

No. Fac.: 22.18.001.002 Director of the Department of Public Administration and Personnel in the form of a Warning to the Department of Public Administration and Decision of Personnel Regarding the Provision of Services for the conduct of a study on the regulation of flexible forms of employment – Contract C2022/01/TTDP In continuation of all related to the subject of our correspondence which is an integral part of this, and which ends with your letter via e-mail dated 25/8/2022, as well as the later received Circular Letter of the TTDP dated 25/8/2022, and the sending of the relevant link to all public servants for participation by filling in the electronic form google forms, I wish to inform you as follows:

2. Brief history - facts:

2.1 The TTDP, in the capacity as controller regarding the collection and processing of personal data under consideration, at the prompting of the Officers of my Office after a relevant telephone communication between them, sent a written request to my Office with the letter dated 11/8/2022, where he mainly requested the positions of my Office regarding the possible use of google forms or Qualtrics software, for the purposes of collecting information through a relevant questionnaire, in the context of conducting a study on the regulation of flexible forms of employment in the public service, which was awarded by public contract to a contractor company. At the same time, he forwarded to my Office the relevant questionnaire as well as the agreement with the contractor.

2.2. It is worth noting that there were exclusive timetables based on the contract, which would have to be met by the Contracting Authority (CA) to enable the contractor to complete the work assigned to him within 8 months.

2.3 It is also worth noting that the opinions of my Office were sought after the signing of the contract with the contractor on the basis of which the above software had already been agreed and just two weeks before the finalization of the process and the sending of the Circular Letter throughout the Public Service.

2.4 In spite of the above, I duly and as a matter of priority carried out all the relevant documents and on the same day I placed myself with my letter of the same date. 22/8/2022 regarding the following: "Based on the information and documents you have provided to our Office (questionnaire etc.) and despite the fact that no nominal data will be collected, it can be safely concluded that through the specific questionnaire, simple as well as sensitive (special categories of data) personal data will be collected and processed, in the sense that the questions lead to the identification and/or determination of the identity of the data subjects.

3. In light of the above, both the data controller (the Data Controller) and the contractor (the processor) should comply with the provisions of the legislative framework for data protection (Regulation (EU) 2016/679 (hereinafter "the Regulation") and Law 125(I)/2018) (hereinafter "the Law") and in particular - - with the basic principles of lawful processing (principle of data minimization) - (article 5 of the Regulation), - legal basis / legal processing conditions (Articles 6 and 9 of the Regulation) - written authorization of processing (Article 28(3) of the Regulation),

- carrying out a Data Protection Impact Assessment (Data Protection Impact Assessment) (Articles 35, 36 of the Regulation) and, - Transfer of data to third countries (Chap. V of the Regulation) (google forms are a cloud application of the company GOOGLE based in the USA). 4. Estimating that, from the information and documents you have provided to our Office, it does not appear at all and/or clearly that your Department has taken care and/or taken actions to implement and/or comply with the above obligations, we are of the opinion that relevant processing operations by both the controller and the processor cannot derive legal support from the provisions of the current legislative framework for the protection of personal data." 2.5

Subsequently, the TTDP came back with the electronic message dated 22/8/2022, with which it informed me about its intention to remove the questions requesting information on the position and scale of the employees (q. 3 and 4) of questionnaire to avoid personal data processing problems with the request for the consent of my Office. 2 the e.g. after other questions note 2.6

Consequently, with my letter via e-mail dated On 8/24/2022 I informed the relevant Department that I am adopting the content of my previous letter of the same name as is, which, for the purposes of easy reference, I retransmitted and added essentially that: "With the elimination of questions 3 and 4 it does not appear to resolve the issue of identification the Ministry/Deputy Ministry/Department/Service you belong to (1), permanent / indefinite (2), years of service (5), province of residence (8), province of work (9), gender (10), marital status single/ Married or with a Cohabitation Agreement/Divorced (11), a person with a disability (13), caring for children or other people (12), a person with a chronic condition, etc., can lead to the identification of employees. The only appropriate remedy, under the circumstances, to be able to proceed with the study, is the complete deletion of demographic and other information that identifies or may identify employees." 2.7. Subsequently, the TTDP with its

letter via e-mail dated 25/8/2022 informed me that they will consider removing the data that may lead to identification. 2.8 On 25/8/2022, a Circular Letter was sent by the TTDP to the entire Public Service with the aim of informing supervisors about the upcoming investigation and informing the staff about completing the questionnaire. 2.9 On 8/30/2022, the relevant e-mail was forwarded to the e-mail address of all Public Service employees with the prompt to complete the questionnaire by September 9, 2022. 3. Findings / Reasoning: 3.1 As I have found, from the questionnaire, except for the position and scale, the question related to the Ministry/Deputy Ministry/Department/Service, to which the employees are subordinate, has been deleted.

However, other questions / collection of demographic data have not been deleted, as my suggestions in par. 2.6 above, with the result that the combination of the data increases in any case the possibility of the identification of the participants in the research, public servants, and the TTDP, as a data controller, and legally responsible for having an obligation to account for

its compliance with the legislative framework (Regulation (EU) 2016/679 (hereinafter "the Regulation") and Law 125(I)/2018) (hereinafter "the law").

3.2 Related questions concerning demographic data, which, following the principle of data minimization, (see article 5(1)(c) of the Regulation) should have been omitted. I repeat that it is the questions about the employment status, years of service, marital status, disability and chronic illness, which have no relation / relevance to the intended purpose, the purpose of the research which is to gather the opinions of the employees regarding flexible forms of work.

3.3 In addition to the above, it is noted that it is possible that the specific processing will lead to the creation of profiles of the participants based on their responses to the questionnaire, with the possible risk that the specific processing and/or its results will lead to discrimination, for example on the basis of their work status or their health or other situation that characterizes them.

3.4 It was found that the contractor used the google forms application. The google forms software used by the contractor is an online application where the data is automatically stored in the Google Cloud, which is based in the USA. The storage of data in the computing cloud / cloud, i.e. in data centers and servers in third countries, i.e. countries outside the EU and EEA, should be done in compliance with the provisions of Chapter V of the Regulation, be subject to appropriate guarantees and be surrounded by appropriate legal tools, as a means of transmission in accordance with the provisions of article 46 of the Regulation.

4. Legal framework: The following provisions are relevant:

4.1 Interpretation of the term personal data: 1) "personal data": any information concerning an identified or identifiable natural person ("data subject"); the identifiable natural person is that whose identity can be ascertained, directly or indirectly, in particular by reference to an identifier such as name, ID number, location data, online identifier or to one or more assigning factors whether physical, physiological, genetic, psychological, economic, cultural or social identity of the natural person in question,

4.2 Interpretation of the term profiling:

4) "profiling": any form of automated processing of personal data consisting of the use of personal data character to assess certain personal aspects of a natural person, in particular to analyze or predict aspects of performance at work, financial situation, health, personal preferences, the interests, reliability, conduct, location or movements of the person in question

natural person,

4.3 Interpretation of the term processing:

2) "processing": any operation or series of operations carried out with or without

use of automated means, on personal data or aggregates

of personal data, such as the collection, registration, organization, h

structure, storage, adaptation or change, retrieval, search

4

are appropriate, relevant and limited to what is necessary for the purposes for

of a legally binding and enforceable instrument between public authorities or

information, use, disclosure by transmission, dissemination or any other form

disposal, association or combination, limitation, deletion or destruction

4.4 Principle of proportionality/ minimization of data –

Personal data:

c)

processed ("data minimization"),

4.5 Provisions of article 46(1) and (2) of the Regulation:

"1. In the absence of a decision pursuant to Article 45 paragraph 3, the person in charge

processor or the processor may transmit personal data

character in a third country or international organization only if the data controller or

processor has provided appropriate guarantees and provided

that there are enforceable rights and effective remedies for subjects

of the data.

2. The appropriate guarantees referred to in paragraph 1 may

provided for, without requiring a special authorization from a supervisory authority, through:

a)

operators,

binding corporate rules in accordance with Article 47,

b)

c)

of standard data protection clauses issued by

Committee in accordance with the examination procedure provided for in Article 93

paragraph 2,

d)

of standard data protection clauses issued by supervisory

authority and are approved by the Committee in accordance with the examination procedure which

referred to in Article 93 paragraph 2,

e)

approved code of conduct, in accordance with article 40, together with

binding and enforceable obligations of the controller or executor

processing in the third country to implement appropriate safeguards, among others

regarding the rights of data subjects, or

f)

approved certification mechanism, in accordance with Article 42, together with

binding and enforceable obligations of the controller or executor

processing in the third country to implement appropriate safeguards, among others

regarding the rights of data subjects."

5. Sanction - Warning:

Considering them

considering that -

- the controller partially and not fully complied with the

my tips/hints,

- already activated the data collection and processing process without

sends me the final questionnaire beforehand for information and/or checking,

and,

particular circumstances of the present case and

5

- failed to account and/or submit to my Office all the necessary

evidence of its active compliance with the core principles

lawful processing (principle of data minimization) - (Article 5 of

Regulation),

- legal basis / conditions for legal processing (articles 6 and 9 of the Regulation)

- written assignment of processing (Article 28(3) of the Regulation),

- carrying out a Data Protection Impact Assessment (Data Protection Impact Assessment) (articles 35, 36 of Regulation) and,

- Transmission of data to third countries (Chapter V of the Regulation) (google forms

are a cloud application of the US-based company GOOGLE), and

Exercising the corrective powers conferred on me by the provisions of art

58(2)(a) of the Regulation in accordance with which –

"2. Each control authority has all of the following remedial powers:

a)

to issue warnings to the controller or the executor

the processing that intended processing operations are likely to violate

provisions of this regulation,

I impose on the controller the sanction of the Warning

pointing out like –

(a) henceforth and in the future complies with the provisions of the legislative framework and

takes all necessary actions in accordance with the rationale and,

(b) in relation to

of

questionnaire refrains from analysis, interconnection, and drawing conclusions

on the basis of those demographics, which on the basis of reasoning, will

could increase the risk of identification or profiling or

lead to discrimination of employees.

Please let my Office know the report of her conclusions

study on flexible forms of work in order to confirm that it has

only the intended purpose is achieved.

Irini Loizidou Nikolaidou NICOSIA

Data Protection Commissioner

Personal September 7, 2022

of demographic data through

the collection

TO

Iasonos 1, 2nd floor Athanasia Building, 1082 NICOSIA / PO Box 23378, 1682 NICOSIA. Tel: 22818456,

Fax: 22304565, E-mail: commissioner@dataprotection.gov.cy, Website: <http://www.dataprotection.gov.cy>