

Athens, 01-08-2019 Prot. No.: G/EX/5318/01-08-2019 AUTHORITY FOR THE PROTECTION OF PERSONAL CHARACTER DATA A P O F A S I 27/2019 (Department) The Authority for the Protection of Personal Character met in composition Department at its headquarters on Thursday 11.07.2019 upon the invitation of its President, in order to examine the case referred to in the present history. The Deputy President Georgios Batzalexis, who obstructed the President of the Authority Constantinos Menoudakou, and the regular members of the Authority Charalambos Anthopoulos, as rapporteur, and Antonios Symvonis were present. The regular member of the Authority Konstantinos Lambrinoudakis and his alternate member Evangelos Papakonstantinou, although they were legally summoned in writing, did not attend due to disability. Present without the right to vote were Kalli Karveli, specialist scientist-lawyer, as assistant rapporteur, who left after the discussion of the case and before the conference and decision-making, and Irini Papageorgopoulou, employee of the Authority's administrative affairs department, as secretary . The Authority took into account the following: With the no. first C/EIS/7248/06.09.2018 her complaint and the no. prot. C/EIS/7249/06.09.2018 supplementary report to the Authority A complains to the Committee of ... Schools and the Department [...] of the Directorate of Studies, Programs and Organization of an Education Directorate of the Ministry of Education for 1 illegal processing of her personal data. As it specifically mentions in its complaint to the Authority, in 2011 it was issued under no. ... decision of the Administrative Court of Appeal [region] X, which determined that the judgment of the Committee of ... Schools, on the basis of which he had been denied a transfer to ... School, and which had been based on criteria of academic parity, while for professional parity are taken into account, was illegitimate other clues. Following this, the Central Service Council for Administrative Education (KYSDE), to which the case was returned for judgment, requested a new opinion from the Committee of ... Schools, which instead of judging it based on the legal criteria listed by the Administrative Appeals Court and the which are based on the current legislation on professional equality, the Commission arbitrarily came to the conclusion that the complainant "has not been taught anywhere and therefore does not have a documented knowledge of the specific material of the ... courses she is called to teach as a PE teacher.. ... Courses", resulting in the KYSDE based on this opinion to overturn the decision to transfer her. Also, as stated by the complainant, the Commission forwarded this opinion to the English Ministry of Education and the Chamber of ... Greece, misinforming them in relation to her qualifications. More specifically, it complains that the Committee of ... Schools of the Ministry of Education: a) conveyed to third parties as "facts" and "findings" a large number of its own conclusions, which are in complete contradiction to the elements of the file, which it had at its disposal, b) judged the complainant and in terms of her right to practice the

profession of teacher of ... Courses, thus substituting the Council for the Recognition of Professional Equality (S.A.E.I.), despite not knowing the relevant legislation and based on the facts she assumed that they were included (or not included) in the relevant file of S.A.E.I., which she did not have at her disposal, c) did not comply with the ... decision of the Administrative Court of Appeal, which ruled that the judgment of the complainant by the Commission ... of Schools was influenced by the logic of academic parity and non-legal, and defined that legal judgment should be in accordance with current legislation, i.e. obey the principles of professional parity even if it takes into account specific elements of the file. Thus, she did not take into account those elements of her file on the basis of which the Administrative Appeals Court had ordered her to form her opinion (alternative ways of certifying knowledge), d) she addressed in writing to internal and external bodies 2 informing them of only part of the details of the complainant's file (those taken into account for the granting of academic parity) and suppressing the rest, as well as the legislation on professional parity. This resulted in issuing a negative opinion for the complainant, as well as canceling her transfer, e) requested the English Ministry of Education based on these facts as well as other arbitrary conclusions of the Commission (that the English Ministry of Education was misled as to the content of the complainant's university qualifications or that her certificate was granted "over the phone") to revise the certificate on the basis of which the complainant was granted her professional equivalence, f) the above facts and conclusions, which contradict the current legislation in which the Court of Appeal called on her to comply, communicated them in the form of a recommendation to the Central Service Council of Secondary Education, which based on them canceled her transfer g) for four years did not inform the complainant about the above use of her file and the sending of letters and recommendation to internal and external agencies and h) by one and a half time does not revoke the above documents and does not grant the complainant the documents referred to in the contested Deed "as an integral part thereof", despite the fact that the complainant has repeatedly submitted relevant applications. It also complains that the Department [...] of the Department of Studies, Programs and Organization of an Education Department of the Ministry of Education a) did not forward for 15 months its letter from ...2017 to the members of the Committee of ... Schools, with which it requested the revocation defamatory documents about her and finally promoted her on ... 2018, after she submitted six applications and b) has not yet granted her all the documents concerning her and which she has repeatedly requested with relevant applications. As part of the investigation of the complaint, the Authority sent on 26.09.2018 the document No. C/EX/7652 to provide clarifications both to the Committee of ... Schools and to the Directorate of Studies, Programs and Organization of an Education Directorate of the Ministry Education.

The Committee of ... Schools did not respond, while the Directorate of Studies, Programs and Organization of an Education Directorate, in its response to the Authority dated 11.10.2018 and with reference number ... (Authority reference number C/EIS/8156/ 15.10.2018) stated that the 3 service provided the complainant with all the requested documents and in any case because it is not the same ... Commission, to which the complainant is referred, the relevant issue is being investigated. Following this, the Authority with calls No. G/EX/7248-1/07.11.2018, G/EX/7248-2/07.11.2018 and G/EX/7248-3/07.11.2018 respectively invited the Committee of ... Schools, the Directorate of Studies, Programs and Organization of an Education Department of the Ministry of Education and the complainant A, to attend the meeting of the Department of the Authority on 14.11.2018, in order to discuss A's complaint. According to hearing of 14.11.2018 was attended by the complainant A, in person, and B, President of the Committee of ... Schools and C, Director of [...] Secondary Education of the Ministry of Education and Religious Affairs, who, after orally developing their views, subsequently submitted relevant memoranda to the Authority. The complainant stated the following during the above hearing of 14.11.2018, but also with her memorandum No. C/EIS/9782/05.12.2018: 1) The Committee of ... Schools misused its file, in in this case a file she did not even have in her possession and concluded that the complainant is not sufficiently qualified to practice her profession. In particular, while the ... decision of the Administrative Court of Appeal [region] X states that the rationale of the Commission's initial decision is illegal, because it is based on the criteria of academic recognition and that it must be judged based on the criteria of professional recognition, the Commission remained on the three its doctrines a) that the Greek national qualification is required to practice the profession it practices, b) that knowledge is certified only by university degrees and c) that ... is not an art. 2) She concealed in her documents to internal and external bodies all the other elements of the file, such as ten years of informal education and practical experience and all the other elements on the basis of which the Administrative Appeals Court ordered her to judge the complainant. 3) He omits elements of the file he possessed, and specifically, the complainant's qualifications other than her university degrees, and her qualifications which were selection criteria based on the announcement. 4 4) Misinforms third parties regarding the applicable legislation, the content of the appeal decision and the content of the complainant's file. 5) The acts whose revocation is requested have been issued in excess of legislative authority, due to the fact that the Commission... of schools are incompetent to judge whether or not she has received a professional qualification and teaches a specific subject, are based on opinions that constitute a violation of essential provisions of the law, contain heaps of mistakes, omissions and incorrect assumptions regarding the content of her file and constitute misinformation of third

parties regarding the applicable legislation and the content of the appeal decision and the her folder. 6) Both the Committee for ... Schools and the Department [...] of the Department of Studies, Programs and Organization of Education of the Ministry of Education have not fully satisfied her right of access to information concerning her, and in particular despite repeated requests they have not yet granted her a) part of the attached to the ... document of the Deputy General Director of the Department [...] of the Ministry of Education, b) part of the correspondence of the ... Schools Committee with the English Ministry of Education and with the Department [...] of the Ministry of Education, which also includes the final response of the Greek Ministry of Education to the last message of the English Ministry of Education, c) the ... official note with which the ... Act of the ... Schools Committee was forwarded to the Department [...], d) the official note of ... of Department [...] of the Directorate of Studies, Programs and Organization of an Education Department with which the response of the Chamber of ... Greece was forwarded e) the official note of ... of the Department letter [...] of the Directorate of Studies, Programs and Organization of an Education Directorate regarding the ... decision of the Administrative Court of Appeal [region] X, f) the ... official memo of the Committee of ... Schools and g) the report of the Director's opinions of the Department [...] to the Legal Service of the Ministry of Education in relation to its action concerning a claim for compensation, which was forwarded to the Committee of ... Schools. 7) For four consecutive years, it was not informed either that the Central Service Council of Secondary Education (CYSDE) approved her transfer on ..., nor that the matter was referred again to the Committee of ... Schools, nor that the Committee of ... Schools addressed a number of bodies (English Ministry of Education, Chamber of ..., ASEP, Department [...], Department [...]) and that all these bodies (except 5 of the English Ministry of Education) provided information or issued documents concerning her, without her ever being informed about it. As the complainant specifically mentions, she was informed in November 2016, not by the Committee or the Directorate of Studies, but by the Directorate of Personnel, which sent her the ... Act of the KYSDE, which incorporated the opinion of the Committee ... Schools and its correspondence with internal and external agencies. 8) Even after he was informed with a delay of many years, and asked the Committee of ... Schools to make amends with the no. ... from her application, she has not yet received any response, and her application was not forwarded to the members of the Commission, despite her repeated written requests, and after her forwardment, the matter was not discussed until four months later, on day on which the mandate of the Committee, which is being abolished, ended. 9) Regarding the misuse of her file, the Commission a) omitted elements of the application file for the approval of her transfer to ... school and in particular omitted all her qualifications except the university degrees, i.e. the

qualifications on the basis of which they had her order the Court of Appeal to judge her, and the qualifications which constituted the selection criteria based on the announcement, and b) misinformed third parties regarding the applicable legislation, the content of the appeal decision and the content of the complainant's file. 10) Without retracting the inaccurate data contained in the Commission's documents, the issuance of a new opinion that would characterize it as capable of teaching ..., would support the claim of the Commission and the Directorate of Studies that the content of the contested opinion is merely "scientific views". The President of the Committee of ... Schools B during the hearing on 14.11.2018 stated that there is no question of withdrawing the documents drawn up and concerning meetings of the Committee with previous compositions and if the complainant wishes she can submit a new request to the Committee with the present composition for to consider the matter, while he did not file a supplementary memorandum on the case. The Director [...] of Secondary Education of the Ministry of Education and Religious Affairs – [Department ...], C, during the hearing on 14.11.2018 stated that his department provided the complainant with all the requested documents, and from 21.12.2018 and with no. first ... document of his service to the Authority (no. 6 of the Authority C/EIS/10335/24.12.2018), sent the relevant extract of its minutes with no. ... meeting of the Committee of ... Schools, during which, among other things, the request of the complainant to withdraw specific passages of previous acts of the Committee, in the part that concern her, was discussed. According to the attached excerpt of these minutes, the Committee explained to the complainant that there is no question of recalling these excerpts drawn up and relating to meetings of the Committee with previous compositions and concluded that: "Regardless of the judgments and opinions of the Committee of ... Schools with her previous compositions, and according to the information provided, A, as an educator in the discipline ..., has all the rights that derive from her membership in it." The Authority, after examining the elements of the file, the hearing and after hearing the rapporteur and the assistant rapporteur, who withdrew after the discussion of the case and before the conference and decision-making, after a thorough discussion, CONSIDERED LAW 1)

According to article 2 par. d of Law 2472/1997, processing of personal data is any task or series of tasks carried out by the State or by a legal entity of public or private law or an association of persons or a natural person with or without the help of automated methods, such as collection, registration , organization, retention or storage, modification, export, use, transmission, dissemination or any other form of disposal, association, combination, interconnection, binding, deletion, destruction of personal data. The data controller must, both at the stage of collecting personal data and before transmitting it to third parties, inform the data subject in a clear and appropriate manner about the personal data he is processing as well as

about his rights (Article 11 of Law 2472 /1997). In particular, the controller must inform the data subject of at least the following information: his identity and the identity of any representative, the purpose of processing, the recipients or categories of recipients of the data and the existence of the right of access (Article 11 par. 1 section a' of Law 2472/1997). Also in accordance with the provisions of Article 7 Article 12 of Law 2472/1997, the data subject has the right to know at any time whether personal data concerning him are or have been the subject of processing, while if the controller does not respond within fifteen days or if his answer is not satisfactory, the data subject has the right to appeal to the Authority, in the event that the data controller refuses to satisfy the interested party's request, he communicates his answer to the Authority and informs the interested party that he can appeal to her (art. 12 par. 4 of Law 2472/1997). Furthermore, according to the provisions of article 19 par. 1 sec. f of Law 2472/1997, the Authority imposes the administrative sanctions according to Article 21 of the Law, one of which is a warning to the data controller or to his representative, if any, to remove the violation of his obligations, according to par. 1 pc. a' of this article (article 21 of Law 2472/1997). Also, the Committee of ... Schools, which is provided for in article 8 par. 16b of Law 3194/2003, and was established with the no. ... decision of the Minister of Education, has as its mission the study of the teaching programs in ... Schools, the formulation of an opinion on the general issues of organization and operation of these schools, equipment, staffing, how to evaluate the performance of students in ... courses, as well as the general supervision and evaluation of the operation of these schools. Its term of office is three years and the minutes of its meetings are submitted to the Directorate of Studies and Organization of the Ministry of Education.

2. From the information in the file and the hearing, the following emerged: Following the no. ... decision of the Administrative Court of Appeal [region] X, which determined that the judgment of the Committee of ... Schools on the basis of which the complainant A had been denied a transfer to ... School, the Central Service Council for School Education (KYSDE), was illegal returned for judgment, the case requested an opinion from the Committee of ... Schools, which came to the conclusion that the complainant "has not been taught anywhere and therefore does not have a documented knowledge of the specific material of the ... courses she is called to teach as a teacher of PE ... Courses", with the result the KYSDE based on this opinion to overturn the decision to transfer her. The Commission also forwarded this opinion to the English Ministry of Education and the Greek Chamber of Arts, without informing the complainant.

8 Furthermore, despite the fact that the complainant has repeatedly submitted relevant applications, the Committee of ... Schools does not revoke and does not grant the complainant the documents referred to in the disputed Act "as an integral part thereof". In particular, regarding this issue, in under no. ... Committee meeting ... Schools, during

which, among other things, her request was discussed

complainant to withdraw specific passages of precedents

of the Commission's acts, as far as they concern it, the Commission explained to

complaining that there is no question of recalling those passages which

were drawn up and concern meetings of the Committee with previous compositions.

Additionally, both the Committee of ... Schools and the Department [...] of the Administration

of Studies, Programs and Organization of an Education Department of the Ministry

of Education have not fully satisfied the complainant's right of access

in data concerning her, and in particular despite her repeated requests no

they have also granted her a) part of the attachments to her ... document

Deputy General Director of Department [...] of the Ministry of Health, b) part of it

correspondence of the Committee of ... Schools with the English Ministry of Education and with

the Department [...] of the Ministry of Education, which includes the final

response of the Greek Ministry of Education to the last message of the English

Ministry of Education, c) the ... official note with which it was forwarded to

Department [...] the ... Act of the Committee of ... Schools, d) its official note

... of the Department [...] of the Directorate of Studies, Programs and Organization

of Education with which the response of the Chamber of ... Greece was transmitted e)

the official note of ... of the Department [...] of the Directorate of Studies,

Programs and Organization of an Education Department regarding the ... decision

of the Administrative Court of Appeal [region] X, f) the ... official note of

Committee of ... Schools and g) the opinion report of the Director of the Department [...] to

the Legal Service of the Ministry of Education in relation to a lawsuit it concerned

claim for compensation, which was forwarded to the ... Schools Committee.

3. In the case under consideration, according to the aforementioned, its control

judgment of the Committee of ... Schools regarding the complainant, as well as

revocation of the issued acts of the Commission is not a competence of the Authority,
but of the administrative courts, to which the complainant can appeal
to resolve the matter.

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However, both the Committee of ... Schools and the Department [...] of the Administration
of Studies, Programs and Organization of an Education Department of the Ministry
of Education have not fully satisfied the complainant's right of access
in the data concerning it, and more specifically in the detailed data
mentioned above. Also the Committee of ... Schools did not inform her
complainant for sending letters and recommendations to internal bodies
and abroad (English Ministry of Education, Chamber of ... Greece, ASEP,
Department [...], Department [...]), as well as that all these bodies (except English
Ministry of Education) provided information or issued documents concerning her.

4. In view of the above, the Authority, taking into account on the one hand, its gravity
violation of articles 11 and 12 of Law 2472/1997 which was proven and the offense
which came from her to the subject of the data, on the other hand, the fact that the
controller did not apply the legislation for the protection of
personal data, considers that it should be imposed on the Ministry
of Education and Religion, as controller, as provided for in the article
21 par. 1 subsection a of Law 2472/1997 necessary and proportionate sanction referred to
in the ordinance.

FOR THOSE REASONS

The Authority imposes on the Ministry of Education and Religious Affairs, as responsible
processing, for non-compliance with the above obligation of prior information
of the complainant and the non-satisfaction of her right of access to
data concerning it and for the reasons mentioned in its rationale

present, the sanction of the warning, pointing out that henceforth it should
informs data subjects about this both during collection and before
the transmission of their personal data to third parties, as well as to satisfy
immediately and without delay their right of access to the data that the
concern, granting them full access to all relevant data.

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The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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