

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

**Year Review
2005**

The Law for Processing of Personal Data (Protection of Individuals) came into force in November 2001. Ms. Goulla Frangou was appointed Commissioner for Personal Data Protection by the Council of Ministers in January 2002, for a period of four years. This is the third Annual Report issued by the Commissioner, reflecting the main activities of the Commissioner's Office during the year 2005.

1. Activities of the office

Notifications

108 Notifications submitted in 2005
37 Notifications submitted by the public sector
58 Notifications submitted by the Private sector
1727 Notifications submitted by the end 2005

Licenses

9 applications submitted for a license for Combination of Files
2 licenses granted
16 applications submitted for a license for the transfer of data to third countries
5 licenses granted

Complaints

153 complaints submitted in 2005
93 complaints related to unsolicited communications (spam)
41 complaints against controllers in the public sector
112 complaints against controllers in the private sector

2. Case Studies

2.1. Spam

My Office received very few complaints about spam sent through emails but it received a lot of complaints about spam sent to mobile phones through sms messages. Most of these messages advertise a premium rate number for information about different subjects such as horse racing bets, sports bets, dating services and horoscope.

While investigating these complaints, my staff has visited two big companies that offer mobile phone services such as the sending of ring-tones and wallpapers for mobile phones to obtain information about the way they operate.

Based on article 23 of the Law 138(I)/2001, the Commissioner can have access to any personal data and collect any information necessary for the investigation of the case.

For the investigation of spam complaints it is necessary to obtain information about the sender from the telecommunications service providers. While in the past my Office met problems in locating the senders of spam due to the refusal of the

relevant telecommunications company to inform us about the owners of certain mobile phone numbers that were sending spam, which was due to constitutional restraints, now our cooperation has improved substantially and we were able to successfully complete the examinations of a big number of complaints. There are still cases, however, where the company will not give us the contact information of the owners of certain mobile phone numbers.

In most of the cases that my Office examined, the senders of the messages claimed that they were not aware of the legislation and agreed to comply with our directions to stop sending messages without the consent of the recipient, so no fines were imposed and we noted that we did not receive complaints against the same senders.

In the course of examining a complaint that involved unsolicited advertising sms, my staff conducted an audit on the data controller's company, which sent the sms. The audit showed that the company's action was in breach of the provisions of The Regulation of Electronic Communications and Postal Services Law of 2004 and I issued a Decision by which a fine of £1,500 CYP was imposed on the company.

2.2. Unauthorized Publication of Photos

A couple complained that their wedding photographer was using their photos for marketing purposes without their informed consent and in spite of their opposition to this publication which had been communicated to the photographer. To substantiate their allegations, the couple provided evidence, such as leaflets and posters that the photographer had prepared with their photos in them.

We were not able to get the views of the photographer, as he did not respond to our request to submit his position/ comments on the case.

Having ascertained that the photographer did receive our letters and in the absence of evidence to the contrary, I accepted the allegations of the complainants and imposed a fine of £1,000 CYP.

2.3. Publication of examination results in the public Administration and the right of access

Several government departments used to have as a policy not to publish the results of the examinations they were organizing for purposes of recruiting staff. The applicants could only get their results through the intervention of an advocate.

My Office received a number of complaints and I issued a circular letter to all the Ministries and government departments informing them of the right of access the Law grants to applicants and their obligation to comply in the manner prescribed by the Law. Following this, there has been partial compliance with the Law and we are continuing our efforts so that we can get full compliance.

3. Awareness

3.1. In order to raise public awareness my Office organized during 2005 the following events and seminars:

- ❑ An open seminar in which Mr. Demetrios Gourgourakis, the President of the Greek Data Protection Authority and Mr. Athanasios Papachristou, a member thereof, gave presentations about the rights of the data subject.
- ❑ A seminar addressed to judges and lawyers in which Mr. Peter Hustinx, the European Data Protection Supervisor gave a presentation about the lawful use of personal data.
- ❑ A one-day workshop organized in association with Technical Assistance Information Exchange Unit (TAIEX) on "Monitoring at work" and addressed both to public and private sector, employees' and employers' associations.

3.2. Officers from my Office take part in the Program organized by the Academy of Public Administration for newly recruited public servants and they also give presentations and lectures to various public departments. Lectures on data protection given by officers of my Office are also included in the program of the Police Academy for the police officers of various grades.

1.3. Along with statements to the media on matters of current interest, presentations about the Law on data processing and the obligation of controllers had been organized for Municipalities, the University of Cyprus and other associations.

1.4. And finally Guidance on Monitoring at Work was issued in 2005 and was also posted on the Office website (in Greek) www.dataprotection.gov.cy.

4. Audits and Field Inquiries

One of the audits that were conducted during the year under review concerned the Police filing systems and aimed to check three different fields:

- ❑ The central database of the Police in order to verify whether the Notifications they submitted were accurate and up to date,
- ❑ The preparation for the operation of the National Schengen Information System,
- ❑ The operation of EURODAC.

5. International Activities

The Commissioner and her staff participated in many international fora in order to follow the continuous development in the field of data protection, Article 29 Working Party, the Joint Supervisory Authorities for Schengen, Europol and Customs, the Conference of Data Protection and Privacy Commissioners, the Spring Conference of European Data Protection Commissioners, the meetings of National Authorities involved with enforcement measures relating to Spam, the International Working Group on Data Protection in Telecommunications and others.

Since 2004 Cyprus, along with Malta, has been invited to participate in the annual meeting of the data protection authorities of the United Kingdom, Ireland, Guernsey, Jersey and the Isle of Man. At this meeting the authorities discuss matters of common interest and exchange experiences.

The 2005 meeting was held in Cyprus.

All national Data Protection Authorities of EU member-states, working under the auspices of the of Article 29 Working Party, will take part in an investigation into the processing of personal data in the private health insurance sector in their country. The focus of the investigation is insurance companies offering private medical treatment insurance. The primary aim of the investigation is to ascertain whether and how the data protection regulations are being complied with in this sector across the EU. Based on the results, which will be published in 2007, further recommendation and practical guidance may be issued for the sector with the view to improving compliance in the least burdensome way.