

**National Convention for European Integration
and
Partnership Platform for European Integration
Chapter 23 – Judiciary and Fundamental Rights**

**GDPR and implementation - effects and implications on national legislation and
institutional frameworks**

Friday, 08 July 2022, 10:00 – 12:00

A draft law has been prepared and is being consulted regarding the Protection of Personal Data with the aim to guarantee the security of personal data, in order to offer to the citizens the highest European standards in the field of personal data protection. This draft law comes as a necessity since the current Albanian legal framework for the protection of personal data is not aligned with the EU legislation known as GDPR. Thus, this is a priority to protect and guarantee the security and protection of personal data.

This obligation also comes from the Report of the European Commission for Albania 2021, which, among other things, states that: "Regarding the protection of personal data, further efforts are needed to harmonize the legislation on the protection of personal data with the Regulation of General Data Protection Regulation (GDPR) 2016/679 and Police Directive 2016/680". Based on this recommendation of the EC, the harmonization of the legislation for the protection of personal data with the GDPR and the Police Directive is foreseen by the National Plan on European Integration (NPEI) 2022-2024 to be achieved during the last quarter of 2022.

Some of the objectives of this draft law, as defined also in the explanatory note attached, are: harmonization with the Acquis communautaire, implementation of EU standards in the field of personal data protection, increasing the "responsibility" of controllers and processors during processing of personal data, the effective supervision for the implementation of this legislation, as well as the inclusion of Albania in the list of countries for which the European Commission determines that it offers an adequate system of personal data protection (adequacy decision).

RECOMMENDATIONS

- In the framework of the drafting and adopting of a new law on the Protection of Personal Data, the main criterion is the alignment with the principles of the GDPR as the EU Regulation that has unified the protection of data at the level of the European Union. Some of these principles are: - technical neutrality, - the principle of accountability, - the principle of proportionality. There are several rights that are included also. For this national draft law and the corresponding by-laws that will be implemented, it should be guaranteed that these principles will be involved in order to achieve the most effective implementation thereof.
- It is also suggested that during the drafting of by-laws as well as during their implementation, deviations or non-compliances with the GDPR should be minimized as much as possible and they can only occur when the GDPR provides for such a thing. On the other hand, it is recommended that other laws that are drafted not specifically for this field, to refer to and adapt to the GDPR, given that in many activities such as economy, employment, education, research, medicine and public health or media and information, the collection and processing of personal data is foreseen and it is an essential part of such activities.
- During the drafting of the law and other acts related to it, it is suggested to take into consideration that the terminology used to be in accordance with the existing national legal framework so as not to create ambiguities.
- Based on the fact that for the implementation of this law and the guarantee of personal data, it is not enough to only give responsibility to public institutions and responsible authorities, but also to private ones, including all sectors of society (economic and financial, social, educational, employment sectors etc.). For this, it is recommended that information campaigns and wider dissemination of information to be carried out, and training or other capacity building activities to be organized with the aim for increasing capacities from both the public and private sectors.
- The adoption of the draft law that is aligned with the GDPR will therefore bring a series of standards and criteria that must be guaranteed, which are translated, among other things, into a more extensive and detailed documentation related to: how such data is collected, processed and published including data processing agreements, privacy notices, registration of processing activities, internal regulations, process evaluations and

relevant authorizations. For this reason, it is recommended that the documentation be as complete and clear as possible for all parties, and responsible actors to be guided to follow this procedure.

- Since the draft law, as well as the GDPR, present a set of rights for citizens, and some of them are new and little known to Albanian citizens, it is recommended that the awareness campaigns be carried out targeting various categories of citizens. The aim is to inform them about their rights and how they are guaranteed within the protection and processing of personal data, by clarifying also the procedures that can be followed and the responsible institutions to be addressed to, in cases when these rights are not being respected.
- Special attention should be paid to the information on the procedure and the responsible authorities in case of violation of the right to the protection of personal data, so that the affected citizens are clear where they should complain and what procedure they may follow in cases such as violation of their rights occurs.
- A closer cooperation is suggested between the responsible public institutions such as the Information and Data Protection Commissioner and the Ministry of Justice with the civil society sector. This sector can contribute in both taking initiatives and awareness-raising activities, as well as providing expertise and technical support in conducting of trainings and activities aimed at increase of capacity building.
- The authority responsible for Data Protection, which in Albania is the Information and Data Protection Commissioner, must intensify its work by focusing on these three main responsibilities, in order to make possible for the law to be implemented as effectively as possible: 1) to monitor at every stage the implementation of the data protection law, 2) to provide guidance on the data processing procedure, 3) to raise public awareness on the rights of citizens and the obligations of operators, both public and private, on the guarantee of security of collected and processed data.