commissioner has granted seven licenses, mostly to governmental departments.

Complaints

During 2004, 80 complaints had been submitted. Most of the complaints received (35%) referred to disclosure of personal data to third parties without consent.

A considerable number involved data held by the Cyprus Stock Exchange, which was communicated to the Committee of Enquiry appointed to examine the state of transactions during the years 1999 – 2000.

Spam, junk mail and unsolicited commercial communications have increased significantly last year in Cyprus and the Commissioner's Office has been receiving, by phone, a number of complaints every month. The investigation of these complaints occasionally presents problems due to constitutional and other legal provisions relating to the right of every person to respect and secrecy of his communications.

Another big category of complaints concerned the collection of excessive data, mainly through applications for employment. After our intervention, most of the data controllers concerned have proceeded to the modification of their application forms

in accordance with our instructions, while others are still in the process of reviewing them.

Awareness

Apart from statements to the media on matters of current interest, in 2004 a seminar about the Law on data processing and the obligation of controllers had been organized for the Union of Municipalities and the Association of Accountants. Speeches were also given to other professional associations.

Guidance on the use of the Internet and Video-Surveillance were issued in 2004 and were also posted on the Office website (in Greek version) www.dataprotection.gov.cy.

The same year, the English version of the Data Protection Act and Part of the Electronic Communications Law were made available on our website, as well as links to other Data Protection Authorities. More information in English version will be posted on the Office website in the near future.

Communication

A large number of queries had been received by telephone, both by organizations/controllers and by citizens, regarding personal data processing operations and complaints.

Concerning the queries, assistance and guidance was given to help the data controllers comply with the law.

In the case of complaints, the citizens were encouraged to submit their complaints in writing in order to facilitate their investigation.

Audits and Field Inquiries

During the year under review five audits had been carried out. Four of them were routine audits and one was carried out during the investigation of a complaint. As regards the routine audits three public administration departments, one credit referencing agency and one private company were selected for auditing.

The scope of these audits was to establish whether, in practice, the processing operations of these organizations were carried out in accordance with to the information provided in the relevant Notifications and also to inquire on the methods used by them for collecting and processing personal data.

International Activities

The Commissioner and her staff participate in many international fora in order to follow the continuous developments in the field of data protection and technology. These fora include the Article 29 Working Party, the Joint Supervisory Authorities for Schengen, Europol and Customs, the Advisory Committee for Convention 108 (T-PD), the annual Convention of PD Commissioners, the European Spring Conference and many others.

PART III: Future Developments

The main targets of the Office of the Commissioner for 2005 are the following:

- ❑ An amendment of the Law will be submitted in order to achieve a better harmonization with the Directive 95/46/EC.
- ❑ Raising public awareness, particularly in regard to the right of access.
- ❑ Submit a proposal for the designation of a data protection Officer in every government department.
- ❑ Increase the number of audits.
- ❑ Ensure that as many data controllers, both from the public and private sector, comply with their legal obligation of notifying to the Commissioner their processing operations/ filing systems.
- ❑ Develop and improve our cooperation practices with all parties involved.