

The Impact of GDPR on Lebanese Businesses

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With the unstoppable digitization of human life and economy, areas in need of attention crucially include the ownership and privacy of our personal information. From this month, it is in this regard highly important for companies in Lebanon to understand the implications of a new European regulation on the ownership and limits to exploitation of personal information, which has entered force at the end of last month.

As of 25 May 2018, two years after the adoption of the General Data Protection Regulations (GDPR) by the European Union, organizations from large international manufacturers and online retailers to small enterprises and commercial bloggers with place of business in the EU have to apply GDPR. But many businesses in Lebanon are not or insufficiently aware of GDPR, and many seem to assume that this new regulation will not affect them.

They might be wrong, and if they are, it can be a very costly mistake for companies that offer products or services online and reach European residents in doing so. All local companies with strong digital presence outside across Lebanon's borders should therefore embark on determining if they need to initiate their compliance with GDPR.

In a nutshell, GDPR is a landmark European Union regulation that replaces the 1995 EU Data Protection Directive and prescribes the rules and regulations for the collection, processing, use, storage, and destruction of personal information of European Union residents. The main aim of this piece of legislation is to protect consumers by giving them greater control over their personal data, specifically data transmitted electronically via the internet etc., and to compel businesses to be more accountable and transparent in their use of customers' personal data.

Under prevailing legal principles, GDPR is not *a priori* applicable outside of the EU, given that it is an EU regulation. The 1995 EU Data Protection Directive did not regulate businesses based outside the EU. However, one of the considerable changes introduced by GDPR is the extra-territorial scope of said regulation that allows it to reach organizations all over the world. Under article 3 of the GDPR, a company may still have to abide by the GDPR rules even if it is incorporated outside of the EU and has no physical presence within the EU.

Compliance with GDPR is thus required of companies anywhere as long as their activities entail the offering of goods or services to European residents, the processing of data by such persons, or the monitoring of users' behavior that takes place in the EU. For instance, GDPR will likely apply to a Lebanese business even if it has no employees or offices within the EU, but is selling a product or service to EU residents or even simply offering to sell, irrespective of whether a payment was made or not. Likewise, abiding by GDPR is a necessity for any Lebanese company that monitors the behavior of European residents - e.g. if it processes information about consumers in an EU country to predict their behavior or does surveys on the behavior of EU residents. In addition,

GDPR is applicable to a Lebanese company if it has EU-based employees and is processing information related to such employees.

On the other hand, GDPR does not apply if the Lebanese company is undertaking regular marketing of goods and/or services. This means that if the company has a website offering goods and/or services but does not have a physical presence in the EU and shows no indication of targeting any EU residents, it is not required to comply with GDPR rules simply on the basis that a European resident can somehow stumble upon its website.

However, the GDPR likely will apply to that company, irrespective of its country of incorporation, if its website targets EU residents – e.g. accepts the currency of an EU country, has a domain suffix for an EU country, offers shipping services to an EU country, or provides information in a language that is predominantly spoken in an EU country (one wouldn't consider English, Spanish or Russian as such languages but Italian, French and German would be).

Violating the GDPR and failing to report any infraction of personal data rights of EU residents can result in hefty fines; in serious cases, regulators can penalize businesses 20 million Euros or up to 4 per cent of their previous year's worldwide turnover, whichever is higher. For less important infringements to the GDPR, regulators can impose fines amounting to 10 million Euros or up to 2% of the companies' worldwide turnover, whichever is greater.

Lebanese companies thus can only be encouraged to inform themselves, first perhaps online, about the provisions and requirements that are now coming into force with the GDPR. In case of uncertainty if GDPR applies to your business, it may be a good idea to contact an auditing/consulting firm with expertise on doing business in Europe or consult a specialized advisor to make sure that your privacy house is in order. You will not only avoid legal proceedings and painful fines but also express your will to protect fundamental rights and freedoms of individuals and in particular the right of consumers to the protection of personal data.