

The Law On Personal Data Protection has finally been passed

Introduction

Law No. 99-Z On Personal Data Protection (the "**Law**") was adopted on 7 May 2021.

It is the first law dedicated to personal data in Belarus. So, one could say that the regulation of personal data protection is literally being created now.

The Law's most notable provisions

The Law defines personal data as any information relating to an identified or identifiable natural person in the course of business activity.

Generally, the Law follows the common guidelines established by international regulations, notably the GDPR. For example, it introduces the concepts of the "**Operator**" independently processing personal data and the "**Authorized Party**", who does so on behalf of or in the interests of the Operator based on an agreement between them. These new concepts to some extent correspond to the relevant concepts of a controller and processor under the GDPR.

Personal data may only be collected and processed after obtaining the explicit consent of the data subject. To be fully legitimate, the consent should satisfy certain criteria laid down by the Law. Consent may be given in various forms; for example, as a hand-written document, an electronic document signed with a qualified electronic signature, entering a code received by SMS or e-mail, checking the relevant box on a web form, etc.

Before obtaining consent, the Operator should provide the data subject with an explanation of her/his rights with respect to the processing of

personal data and the consequences of giving consent or any refusal to give consent. The explanation should take the same form as the consent.

The Law also provides that the processing of personal data should be adequate in view of the relevant legitimate purposes. If the initially declared purposes change at a later stage, the data subject should be asked to give his/her consent again.

The cross-border transfer of personal data is prohibited unless an adequate level of personal data protection is ensured in the relevant foreign country. The newly created Belarusian data protection authority will maintain a list of foreign countries that ensure an adequate level of protection. The cross-border transfer of personal data to countries not on the aforementioned list may only take place if, for example, the data subject gives her/his consent or the personal data are obtained on a contractual basis and then used for performance of the respective contract, as well as in some other cases.

From 1 March 2021, a breach of the personal data protection regulations results in administrative liability. Depending on the type of infringement, the fine can amount to up to 200 basic units, which is equal to approximately EUR 2,000.

In addition to this, a breach of the personal data protection regulations from 19 June 2021 onwards that causes significant harm to the data subject may result in criminal liability, punishable by up to five years in prison.

The Law will come into force on 15 November 2021.



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Summary

The introduction of the Law supports the trend of bringing Belarusian legislation into line with European standards. With the new personal data protection regulation, which to a certain extent corresponds to the GDPR, the Belarusian market will become a more attractive destination for European businesses.

For more information

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