

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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<p>Observations on the Bill of the Ministry of Justice <i>re</i> “The Protection of Personal Data and Privacy in the Electronic Communications Sector (Incorporation of Directive 2002/58/EC)”</p>

The Bill aims at incorporating into national law, the Directive 2002/58/EC on privacy and electronic communications; the deadline for the incorporation of which expired on October 31st, 2003. The Directive refers to the wide use of the newly advanced digital technologies by the public communication networks, thus generating particular need for the protection of personal data and privacy in general. From the Commission’s perspective, the Bill’s major issues are the privacy of communications and the protection of personal data. Non-reference to other provisions, due to lack of competence and technical expertise, should not be interpreted as consenting to them.

The Bill combines in one text – and this is considered to be of paramount importance – provisions concerning the protection of privacy (the legal basis for which are Art. 19 of the Greek Constitution, Art. 8 of the ECHR, Art. 17 of the ICCPR and Art. 12 of the UDHR), as well as the protection of the individual from the processing of personal data, which is based on different legal grounds (Art. 5A and 9A of the Constitution, the European Convention 108/1981). Thus, the examination of the Bill’s provisions requires the distinction between these two aspects, which is not always feasible, given that the ‘boundaries’ between the protection of privacy and personal data are not always clearly drawn, especially in the rapidly changing field of communications technology.

Finally, the Commission seizes the opportunity to underline, also in the light of the recent terrorist incidents, the harm that might be caused to human rights by the use of surveillance cameras (especially the so-called “smart cameras”).

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