



Legal Memorandum: *Strategic Prioritization of Actions following Decision 19/2024 of the Hellenic Data Protection Authority*



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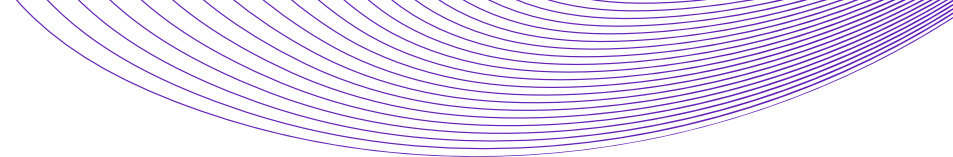


1: Summary of Decision 19/2024 of the Hellenic Data Protection Authority (HDDPA)

Decision 19/2024 of the Hellenic Data Protection Authority (HDDPA) constitutes a landmark in the ongoing debate on the protection of the right of access to personal data, and in particular to electronic communications metadata retained under the national regulatory framework. The case concerned a subscriber's complaint against a telecommunications provider, challenging the company's refusal to grant him access to the metadata of his calls and other communications. The disputed issue touched upon both the right of access enshrined in Article 15 of the General Data Protection Regulation (GDPR) and the restrictions provided by national law (Law 3917/2011 and Law 3471/2006), which transposed the e-Privacy Directive.

In examining the complaint, the HDDPA found that there were grounds for exercising its corrective powers under Article 58(2) GDPR. Specifically, it ruled that the provider was obliged to satisfy the complainant's right of access to his data, namely to his personal data retained pursuant to Law 3917/2011 and Law 3471/2006, as well as to the incoming calls he had received. The Authority stressed that the right of access must be fulfilled in a way that does not adversely affect the rights and freedoms of third parties, in line with Article 15(4) GDPR, but without resulting in a blanket and permanent refusal to provide the requested information. At the same time, under Article 58(2)(d) GDPR, the HDDPA ordered the company to revise, within one month, its policy on handling access requests, so that it fully complies with the requirements of the Regulation.

This decision is of particular significance as it puts the national framework to the test, especially Law 3917/2011, which provides for the general and indiscriminate retention of electronic communications metadata for twelve months. Article 4 of that law, interpreted by providers as imposing an absolute prohibition on granting subscribers access to the retained data, conflicts with Article 15 GDPR, which establishes a clear and extensive right of data subjects to access their personal data. Without directly addressing the constitutionality or validity of the provision, the HDDPA adopted an interpretative approach that avoids an outright deprivation of the right, requiring providers to assess access requests in light of Article 15(4) GDPR and to specifically justify any restrictions.



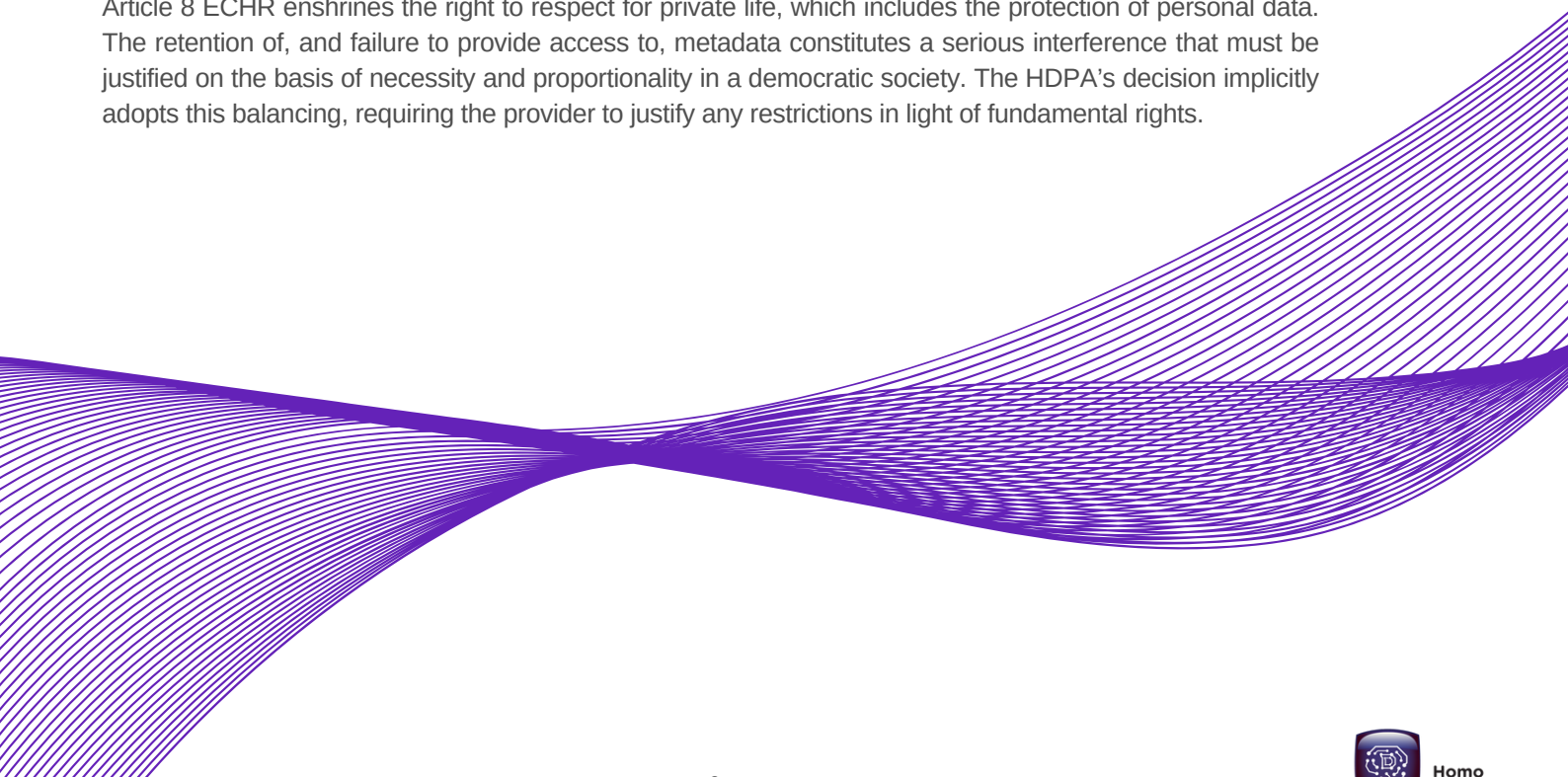
In this way, the Authority aligns itself with the case law of the Court of Justice of the European Union (notably *Digital Rights Ireland*, *Tele2 Sverige*, *La Quadrature du Net*), which has repeatedly held that any general and indiscriminate retention of data is incompatible with EU law. In the case at hand, the HDPa recognizes that the retained metadata constitute personal data within the meaning of Article 4 GDPR, and therefore that the data subject's access to them is an essential element of the right to informational self-determination.

The practical consequence of the decision is twofold. On the one hand, it binds the specific provider to comply within a set deadline, by granting the complainant access to the requested data and by amending its policy. On the other hand, it establishes a precedent in terms of administrative practice, which will serve as guidance for all electronic communications providers in Greece. From this, it follows that the Authority favors an interpretation of the national framework that does not lead to a generalized refusal of access, but rather to a case-by-case balancing.

From a strategic perspective, Decision 19/2024 offers a strong foundation for the exercise of further legal remedies. The company's compliance does not preclude the possibility of bringing a civil claim for moral damages due to the earlier unlawful refusal of access, pursuant to Articles 57 and 59 of the Greek Civil Code. Moreover, in the event of non-compliance by the provider or the continuation of practices that excessively limit the right of access, grounds exist for an application for annulment before the Council of State, potentially accompanied by a request for a preliminary reference to the CJEU. At the same time, the decision may serve as the basis for a complaint before the European Commission against the Greek state for the improper transposition and application of EU law.

At the national law level, the decision underscores that the right to personality, as protected under Article 57 of the Greek Civil Code, also encompasses the right to information and control over one's personal data. Denial of access amounts to an infringement of personality in its aspects of private life and informational self-determination. Consequently, beyond the normative force of the GDPR, the right of access also derives constitutional grounding from Article 9A of the Greek Constitution and Article 19 on the protection of the confidentiality of communications.

The linkage of the decision with the case law of the European Court of Human Rights is equally critical. Article 8 ECHR enshrines the right to respect for private life, which includes the protection of personal data. The retention of, and failure to provide access to, metadata constitutes a serious interference that must be justified on the basis of necessity and proportionality in a democratic society. The HDPa's decision implicitly adopts this balancing, requiring the provider to justify any restrictions in light of fundamental rights.



Furthermore, the order issued to the company to revise its policy on handling access requests constitutes an institutional intervention of a preventive nature. The Authority does not confine itself to remedying the specific violation at hand but imposes a structural change designed to ensure the proper application of the GDPR in the future. In this way, the decision acquires a normative dimension that extends beyond the individual dispute.

Taken as a whole, Decision 19/2024 highlights the importance of the HDPa's active stance in safeguarding data subjects' rights against entrenched practices of providers that rely on questionable interpretations of national law. It marks a crucial step toward recognizing that the right of access cannot be undermined by broad and vague exceptions, but must be fulfilled in a substantive and well-documented manner.

In conclusion, the legal and practical impact of the decision unfolds on three levels. At the individual level, the complainant is vindicated and gains access to his data. At the institutional level, providers are called upon to align their policies with the GDPR, thereby enhancing transparency and accountability. At the systemic level, the viability of Law 3917/2011 as a whole is brought into question, given its divergence from EU law and the case law of the CJEU. Decision 19/2024, therefore, is not merely a ruling on a specific case but also a starting point for further legal and political advocacy in favor of a framework consistent with the requirements of the rule of law and the protection of privacy in the digital age.



2: Description of preparatory actions

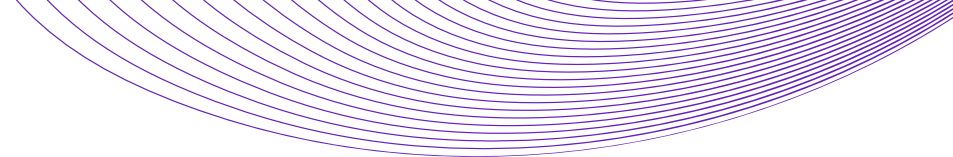
immediately after the publication of Decision 19/2024 on 2 December 2024, and specifically on 10 December 2024, the data subject, with the guidance of Homo Digitalis, submitted an access request to Vodafone Panafon, invoking HDPa Decision 19/2024, which had recognized his right to obtain full access to the electronic communications metadata concerning him. In its reply of 16 December 2024, the company informed him that his earlier request of 27 May 2019 could not be satisfied, as the metadata from those communications had already been deleted, given that such data are retained only for a period of 12 months from the time of communication. Consequently, the company requested that the data subject specify anew the period covered by his latest access request.

On 17 December 2024, again with the guidance of Homo Digitalis, the data subject specified that his request concerned the period from 30 November 2023 to 15 December 2024, pursuant to Article 5 of Law 3917/2011. On the same day, the company confirmed receipt and indicated that it would provide a response within the timeframe established by Article 12(3) GDPR.

On 17 January 2025, Vodafone sent the data subject a reply accompanied by a file that provided only general information regarding the data it retained in relation to him. The data subject, however, followed up by requesting clarification on the progress of his access request to the specified metadata, as well as on whether the company had revised its access policy in line with the HDPa's order.

On 19 March 2025, the applicant submitted another reminder, pointing out that the two-month period previously set by the company had already expired. On 23 April 2025, following further communication, Vodafone apologized for the delay and undertook to fulfill the request by no later than 25 April 2025.

On 25 April 2025, the company provided the data subject with files containing lists of incoming and outgoing calls and messages, as well as copies of invoices, while limiting access solely to traffic data stored in its billing system. The remaining metadata, retained in the Special Data Retention System under Law 3917/2011, and in particular the location data of his electronic communications, were not disclosed to the data subject on the grounds that their release is prohibited as long as the relevant provisions of Law 3917/2011 remain in force.



On 6 May 2025, the data subject expressly voiced his dissatisfaction, invoking HDPa Decision 19/2024, which specifically concerned his case. He requested to be informed whether the company had lodged an application for annulment against the said decision and, if not, to justify its non-compliance. At the same time, he requested the erasure of the traffic data that had been provided to him, relying on Article 17 GDPR, and sought information on the available legal remedies in the event of the company's refusal to comply with his requests.

On 5 June 2025, Vodafone responded, confirming that it had indeed lodged an application for annulment before the Council of State against HDPa Decision 19/2024. The company reiterated that traffic data are retained solely for billing purposes for a period of twelve months, with the result that part of the requested data (December 2023 – May 2024) had already been deleted. It further informed the applicant that, should he remain dissatisfied with its practice, he was entitled to submit a new complaint before the HDPa.

Subsequently, in early June 2025, the data subject followed up, requesting further clarifications regarding the annulment application lodged before the Council of State, noting that despite his efforts, he had been unable to obtain relevant information from the registry of the competent chamber. He also declared his intention to exercise his right to lodge a complaint before the Authority.

On 30 July 2025, the annulment application filed by Vodafone against HDPa Decision 19/2024, which had recognized the data subject's right of access to the retained electronic communications metadata, was formally served on him. This service, pursuant to the applicable procedural rules, established the applicant's formal status as a party to the proceedings before the Council of State, granting him the right to intervene in support of the contested decision. Moreover, with the assistance of Homo Digitalis, the data subject met with a lawyer admitted before the Supreme Court in order to prepare his intervention in the case, while the determination of the hearing date is now pending.

3: Proposed actions

The issuance of HDPa Decision 19/2024, which vindicated the data subject and obliged Vodafone to grant access to the requested metadata, laid the foundation for a strategic judicial and institutional challenge to the framework established by Law 3917/2011. The subsequent annulment application lodged by Vodafone before the Council of State provides the appropriate vehicle for raising critical legal issues, particularly through a request for a preliminary reference to the Court of Justice of the European Union (CJEU). At the same time, activating the complaint procedure before the European Commission regarding the infringement of Article 15 of Directive 2002/58/EC by Law 3917/2011 can operate in a complementary manner, strengthening the systemic and institutional character of the strategy.

The complaint before the European Commission can be grounded on the argument that the current national framework mandating general and indiscriminate retention of metadata contravenes EU law, as interpreted in landmark CJEU judgments (Digital Rights Ireland, Tele2 Sverige, La Quadrature du Net). Should the Commission initiate infringement proceedings against Greece, this would exert strong institutional pressure for the amendment or even abolition of Law 3917/2011. While this procedure does not provide individual legal redress, it constitutes a critical lever to ensure the alignment of national law with the *acquis communautaire*.

Concurrently, before the Council of State, Homo Digitalis—acting on behalf of the data subject—will be in a position to intervene in support of the validity of the HDPa's decision and to argue for the referral of a preliminary question to the CJEU pursuant to Article 267 TFEU. Such a question would focus on the compatibility of Law 3917/2011 with Article 15 GDPR and Article 15 of Directive 2002/58/EC, interpreted in light of Articles 7, 8, and 52(1) of the Charter of Fundamental Rights of the European Union. A successful referral and a potential CJEU ruling affirming the incompatibility of the Greek framework would render the law effectively inoperative, reinforce the authority of the HDPa's decision, and lead to the dismissal of Vodafone's annulment application.

The combination of these two actions—filing a complaint before the European Commission and pursuing strategic litigation before the Council of State with a request for a preliminary reference—constitutes a dual strategy. At the institutional level, it seeks to prompt the Commission to launch infringement proceedings against Greece. At the judicial level, it aims to obtain an authoritative interpretation from the CJEU that would bind the Council of State and highlight the incompatibility of Law 3917/2011 with EU law. This strategy ensures that the issue is addressed simultaneously at the national, EU, and institutional levels, thereby reinforcing both the individual protection of the data subject and the systemic pressure for reform of the legislative framework.



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