

Ε.Ε. Παρ. Ι(ΙΙΙ)
Αρ. 4267, 14.8.2020

Ν. 6(ΙΙΙ)/2020

Ο Κυρωτικός του Τροποποιητικού Πρωτοκόλλου στη Σύμβαση για την Προστασία του Ατόμου από την Αυτοματοποιημένη Επεξεργασία Δεδομένων Προσωπικού Χαρακτήρα του 1981, Νόμος του 2020 εκδίδεται με δημοσίευση στην Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας σύμφωνα με το Άρθρο 52 του Συντάγματος.

Αριθμός 6(ΙΙΙ) του 2020

ΝΟΜΟΣ ΠΟΥ ΚΥΡΩΝΕΙ ΤΟ ΤΡΟΠΟΠΟΙΗΤΙΚΟ ΠΡΩΤΟΚΟΛΛΟ ΣΤΗ ΣΥΜΒΑΣΗ ΓΙΑ ΤΗΝ ΠΡΟΣΤΑΣΙΑ ΤΟΥ ΑΤΟΜΟΥ ΑΠΟ ΤΗΝ ΑΥΤΟΜΑΤΟΠΟΙΗΜΕΝΗ ΕΠΕΞΕΡΓΑΣΙΑ ΔΕΔΟΜΕΝΩΝ ΠΡΟΣΩΠΙΚΟΥ ΧΑΡΑΚΤΗΡΑ ΤΟΥ 1981

Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:

Συνοπτικός
τίτλος.

1. Ο παρών Νόμος θα αναφέρεται ως ο Κυρωτικός του Τροποποιητικού Πρωτοκόλλου στη Σύμβαση για την Προστασία του Ατόμου από την Αυτοματοποιημένη Επεξεργασία Δεδομένων Προσωπικού Χαρακτήρα του 1981, Νόμος του 2020.

Ερμηνεία.

2. Στον παρόντα Νόμο, εκτός εάν από το κείμενο προκύπτει διαφορετική έννοια-

«Τροποποιητικό Πρωτόκολλο» σημαίνει το Τροποποιητικό Πρωτόκολλο στη Σύμβαση, το οποίο εγκρίθηκε από το Υπουργικό Συμβούλιο με την Απόφασή του με αρ. 86.001 και ημερομηνία 16 Οκτωβρίου 2018·

28(ΙΙΙ) του 2001.

«Σύμβαση» σημαίνει την Ευρωπαϊκή Σύμβαση για την Προστασία του Ατόμου από την Αυτοματοποιημένη Επεξεργασία Δεδομένων Προσωπικού Χαρακτήρα του 1981, του Συμβουλίου της Ευρώπης, η οποία κυρώθηκε με τον περί της Ευρωπαϊκής Σύμβασης για την Προστασία του Ατόμου από την Αυτοματοποιημένη Επεξεργασία Δεδομένων Προσωπικού Χαρακτήρα (Κυρωτικό) Νόμο του 2001.

Κύρωση
Τροποποιητικού
Πρωτοκόλλου.
Πίνακας.
Μέρος Ι.
Μέρος ΙΙ.

3. Με τον παρόντα Νόμο κυρώνεται το Τροποποιητικό Πρωτόκολλο του οποίου το πρωτότυπο κείμενο στην Αγγλική γλώσσα εκτίθεται στο Μέρος Ι του Πίνακα και σε Ελληνική μετάφραση στο Μέρος ΙΙ του Πίνακα:

Νοείται ότι, σε περίπτωση διαφοράς μεταξύ του κειμένου που εκτίθεται στο Μέρος Ι του Πίνακα και του κειμένου που εκτίθεται στο Μέρος ΙΙ του Πίνακα, υπερισχύει το κείμενο που εκτίθεται στο Μέρος Ι αυτού.

Εθνική
Εποπτική
Αρχή.
125(Ι) του 2018.

4. Ο Επίτροπος Προστασίας των Δεδομένων Προσωπικού Χαρακτήρα, αποτελεί την Εθνική Εποπτική Αρχή, ως έχει οριστεί από τον περί της Προστασίας των Φυσικών Προσώπων Έναντι της Επεξεργασίας των Δεδομένων Προσωπικού Χαρακτήρα και της Ελεύθερης Κυκλοφορίας των Δεδομένων αυτών Νόμο και είναι υπεύθυνος για τον έλεγχο της εφαρμογής των αρχών που καθορίζονται στο Τροποποιητικό Πρωτόκολλο.

ΠΙΝΑΚΑΣ
(Άρθρο 3)
ΜΕΡΟΣ Ι

**MINISTERS’
DEPUTIES**

Cm documents

Cm (2018) 2-final

18 May 2018

(Αγγλική γλώσσα)

**128th Session of the Committee of Ministers
(Elsinore, Denmark, 17-18 May 2018)**

Ad hoc Committee on Data Protection (CAHDATA) –

Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108)

Preamble

The member States of the Council of Europe and the other Parties to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108), opened for signature in Strasbourg on 28 January 1981 (hereinafter referred to as “the Convention”),

Having regard to Resolution No. 3 on data protection and privacy in the third millennium adopted at the 30th Council of Europe Conference of Ministers of Justice (Istanbul, Turkey, 24-26 November 2010);

Having regard to the Parliamentary Assembly of the Council of Europe’s Resolution 1843 (2011) on the protection of privacy and personal data on the Internet and online media and Resolution 1986 (2014) on improving user protection and security in cyberspace;

Having regard to Opinion 296 (2017) on the draft protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and its explanatory memorandum, adopted by the Standing Committee on behalf of the Parliamentary Assembly of the Council of Europe on 24 November 2017;

Considering that new challenges to the protection of individuals with regard to the processing of personal data have emerged since the Convention was adopted;

Considering the need to ensure that the Convention continues to play its pre-eminent role in protecting individuals with regard to the processing of personal data, and more generally in protecting human rights and fundamental freedoms,

Have agreed as follows:

Article 1

1. The first recital of the preamble of the Convention shall be replaced by the following:

“The member States of the Council of Europe, and the other signatories hereto;”
2. The third recital of the preamble of the Convention shall be replaced by the following:

“Considering that it is necessary to secure the human dignity and protection of the human rights and fundamental freedoms of every individual and, given the diversification, intensification and globalisation of data processing and personal data flows, personal autonomy based on a person’s right to control his or her personal data and the processing of such data;”
3. The fourth recital of the preamble of the Convention shall be replaced by the following:

“Recalling that the right to protection of personal data is to be considered in respect of its role in society and that it has to be reconciled with other human rights and fundamental freedoms, including freedom of expression;”
4. The following recital shall be added after the fourth recital of the preamble of the Convention:

“Considering that this Convention permits account to be taken, in the implementation of the rules laid down therein, of the principle of the right of access to official documents;”
5. The fifth recital of the preamble of the Convention shall be deleted. New fifth and sixth recitals shall be added, which read as follows:

“Recognising that it is necessary to promote at the global level the fundamental values of respect for privacy and protection of personal data, thereby contributing to the free flow of information between people;”

“Recognising the interest of a reinforcement of international co-operation between the Parties to the Convention;”

Article 2

The text of Article 1 of the Convention shall be replaced by the following:

“The purpose of this Convention is to protect every individual, whatever his or her nationality or residence, with regard to the processing of their personal data, thereby contributing to respect for his or her human rights and fundamental freedoms, and in particular the right to privacy.”

Article 3

1. Littera b of Article 2 of the Convention shall be replaced by the following:

“b. ‘data processing’ means any operation or set of operations performed on personal data, such as the collection, storage, preservation, alteration, retrieval, disclosure, making available, erasure, or destruction of, or the carrying out of logical and/or arithmetical operations on such data;”

2. Littera c of Article 2 of the Convention shall be replaced by the following:

“c. where automated processing is not used, ‘data processing’ means an operation or set of operations performed upon personal data within a structured set of such data which are accessible or retrievable according to specific criteria;”

3. Littera d of Article 2 of the Convention shall be replaced by the following:

“d. ‘controller’ means the natural or legal person, public authority, service, agency or any other body which, alone or jointly with others, has decision-making power with respect to data processing;”

4. The following new litterae shall be added after littera d of Article 2 of the Convention:

“e. ‘recipient’ means a natural or legal person, public authority, service, agency or any other body to whom data are disclosed or made available;

f. ‘processor’ means a natural or legal person, public authority, service, agency or any other body which processes personal data on behalf of the controller.”

Article 4

1. Paragraph 1 of Article 3 of the Convention shall be replaced by the following:

“1. Each Party undertakes to apply this Convention to data processing subject to its jurisdiction in the public and private sectors, thereby securing every individual’s right to protection of his or her personal data.”

2. Paragraph 2 of Article 3 of the Convention shall be replaced by the following:

“2. This Convention shall not apply to data processing carried out by an individual in the course of purely personal or household activities.”

3. Paragraphs 3 to 6 of Article 3 of the Convention shall be deleted.

Article 5

The title of Chapter II of the Convention shall be replaced by the following:

“Chapter II – Basic principles for the protection of personal data”.

Article 6

1. Paragraph 1 of Article 4 of the Convention shall be replaced by the following:

“1. Each Party shall take the necessary measures in its law to give effect to the provisions of this Convention and secure their effective application.”

2. Paragraph 2 of Article 4 of the Convention shall be replaced by the following:

“2. These measures shall be taken by each Party and shall have come into force by the time of ratification or of accession to this Convention.”
3. A new paragraph shall be added after paragraph 2 of Article 4 of the Convention:

“3. Each Party undertakes:

 - a. to allow the Convention Committee provided for in Chapter VI to evaluate the effectiveness of the measures it has taken in its law to give effect to the provisions of this Convention; and
 - b. to contribute actively to this evaluation process.”

Article 7

1. The title of Article 5 shall be replaced by the following:

“Article 5 – Legitimacy of data processing and quality of data”.
2. The text of Article 5 of the Convention shall be replaced by the following:

“1. Data processing shall be proportionate in relation to the legitimate purpose pursued and reflect at all stages of the processing a fair balance between all interests concerned, whether public or private, and the rights and freedoms at stake.

2. Each Party shall provide that data processing can be carried out on the basis of the free, specific, informed and unambiguous consent of the data subject or of some other legitimate basis laid down by law.

3. Personal data undergoing processing shall be processed lawfully.

4. Personal data undergoing processing shall be:

 - a. processed fairly and in a transparent manner;
 - b. collected for explicit, specified and legitimate purposes and not processed in a way incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes is, subject to appropriate safeguards, compatible with those purposes;
 - c. adequate, relevant and not excessive in relation to the purposes for which they are processed;
 - d. accurate and, where necessary, kept up to date;
 - e. preserved in a form which permits identification of the data subjects for no longer than is necessary for the purposes for which those data are processed.”

Article 8

The text of Article 6 of the Convention shall be replaced by the following: