



SECOND EDITION

Privacy Law: A Global Legal Perspective on Data Protection Relating to Advertising and Marketing



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GREECE

1 PRIVACY LAW

1.1 How is privacy regulated in Greece?

Privacy in Greece is, first of all, protected at a constitutional level, by article 9A of the Greek Constitution, which provides that: “All persons have the right to be protected from the collection, processing and use, especially by electronic means, of their personal data, as specified by law. The protection of personal data is ensured by an independent authority, which is constituted and operates as specified by law.”

Furthermore, the protection of personal data is specifically regulated in Greece; primarily, by European Law and, complementarily, by national law.

More specifically, as in all EU Member States, the primary source of privacy law in Greece is the General Data Protection Regulation 2016/679 (“GDPR”) (see the European Union chapter).

Additionally, national Law No 4624/2019 sets some rules regarding the implementation of certain aspects of the GDPR in Greece, in relation to which the GDPR contains opening clauses. These national rules either specify or limit some of the rights and obligations provided by the GDPR.

Privacy rules in the electronic communications sector are also set by Law No 3471/2006 (as amended), which implemented the ePrivacy Directive (or “Cookie Directive”).

1.2 What are the key laws regulating privacy? Please point out national laws, local or state-specific laws, sector-specific laws, and self-regulatory frameworks, with special focus on advertising aspects.

Privacy in Greece is mainly regulated by the GDPR, which came into force, as in all Member States, on May 25, 2018 and is directly applicable in Greece, with no need of incorporation by the national legislator (see the European Union chapter).

Additionally, Law No 4624/2019, which entered into force on August 29, 2019, sets specific provisions regarding the implementation of certain aspects of the GDPR in Greece, and also incorporates EU Directive 2016/680 into Greek law.

The most important provisions relating to private entities in Law No 4624/2019, which are supplemental to the provisions of the GDPR, are the following:

- (a) Article 21: Consent of minors to processing of their personal data in relation to information society services;
- (b) Article 22: Processing of special categories of personal data for certain purposes other than those provided in Article 9(1) of the GDPR;
- (c) Article 23: Prohibition on processing of genetic data for purposes of health and life insurance;
- (d) Article 25: Processing of personal data for further purposes other than those for which the data had been collected;
- (e) Article 27: Processing of personal data in the context of employment;
- (f) Articles 28–30: Processing of personal data in specific situations, such as academic, artistic or literary expression and journalistic purposes, scientific or historical research purposes or for the collection or retention of statistics;

- (g) Articles 31, 32: Exceptions from the obligation to inform data subjects in specific cases (derogating from articles 13–14 of the GDPR);
- (h) Articles 33, 34: Exceptions to the right of access (under article 15 of the GDPR) and to the right of erasure (under article 17 of the GDPR) in specific cases; release from the obligation to communicate a data breach to the data subject in specific cases (under article 34 of the GDPR); and
- (i) Article 38: Penal sanctions for specific willful violations of data protection law.

Law No 4624/2019 has also repealed Law No 2472/1997 (which had been the main legislative text regulating protection of personal data in Greece prior to the GDPR), with the exception, however, of certain specific provisions which still remain in force, such as the right of data subjects to declare to the Hellenic Data Protection Authority that they do not want their personal data to be processed by anybody for purposes of marketing communication by post.

In addition, especially in relation to the protection of privacy in the electronic communications sector, article 11 of Law No 3471/2006 provides rules for marketing communications by electronic means.

1.3 How is privacy law enforced? Please address both regulators and self-regulatory bodies.

The independent supervisory authority responsible for monitoring the implementation and enforcement of privacy law in Greece is the Hellenic Data Protection Authority (“Hellenic DPA”). The Hellenic DPA has the competency, inter alia, to handle complaints, investigate possible breaches of privacy law, issue decisions and impose administrative sanctions (including monetary fines) in cases of violation of data protection rules.

In addition, data subjects who wish to seek compensation or other form of restitution in cases of unlawful processing of their personal data by a controller or processor, may bring civil actions before the competent civil courts, which will, in this case, also enforce privacy law.

Furthermore, in cases of penal violations in relation to personal data, which are specifically provided in Article 38 of Law No 4624/2019, the penal courts are also competent to enforce the data protection rules.

2 SCOPE

2.1 Which companies are subject to privacy law in Greece?

As far as the GDPR is concerned, please see the European Union chapter.

Law No 4624/2019 applies to the processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system, by public or private bodies, with the exception of processing of personal data by a natural person in the course of a purely personal or household activity. “Private bodies” are considered to be all natural or legal persons or associations of persons without legal personality, that do not fall within the definition of “public bodies”. Thus, as is the case with the GDPR, all companies fall under the obligations of the Greek privacy law, subject only to its territorial scope (see question 2.2).

2.2 Does privacy law in Greece apply to companies outside the country? If yes, are there specific obligations for companies outside the country (eg, requiring a company representative in the country)?

Yes, Greek privacy law can apply to companies outside Greece.

As far as the GDPR is concerned, please see the European Union chapter.

Greek Law No 4624/2019 applies to private bodies when:

- (a) a controller or processor processes personal data in Greece, or
- (b) personal data is processed in the context of the activities of an establishment of a controller or a processor in Greece, or
- (c) even if the controller or the processor does not have an establishment in the EU/EEA, they fall within the scope of the GDPR.

In cases where a controller or processor, who falls under the scope of the law, is established outside the EU, they should designate in writing a representative pursuant to Article 27 of the GDPR (please see the European Union chapter).

3 PERSONAL INFORMATION

3.1 How is personal information/personal data defined in Greece?

There is no definition of “personal data” in Greek Law No 4624/2019; therefore, the GDPR definition applies (see the European Union chapter).

3.2 What categories of personal information/personal data are considered sensitive (eg, children, biometric, health, video, geo-location, financial)? Are there specific obligations around sensitive information?

See the European Union chapter.

In relation to the “special categories of personal data” covered, primarily, in Article 9 of the GDPR, Greek Law No 4624/2019 exceptionally permits private bodies to process such categories of personal data, if the processing is necessary:

- (a) to exercise rights derived from the right of social security and social protection and to meet the related obligations; or
- (b) for the purposes of preventive medicine, for the assessment of the working capacity of the employee, for medical diagnosis, for the provision of health or social care or treatment or for the management of health or social care systems and services, or pursuant to the data subject’s contract with a health professional or other person who is subject to the obligation of professional secrecy or is under their supervision.

In the above cases, of course, appropriate and specific measures need to be taken to safeguard the interests of the data subject.

In addition, processing of genetic data for purposes of health and life insurance is prohibited.

With regards to personal data of children, Law No 4624/2019 provides that, when consent is the legal basis for processing of non-sensitive personal data of children in relation to information society services, a child should be at least 15 years old in order to give valid consent. If the minor is below the age of 15, the consent of the person holding parental responsibility is required.

3.3 What are the key privacy principles that companies need to follow regarding their processing of personal information/personal data (eg, transparency, choice, purpose limitation)?

See the European Union chapter.

4 ROLES

4.1 Does privacy law assign different roles to companies based on how they process personal information/personal data (eg, controller versus processor)? If so, how do these roles affect obligations and contractual requirements?

See the European Union chapter.

5 OBLIGATIONS

5.1 Please summarize the key obligations required by privacy law, with special focus on advertising (eg, posting a privacy policy, keeping records of processing operations, appointing a privacy officer, registering with a privacy authority, conducting risk impact assessments).

See the European Union chapter.

The Hellenic DPA considers that the data controller is obliged to carry out a data protection impact assessment (“DPIA”) in cases of systematic data processing which involves profiling of natural persons for marketing purposes, provided that the data are combined with data collected from a third party.

6 DATA SECURITY AND BREACH

6.1 How is data security regulated in Greece? Is there a minimum standard for securing data? If so, are there any resources to help companies address this standard?

See the European Union chapter.

6.2 How are data breaches regulated in Greece? What are the requirements for responding to data breaches?

See the European Union chapter.

7 INDIVIDUAL RIGHTS

7.1 What privacy rights do individuals have with respect to their personal information/personal data?

See the European Union chapter and see question 1.2 in relation to limitations of data subjects’ rights provided by Law No 4624/2019.

8 **MARKETING AND ONLINE ADVERTISING**

8.1 **How are marketing communications (eg, emails, texts, push notifications) regulated from a privacy perspective?**

See the European Union chapter for privacy law obligations.

In addition:

- (a) With regard to marketing communications through electronic means, such as by email, SMS, fax, automated calls, etc (with the exception of calls made with human intervention), it is necessary, as a general rule, that the receiver of the communication/data subject has provided valid, informed and explicit consent prior to the communication (“opt-in” system). In a decision in 2022, the Hellenic DPA deemed that the same requirements also apply when sending marketing communications to an email address belonging to a legal entity.

Nevertheless, in cases where the electronic contact details have been previously acquired legally in the framework of a commercial relationship with the data subject (eg, previous sale of products or provision of services to the data subject), it is possible to use such data for future marketing communication in relation to similar products or services, even if the recipient of the communication had not provided prior explicit consent (it is noted that in a decision in 2022, the Hellenic DPA ruled that being “connected” with the data subject on LinkedIn does not suffice in order to add the data subject’s email to a newsletter recipient list without consent). However, it is absolutely necessary to provide, both when the data is collected as well as in each communication, a clear, easy and free way for data subjects to object to the collection and use of their contact details in the future (“soft opt-in” system). In a decision in 2019, the Hellenic DPA imposed a fine of €200,000 on a leading Greek telecommunications provider, because it was found that, starting from 2013, about 8,000 recipients of advertising emails were not able to successfully use the “unsubscribe link” provided in the emails in order to object to receiving the provider’s further marketing communications, due to a technical error that had not previously been detected. This situation was deemed by the Hellenic DPA to be in violation of the right of data subjects to object to processing for direct marketing purposes, as well as to the principle of privacy by design, provided by the GDPR.

- (b) Regarding phone calls made with human intervention for direct marketing purposes, consumers have the right to declare, for free, to their telecommunication provider that they do not wish to receive this kind of marketing calls (“opt out” system). Each telecommunication provider has the obligation to keep a registry of the subscribers who have provided this declaration; and any interested party who wishes to make direct marketing calls should previously check the registries kept by each provider and comply with them. In relation to this matter, the Hellenic DPA in 2019 imposed a considerable administrative fine of €200,000 on a leading Greek telecommunications provider, for not keeping the registry provided to advertisers properly updated. This resulted in phone calls to subscribers who had opted out of this kind of direct marketing. The incident was found by the Hellenic DPA to infringe the principle of accuracy and to the principle of data protection by design, provided by the GDPR.
- (c) The Hellenic DPA also keeps a registry of data subjects who do not wish to receive marketing communications by traditional post. It is a legal obligation for data

controllers to check this opt-out registry prior to sending such marketing communications.

- (d) In relation to marketing communications through the Viber app, in 2018, the Hellenic DPA issued a decision which provides some guidance to private companies (data controllers). According to this decision, the lawfulness of sending Viber messages for direct marketing purposes can be based either on the consent of the data subject or on the legitimate interests of the data controller. In addition, the Hellenic DPA considered that accepting to receive such messages from the data controller through the “Viber business” service did not constitute valid consent, since it did not meet the criteria in the Greek privacy law in force at the time, nor the GDPR. This is because the data subject was not properly informed of the purpose of the processing (namely the promotion of products/services of the company) during the collection of the data; nor was the purpose of sending the message adequately defined at the point of sending.

8.2 How is the use of tracking technologies (eg, cookies, pixels, SDKs) regulated from a privacy perspective?

See the European Union chapter.

8.3 How is targeted advertising and behavioral advertising regulated from a privacy perspective?

See the European Union chapter, question 8.2.

8.4 What type of notice and consent do advertisers need to share data with third parties for customer matching (eg, Facebook Custom Audiences or via LiveRamp)?

See the European Union chapter.

8.5 Are there specific privacy rules governing data brokers?

See the European Union chapter.

8.6 How is social media regulated from a privacy perspective?

See the European Union chapter.

8.7 How are loyalty programs and promotions regulated from a privacy perspective?

See the European Union chapter.

9 DATA TRANSFER

9.1 Are there any requirements or restrictions concerning data transfer (eg, restrictions on transferring data outside the country or between group companies)?

See the European Union chapter.

9.2 Are there any other issues companies need to consider when transferring data (eg, privilege issues when transferring data between group companies)?

See the European Union chapter.

10 VIOLATIONS

10.1 What are the potential penalties or sanctions for violations of privacy or data security law?

See the European Union chapter for the administrative sanctions.

In addition, Law No 4624/2019 provides penal sanctions for specific willful violations of data protection law.

10.2 Do individuals have a private right of action? What are the potential remedies?

See the European Union chapter.

11 MISCELLANEOUS

11.1 Are there any rules that are particular to the culture of Greece which affect privacy?

None.

11.2 Are there any hot topics or laws on the horizon that companies need to know?

The “next big thing” in privacy law is the proposed ePrivacy Regulation, which will replace the ePrivacy Directive (“Cookie Directive”). See the European Union chapter.

11.3 Is there any other information not covered in this chapter that companies need to know, including general advice or cautions around processing personal information/personal data in Greece?

The Hellenic DPA has started to issue rather heavy administrative fines to companies in cases of major violations of the GDPR. See question 8.1 in relation to two fines, of €200,000 each, imposed on a leading Greek telecommunications provider. Another fine, of €150,000, was imposed on the Greek company member of a multinational accounting firm for violations of the GDPR in the context of employment relations.

Most recently, in July 2022, the Hellenic DPA imposed a fine of €20 million (the highest fine by the Hellenic DPA to date) on a very well-known American facial recognition company for various GDPR violations, and ordered it to not collect and process personal data of data subjects located in Greece by using facial recognition technology, and to delete any data already collected.

Regarding data breaches, in January 2022, the Hellenic DPA imposed very heavy fines of €9.25 million in total on a major Greek mobile operator and its parent company, a major telecommunications provider, for various GDPR violations related to the circumstances of a cyberattack that took place in 2020, which affected millions of data subjects.

12 OPINION QUESTIONS

12.1 What changes in the privacy landscape have you observed over the past few years? In your opinion, what propelled/triggered these changes?

See the European Union chapter.

12.2 What do you envision the privacy landscape will look like in 5 years?

See the European Union chapter.

12.3 What are some of the challenges companies face due to the changing privacy landscape?

See the European Union chapter.

The decisions and guidelines issued by the Hellenic DPA are very important for the interpretation and application of the GDPR in Greece; therefore, companies will need to seek local legal advice in case Greek privacy laws apply.



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