

Athens, 17-12-2018

No. Prot.: G/EX/6702-1/17-12-2018

PRINCIPLE FOR DATA PRIVACY

FOR OPIC CHARACTER

DECISION 73 / 2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on Wednesday 12.12.2018, postponed from 07.11.2018

meeting, at 10:00 a.m. following the invitation of its President, in order to

examine the case referred to in the interest of the present. They were represented by

George Batzalexis, Deputy President, impeding the President

Konstantinou Menoudakou, and the alternate members of the Panathenaic Authority

Rodogannis, Evangelos Papakonstantinou, as pastor Ms. Grigoros Tsolas

against the situation of the regular members Antonios Symvonis, Konstantinos

Lampr nudaki Ms. Charalambou Anthopoulou, on the contrary, which if Ms

they were legally summoned in writing and did not attend due to obstruction.

Present without a vote were Maria Alkakou, as assistant teacher,

Ms. Irene Papageorgopoulou, employee of the documents department Ms.

the minister of affairs, as secretary.

The Authority took into account the following:

With s with no. prot. C/EIS/4892/26.06.2017 Mrs. C/EIS/8721/04.12.2017 reports

to the Authority, A appealed against the Medical Association of Athens (Hereafter I.S.A.)

c communication of his sensitive personal data to the General Assembly

Inspector of Public Administration

(hereinafter G.E.D.D.), without a previous one

information and consent by asking the Authority to take charge of the matter

to impose the appropriate sanctions.

Specifically, the applicant submitted to the I.S.A. the application numbered ... c a

grant from the archive of copies of specific evidentiary documents c a

d caste use. The said request was rejected by its relevant decision

Director of the Board of Directors of the I.S.A. Subsequently, the complainant submitted to

G.E.D.D. appeal requesting the annulment of said rejection decision as

delinquently charged on the basis of the provisions of article 17 of the Civil Code. In

in the framework of the investigation of the appeal, the G.E.D.D. asked for the opinion of the I.S.A., o

who with the under no. first ... his document communicated his views to

G.E.D.D., but in the relevant response it included sensitive personal

data of the applicant without prior information and consent

of Ms. without the prior permission of the Authority. Moreover, I.S.A. he announced

in G.E.D.D. the information that the appeal before "[...] will have to

attributed to the pending complaint against the applicant in

who is accused and is about to be convicted of the acts 1) of

of disturbing the peace, 2) of intimidation and 3) of desperation

of illegal violence following a report by the Medical Association of Athens".

In the context of examining the above appeal, the Authority invited the parties involved

at its meeting on 09.5.2018. In the continuation, the ones with the first number were submitted.

C/EIS/3682/15.05.2018 Ms. C/EIS/3699/16.05.2018 pleadings of the applicant

Ms. of I.S.A., instead of ha. Accordingly, the Authority issued the no. first

C/EX/6059/09.07.2018 its act (decision 54/2018), with which it addressed

advance notice to the Medical Association of Athens "to be processed sensitively

personal data related to criminal prosecutions, of which you received

due to a pending criminal trial in which he is participating, observing the text

legislation for the protection of personal data and after

has previously informed the data subjects of this transfer."

Against the above act of the Authority, A filed the application no. first

C/EIS/6702/07.08.2018 pending treatment application together with the no. first

C/EIS/7132/31.8.2018 supplementary documents. In fact, someone is asking for it

revocation and amendment of the above decision of the Authority and the imposition on

burden of the I.S.A. of the sanction of the fine based on article 21 par. 1 paragraph b

2

3

of Law 2472/1997.

The Authority, after examining the contents of the file, after hearing the speaker

and the assistant teacher, who then left, and after the exit

discussion.

CONSIDERED ACCORDING TO THE LAW

1. Art. 2 par. 8 of Law 3051/2002 on "Constitutionally protected

independent authorities, modification and completion of the recruitment system at

public sector and related regulations" issued pursuant to Article 101

A of the Constitution defined that "8. Against the executory decisions of

of independent authorities, a request for annulment may be brought before the Council

of the State, as well as those provided for in the Constitution and legislation

d o k e appeals. End and aids against the decisions of the independents

authorities may also be exercised by the relevant Minister".

Article 24 par. 1 of Law 2690/1999 (K.D.D ad.) defines that "If from the relations

so the possibility of exercising it, according to the next article, was not foreseen

of evidence, or of an appeal, the person in question, for the

restoration of material or moral damage to the legal interests of the

caused by an individual act may, for any reason, by application of, to request, either from the audit authority which issued the deed, the its revocation or amendment (remedial request), either, by the authority which in charge of the one that issued the deed, its cancellation (erarch ki recourse)". In the true sense of the provision, the application for treatment is intended in the revocation or modification of the contested individual verification act for legal or real defects of it which go back to the regime under the which was issued.

2. With the above provisions of article 24 K.D.D ad. enacted d burning each "related" document, which has suffered material or moral damage from individual legal act, to appeal against the authority that issued said act before resorting to judicial protection (simple judicial appeal, otherwise treatment request). Cases for "informal" legal appeal to

3

4

retaliating with the standard "definitive" and "indefinite" appeals of Article 25 K.D.D ad.1. The appeal in question requests the revocation or amendment of the above-mentioned individual proof deed in order to the material or moral damage to his legal interests is remedied applicant that the valid act caused, in those cases where o the law does not provide for the possibility of exercising the above appeals of the article 25 K.D.D ad.2.

According to the above classification "relevant" does not have to be the one to whom the deed that requests its revocation concerns, it is enough to prove his legal interest<sup>3</sup>. He has a legitimate interest, the subject material or moral damage, within the meaning of articles 298 of the Civil Code and 932 of the Civil Code, from

offending individual legal act. Well, the legitimate interest

presupposes material or moral damage that has already occurred (NSK GN230/2013).

Furthermore, according to the standard jurisprudence of the CoE (indicative CoE 1002/2007), the law

interest must be immediate, personal and present. Because of its existence

legal interest, according to the above, the general interest of each is not sufficient

citizen, but necessarily a genuine and direct legal interest, which concerns the

concerned person and a general circle of persons (StE 2717/2007, Coll.

StE971/1998, All. StE 2856/1985, Coll. CoE 2855/1985). It should, that is, the

damage from the offending act to be personally suffered by the person o

of the applicant (StE 605/2008). Furthermore, as far as the legal interest is concerned

personally, there should be a proper relationship between the offending act

Ms. of the applicant, who is affected in a harmful way either by the

offended act or from the omission of effective law inaction,

i.e. this should be directly linked to the damage suffered by the applicant (StE

2998/1998, 2305/1995). Finally, it must be present, i.e. the damage must exist

in the person of the appellant during the issuance of the contested certificate

deed, during the exercise of the remedy and during the discussion of the case

(StE 4045/1996). Interest future or eventuality and a priori or simply

expected or past making the appeal inadmissible (StE 2449/1980).

According to the above, the applicant must have suffered material or moral damage,

1. See A. I. Tahos, Interpretation of Administrative Procedure (Law 2690/1999), B, 2003, 461.

2 See Spili Otopoulos, Handbook of the Doctor of Medicine 2002, 251.

3 O. p. Tachos, 452.

4

5

to the fact that it is a basic condition for it to be in principle

his application for the restoration of the resulting damage is accepted.

Finally, the damage, as a basis for establishing the legal interest, must be properly specified. In other words, the appellant should have called the adverse changes coming to his detriment from the deed to be established of the legal interest to file an appeal (see SC 3905/2004, SC 1995/2016).

3. In the present case, with the submitted application for treatment, the appellant due to the revocation or modification of the no. prot. G/EX/6059/09.07.2018 (Authority Decision 54/2018) act of the Authority. Of the reasons, you are welcome for the revocation or amendment of the aforementioned deed, which it was not other than those he presented in his initial appeal before the Authority, based on which the contested decision was issued, it did not appear that it had material or moral damage to his interests. On the contrary, the above principle his appeal was accepted and for this reason he was imposed with the offended party 54/2018 decision and corresponding sanction to the first complainant. In every case, the appellant does not invoke specific reasons to acknowledge material or moral damage to his legal interests, which it came from the contested decision, but it requests, as stated, the enforcement at the expense of I.S.A. of the sanction of the fine (article 21 par. 1b Law 2472/1997). Accordingly, the application for treatment under consideration is not admissible, in accordance with the aforementioned and the examination of its validity was omitted.

FOR THOSE REASONS

The beginning

Rejects A's application for treatment as inadmissible.

The Pope

Gammateas

Geo son of Batzalexis

Hail Papageo Gopoulou