



## Tax&Legal Highlights

### Kosovo

#### **New Law on the Protection of Personal data has been published.**

**The new Law on Protection of Personal Data is another step towards approximating the legislation of Kosova with the regulations of the European Union.**

The provisions of the new Law are obligatory to all public and private bodies that process personal data, including diplomatic and consular offices as well as any other official representative offices of the Republic of Kosovo that are operating abroad.

As opposed to the old law on Protection of Personal data, the new Law specifically states the conditions of consent or the manner in which data controllers need to acquire consent. Thus, if the processing is based on consent then the data controller (i.e. employer) needs to be able to demonstrate that the said consent has been given;

The Law provides that if the consent is given in a written form then the data controller will have to present it in a manner in which it is clearly distinguishable from other matters, easily accessible and intelligible.

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If the data subject wants to withdraw the given consent, the said data subject needs to do so, in the same manner that it gave the consent. The withdrawal of the consent does not affect the legality of the data processing prior to the withdrawal.

In the event that the consent of a data subject is in question, there shall be an assessment if the performance of the contract is conditional on the consent given by the data subject and whether the data processed is necessary for the performance of the contract.

Another notable addition of the new Law on Protection of Personal Data is the addition of certification for Data Controllers.

Not only data controllers but also processors, legal entities and enterprises that process data under the scope of this law need to obtain such certification in order to perform work related to personal data.

This certification will be issued by the Information and Privacy Agency (hereinafter Agency), when the data controllers, processors, legal entities and enterprises need to meet these minimum conditions:

- i. When they prove that they possess adequate knowledge in the field of personal data protection;
- ii. That they can meet, where required the necessary international safety standards;
- iii. When these legal entities/enterprises, employ controllers, processors and other personnel who have obtained such certification;
- iv. Need to prove that the exercise of their functions pertaining the protection of data does not result in a conflict of interest.

The certificate is valid for three years and it can be reviewed provided that the same conditions are met.

In the event that a legal person or enterprise possesses a certificate issued by the relevant European Institution/Body, that certificate shall be recognized as a valid certificate under the laws of the Republic of Kosovo.

This law will enter into force 12<sup>th</sup> of March 2019.

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