

Cyber-Security, Data Protection and Privacy

Israeli Privacy Protection Authority Aims to Soften Data Transfer Requirements



On January 3, 2022, the Israeli Privacy Protection Authority ("the PPA") issued a draft statement of opinion, open for public comment, regarding the interpretation of Regulation 3 of the Privacy Protection Regulations (Transfer of Data to Databases Outside State Borders), 2001 (the "Regulations").

According to Regulation 3 of the Regulations, when personal data is transferred from a database in Israel to databases outside Israel's borders, the database owner must ensure, by way of obtaining a written obligation from the recipient of such data, that the recipient ensures an adequate level of protection of the personal data transferred and undertakes not to transfer the personal data to any third party. According to the PPA, that requirement is not in line with developments in technology and international trade and consequently prohibits any onward transfer of personal data from Israel.

To address that difficulty, the PPA proposes an interpretation under which onward transfers of personal data would be permitted if the following cumulative conditions are met:

- A. the Israeli database owner has agreed in writing to the onward transfer;
- B. the onward transfer to the third party is made based on the data subject's consent or another valid legal basis for the transfer of personal data; and
- C. if the data transfer would have been made directly to the third party, it would have complied with Regulation 2 of the Regulations. For example, the data is transferred to a database in the European Economic Area (EEA) or to a recipient who is required by agreement to comply, mutatis mutandis, with the same conditions applicable to the possession and use of personal data stored in Israel.

All in all, the restriction on onward transfers in Regulation 3 raises significant difficulties, especially in the current technological and commercial reality, and the PPA rightfully asks to soften that restriction. Along that line, we deem it advisable to amend Regulation 3 itself, in addition to the suggested statement of opinion.

Please feel free to contact us with any questions that you have on this matter,



Assaf Harel, Partner
assafh@gornitzky.com



Linor Vertnik, Associate
linorv@gornitzky.com

