

Law No. 124/2024 *"On Protection of Personal Data"*

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# Newsletter



## Law No. 124/2024 “On Protection of Personal Data”

On December 19, 2024 the Albanian Parliament adopted law no. 124/2024 “On protection of personal data” (the **New Law**), repealing previous law no. 9887 dated 10.03.2008 “On protection of personal data”, as amended.

The New Law will enter into force on February 1<sup>st</sup> 2025.

The New Law is fully aligned with:

- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.
- Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.

The New Law aims to improve the regulatory framework for safeguarding individuals in relation to the processing of their personal data, as well as to ensure compliance with the highest European standards for data protection, addressing the challenges posed by the exponential growth of data processing in the digital era.

Certain provisions of the New Law will enter into force 2 (two) years after its publication with the Official Gazette. These provisions newly introduced relate to (i) mandatory Data Protection Impact Assessment and prior consultation with the Commissioner for the Right of Information and the Protection of Personal Data (the Authority), (ii) the notification of data breaches to data subjects, (iii) codes of conduct and the accredited bodies to monitor their compliance.

The rapid advancement of technology and globalization has necessitated the following legislative amendments:

### Enhanced Individual Rights

- **Right to access.** Individuals can now seek confirmation from data controllers regarding the processing of their personal data, including its purpose, categories of processed data, and recipients.
- **Right not to be subject to automated decision-making.** The New Law strengthens protections against decisions based solely on automated processing, including profiling. Such processing is permitted only if necessary for contractual purposes, explicitly consented to, or mandated by law.
- **Right to be forgotten.** The New Law introduces ‘the right to be forgotten’, which acts as a safeguard in the online environment, requiring search engines to delete, upon request, personal information that is no longer necessary



and could negatively impact the individual's reputation.

### **New Obligations for Commercial Entities**

Commercial Entities including controllers and processors face new obligations aimed at ensuring more effective security of information during data processing. The New Law introduces the concepts of data protection *by design* and protection *by default*, as well as encourages controllers and processors to use these technologies.

### **Expanded Role of the Commissioner**

The responsibilities and competences of the Commissioner for the Right to Information and Protection of Personal Data (the Commissioner) are significantly expanded. Under the New Law, the Commissioner has enhanced monitoring and enforcement competences, elevated supervisory and advisory roles as well as new investigative and corrective competences.

Also, the Commissioner has the independence to determine the structure and organization of the institution following consultations with the finance ministry on the possible financial implications and the Department of Public Administration.

### **Right to File Complaints**

The data subject is now entitled to be represented by an entity, organization, or non-profit association in filing complaints with the Commissioner.

Furthermore, the New Law introduces the complainant's possibility to request a preliminary restriction order from the Commissioner against the controller or processor during the complaint process due to the serious and irreparable risk posed to the complainant's rights.

The legislation also establishes the right of individuals to appeal the Commissioner's decisions before the competent administrative court. This right extends to instances where the Commissioner fails to address a complaint within the stipulated procedural timeframe or does not provide updates on the status of the complaint's review.

In addition, the New Law reinforces the data subject's right to compensation, by imposing liability on controllers and processors in accordance with the Civil Code. It also grants the Commissioner the authority to dismiss complaints that are clearly unfounded or excessively repetitive.

### **Regulations on Law Enforcement**

For the first time, specific rules are introduced for the processing of personal data by law enforcement authorities in criminal matters, treated as *lex specialis* in this area.

### **Increased Administrative Penalties**

The New Law introduces revised sanctions with substantially increased fines. Penalties may extend up to ALL 2 billion or, for undertakings, up to 4% of their total global turnover from the preceding fiscal year, whichever amount is greater. The exact penalty is determined based on the nature, gravity, and severity of the violation.



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