

Athens, 26-03-2018 Prot. No.: G/EX/2375/26-03-2018 AUTHORITY FOR THE PROTECTION OF PERSONAL CHARACTER DATA AS OF 28/2018 (Department) The Authority for the Protection of Personal Data met as a Department at its store on 13.12.2017, upon invitation of its President, in order to examine the case referred to in the present history. Georgios Batzalexis, Deputy Chairman of the Council of the President of the Kon/nos Menoudaks Authority and the substitute members Grigorios Tsolias, as rapporteur, Charalambos Tsiliotis and Panagiotis Rontogiannis, in place of the regular members Charalambos Anthopoulos, Spyridon Vlachopoulos and Antonios Symvonis, were present, respectively, who, although they were legally summoned in writing, they did not attend due to disability. Present without the right to vote was E. Maragou, E.E.P. - Lawyer as assistant rapporteur, and Irini Papageorgopoulou, employee of the Authority's administrative affairs department, as secretary. The Authority took into account the following: With the application No. ... (with the Authority No. C/EIS/6085/16.08.2017) application of the Labor Force Employment Organization of the Regional Administration of Attica & Islands (hereinafter OAED) and the applicant's attached documents with reference number ... as well as the applicant's application to the Authority with reference number C/EIS/6155/18.08.2017 and its supplementary document with reference number C/EIS/6924 /27.09.2017 the Authority's opinion is sought regarding whether they can be legally granted to A, a candidate in the competition announced in accordance with Law 2643/1998 by the Regional Directorate of Attica and the Islands, to fill a permanent position of PE with disabilities in the public 14 committees nationwide, the responsible declaration and the supporting documents of her co-candidacy, B, a copy of the excerpt of the placement minutes of the Primary Committee, which concerns B as the successful candidate for the position at the Deposit and Loan Fund as well as the members who sign it, the minutes and photocopies of statements justifying the changes of marks in specific persons from the indicative marking tables to the first marking tables and the change of persons from rejected in the first table due to lack of proper proof of formal qualifications to successful and runners-up in the final table, copies of the applications-responsible declarations and of the supporting documents of all winners and runners-up and any objections they filed. The applicant is requesting the above information because she was ranked as a runner-up for the position at the Deposit and Loan Fund, and in the final placement list B was judged to be successful, among other things. Therefore, she intends to file an adversarial appeal against the final list of successful candidates - runners-up of the competition before the Secondary Committee of Article 10 of Law 2643/1998, given that he has already filed a remedy request requesting the reformation of the tables, for which a rejection decision was issued by ... of the Regional Directorate of Attica and Islands of the OAED. The Authority, after

examining all the elements of the file, after hearing the rapporteur and the clarifications of the assistant rapporteur, who subsequently withdrew before the conference and decision-making, and after thorough discussion, CONSIDERED

ACCORDING TO THE LAW Pursuant to article 2 of Law 2472/1997 "For the purposes of this law, the following are understood as: a) "Personal data", any information that refers to the data subject.....c) "Data subject" the natural person to whom they refer the data.....d) "Processing of personal data" ("processing"), any task or series of tasks carried out, by the State or by a legal person of public or private law or an association of persons or a natural person with or without the assistance automated methods and applied to personal data, such as the collection, registration, organization, retention or storage, modification, export, use, transmission, dissemination or in any other form disposal, association or combination, interconnection, blocking (locking), deletion, destruction e) "File of personal data" ("file"), set of personal data, which are or may be the subject of processing , and which are held either by the State or by a legal entity of public law, or of private law or an association of persons or a natural person g) "Data Controller", anyone who determines the purpose and manner of processing personal data, such as a natural or legal person , public authority or agency or any other body. When the purpose and manner of processing are determined by statutory provisions or regulatory provisions of national or Community law, the controller or the specific criteria on the basis of which he is selected are respectively determined by national or Community law. Furthermore, in accordance with the provisions of article 4 par. 1 item b and c of Law 2472/1997, the personal data to be subject to legal processing should be relevant, appropriate and not more than what is required each time in view of the purposes of the processing, as well as be accurate and, if need to be updated. Also, the transmission of personal data to a third party constitutes processing of personal data, which is not permitted in principle without the subject's consent (article 5 par. 1 of Law 2472/1997). As an exception, their provision to a third party is allowed, and without the consent of the data subject, only in the exceptional cases of article 5 par. 2 of Law 2472/1997. One of these cases is when the legal interest of the third party obviously outweighs the rights and interests of the person to whom the data refer, and at the same time his fundamental freedoms are not affected (see item e' of the aforementioned article). According to article 7 par. 2 item c' of Law 2472/1997 "Exceptionally, the collection and processing of sensitive data is permitted, as well as the establishment and operation of a relevant file, after permission from the Authority, when ... the processing is necessary for the recognition, exercise or defense of a right before a court...". According to article 11 par. 3 of Law 2472/1997 "If the data is communicated to third parties, the subject is informed of the communication before them". From the information in the file, the following emerged: A, a candidate

in the competition announced in accordance with Law 2643/1998 by the Regional Directorate of Attica and Islands, to fill a permanent position in the A.M.E.A. category. P.E., with her application to the Regional Directorate of OAED Attica & Islands and with a request to the Authority, requested to be notified of the responsible statement and the supporting documents of B, a copy of the extract from the minutes of the placement of the First Instance Committee, which concerns the B as the successful candidate for the position in the Deposit and Loan Fund as well as the members who sign it, the minutes and photocopies of extracts which justify the changes of marks in certain persons from the indicative scoring tables to the first scoring tables and the change of persons from rejectable to the first table due to the lack of proper proof of formal qualifications in the first table to successful and runners-up in the final table, copies of the applications-responsible declarations and supporting documents of all successful and runner-ups and any objections they filed. A, as she was judged as the runner-up for filling the position in the Deposit and Loan Fund, while B, as the successful candidate in the placement table of the Primary Committee, requests the above in order to file an adversarial appeal against the final lists of winners - runners-up of the competition before the Secondary Committee of of article 10 of Law 2643/1998, given that he has already applied for treatment requesting the reformation of the tables, for which he received a negative decision from the head of the Regional Directorate of Attica and Islands of the OAED. Because the requested file of co-candidate A contains, in addition to documents that include simple personal data, which formed the basis of the evaluation, and documents that also reveal sensitive personal data, such as disability certificates and unemployment certificates, the Regional Directorate of OAED Attica & Islands with the under document no. ... her document (with the Authority's document no. C/EIS/6085/16.08.2017) requests that she be granted the provision provided for in the provisions of art. 7 par. 2 of Law 2472/1997 permission of the Authority. The applicant's applications and supporting documents constitute their personal data within the meaning of Law 2472/1997. As the Authority has already judged, the communication of the data of the selected co-candidates to another candidate is legal without their consent, under the following cumulatively examined conditions: a) The data is requested through the legal procedure (written request from the concerned to the controller and documentation of superior legal interest). The superior legal interest consists in the right of the applicant to exercise its legal rights to challenge the relevant decisions pursuant to article 5 par. 2 of Law 2472/1997. Besides, the Authority with the

No. 17/2002 decision addressed a recommendation to all its competent bodies public sector in every public tender announcement - the same applies as to the staff selection process based on other provisions - to be mentioned the ability of candidates to access data concerning others co-candidates, in order to exercise their legal rights. In the present case the superior legal interest of the applicant consists in her right to file an adversarial appeal before the Second Instance Commission. The existence of a superior legal interest also presupposes that the applicant submits her request within the deadline, a fact that must be checked beforehand the announcement of the data.

b) The announcement of details of co-candidates is limited to the granting of supporting documents that formed the basis of the evaluation of the candidates for the occupation of the announced positions. That is, in the case that the candidates invoked and additional qualifications may also be granted the supporting documents to the rejected co-candidate, provided that there was a comparison of the candidates also on these additional qualifications.

c) The information communicated does not include sensitive personal information data, although such data formed the basis of their evaluation of candidates to occupy the announced positions, is given, in view of it provision of article 7 par. 2 of Law 2472/1997, the license to the responsible processing to allow access to these data to any candidate who was not selected, in order to exercise his rights to challenge the selection of another co-candidate (see under no. 17/2002, 56/2003, 40/2005 and 75/2011, 10/2012, 124/2016 decisions of the APDPH).

d) The communication of the details of the co-candidates to the applicant presupposes in accordance with article 11 par. 3 of Law 2472/1997 the prior notification of

data subjects, which may also take place through it

announcement.

Because, in this particular case, the applicant, in order to exercise the
of the law, the right to file an appeal before it
of the Secondary Commission against the final lists of successful candidates, has legal status
interest, in accordance with the provisions of article 5 par. 2 item e' of Law 2472/1997,
to be notified of the responsible declaration and supporting documents of B, a copy
of the extract from the minutes of the placement of the Primary Commission the
which concerns B as successful in the position at the Pre-Deposit Fund and
Loans as well as the relevant extract in which the members are recorded
who sign it, for the reason that the applicant is on the final ranking table
as a runner-up in the specific position, in which, finally, she was chosen
above-mentioned B, as a consequence of the ranking table being changed, may,
to occupy said position. However, the existence of a legal entity is not established
interest in providing the applicant with the remaining requested information,
concerning the other successful candidates, as well as those submitted to the Authority
documents do not show the position of the applicant as a runner-up in
specific positions, in order to make it possible to judge about its assistance
legal interest, namely the right to challenge the classification table as
to the successful candidate in a specific position, in order to understand his position
successful.

Because with regard to the simple personal data of the co-candidates it is not asked
issue of granting a license from the Authority.

However, since the requested information also includes sensitive data,
such as the unemployment and disability certificates which were taken into account with the
other supporting documents and with them formed the basis of evaluation for the

occupation of the announced positions, and their granting is deemed necessary

for

the recognition and

exercise

of

rights

of the applicant.

For those reasons

The Authority grants permission to the Regional Directorate of OAED Attica & Islands,

to make available to the applicant A a copy of the excerpt of the minutes

placement of the Primary Commission, which concerns B as successful

in the Deposit and Loan Fund and of the extract in which

the members who sign it, as well as the responsible statement and the

her supporting documents, after having previously informed her as responsible

processing for this transmission.

The Deputy President The Secretary

Georgios Batzalexis Irini Papageorgopoulou