Athens, 15-02-2023 Prot. No. 396 A P O F A S H 3 /2023 The Personal Data Protection Authority met at the invitation of its President at its store, on Tuesday, December 20, 2022 in order to examine the case, mentioned below in the history of this decision. The President of the Authority, Konstantinos Menudakos, and the regular members of the Authority, Aikaterini Iliadou as rapporteur, Christos Kalloniatis and Grigorios Tsolias, as well as the alternate members Dimosthenis Vougioukas and Nikolaos Livos, were present. Present without the right to vote were Anastasia Tritaki, legal auditor - lawyer, as assistant rapporteur and Irini Papageorgopoulou, employee of the administrative affairs department, as secretary. The Authority took into account the following: With the no. first G/EIS/136/10-1-2020 complaint and with the no. prot. C/EIS/396/16-01-2020 in addition to this, A raised the following before the Authority: The complainant has been legally released from his military obligations. With his report from ... to Military Service X and the Ministry of National Defense, he protested against the inscription of his exemption from conscription on the military status certificate type A, considering it as illegal and contrary to the right to limit the processing of personal data his data. The complainant further claimed that the mention in question exposes the subject to a risk of discrimination, while it is considered unnecessary and unnecessary in the public and private sector or in the wider life of the subject. With the above report, the complainant also requested the revision of article 44 of the Regulation of Organization and Operation of the Units of the Joint Legal Body. Subsequently, the complainant received from ... 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@dpa.gr / www.dpa.gr a response from the Military Service X, which stated that it adheres to the legality of the issuance of the Type A Certificate of Military Status that the complainant had received following his application. According to the complainant's allegations, Military Service X did not justify why the mention of the case of fulfillment or discharge is considered absolutely necessary and appropriate for the purpose of the certificate in question. In addition, the complainant states that on ... he received a late response from the General Staff of National Defense (GEETHA), which also does not justify, according to the complainant, why the listing of the fulfillment/discharge is considered absolutely necessary and convenient for the serving the purpose of the certificate and the wider public interest. The Authority, in the context of investigating the complainants, sent to Military Service X and the Ministry of National Defense the letter no. prot. C/EX/2241/24/03/2020 request to provide clarifications regarding the complaint. With no. prot. C/EIS/ 2922/29-04-2020 in its response, the Ministry of National Defense stated, among other things, the following: a) the inscription of the data subject's exemption from military service on the enlistment status certificate is not in excess of the limits set by the current provisions on the protection of personal data, as the Authority has already decided with no. 1620/2000

and 159/2014 decisions, b) the complainant's claim of indirect disclosure of sensitive personal data through the above change is not correct, as on the one hand it has already been decided by the Authority's Decision 159/2014 that the simple mention of the exemption from recruitment does not constitute sensitive personal data, on the other hand, the provisions of Law 4624/2019 no longer contain the concept of sensitive data, with the consequence that the relative distinction between personal and sensitive data provided for by Law 2472/1997 no longer exists and there is no gradation in terms of the protection provided, c) with regard to the existing form of military status certificates, the written provisions for the protection of personal data, as well as the relevant decisions of the Authority, have been taken into account, d) given that the provisions of the law reasons for exemption from conscription vary in their nature, it is not possible for third parties to infer the reason for the exemption of the data subject, nor for the data subject to be at risk of being the victim of adverse discrimination because of it, e) his claim of third party access 2 of persons in the data of the person exempted from military service is not valid, as, as a rule, third parties are denied access to said data, with the exception of course of the case of the person legally authorized by the data subject, f) if the requested certificate is submitted in the service of the wider public sector, in the context of a relevant request of the interested party, any rejection of his request by the said service must be legally justified, therefore and given that the action of the public administration is governed by the principle of equal treatment, there is no scope for adverse discrimination because of his exemption from military service and g) its content from ... with no. ...certificate of military status received by the complainant from Military Service X that "he has not fulfilled his military obligations and is currently not subject to any military obligations, because he has been exempted from the obligation of military service", fully complies with the current legislation on protection from processing personal data and the "related decisions and orders". On the above with no. C/EIS/136/10-1-2020 of complaint, the Authority issued Decision 2/2022, which was notified to the complainant under no. Authority letter C/EX/78/13-01-2022. With this decision, it was decided that the main purpose of the type A military status certificate is to certify that the bearer is no longer subject to military obligations and therefore the entry of any other data on the above certificate is contrary to the principles of article 5 para. 1 GDPR regarding the legality of the processing, therefore it is illegal. However, more information or even all enlistment changes are legally included in the issued certificate, as long as they are required by law for the purpose for which it is issued. Furthermore, the Authority ruled that article 44 of the Regulation of Organization and Operation of the Joint Legal Body, according to which certificates of enlistment status are used in cases where the interested parties wish to certify their enlistment status or the certification of all or some of their enlistment changes

and for the listing of all or certain changes, the purpose for which the interested party requests the issuance of the certificate is taken into account, taking into account the provisions of the applicable legislation on the protection of the individual from the processing of personal data 3 character, is harmonized with the GDPR and the as above judgment of the Authority. The Authority ruled that in the case under discussion, the type A military status certificate granted to the complainant, "after a relevant application for any legal use", as stated on the certificate itself, illegally contains the information that the complainant "does not have fulfills his military obligations and is not subject to any military obligation today, because he has been exempted from the obligation of conscription", since it was not granted for a specific purpose, for which it was necessary by law to verify these details, but for any legal use, and, therefore, in this case, it was sufficient to certify that the complainant is not subject to military obligations. Following these, the Authority called with its 2/2022 Decision on the Ministry of National Defense, as the controller, to reissue the type A certificate of enlistment status for the complainant with the only mention that he no longer has any military obligations. With the judgment under no. prot. C/EIS/2393/16-02-2022 request for treatment, the Ministry of National Defense requests the review of Decision 2/2022 of the Authority, claiming, among other things, the following: - that article 13 par. 1 of Law 3421/2005 "Strategy of the Greeks and other provisions" (Government Gazette A' 302) as applicable, defines the categories of conscripts or armed men who are exempted from conscription, however each category is subject to different conditions · indicatively the exemption for health reasons is mentioned (para. a') which is of a temporary nature, since if the health reasons cease before the age of 45, the exempted person is obliged to serve in the military, in contrast to the exemption granted at the request of the conscript (para. c', d', e ', f'), - that the data relating to the fulfillment or non-fulfilment of military obligations, as well as the indication of the case of discharge, constitute simple personal data, in accordance with the Authority's Decision 159/2014, and therefore the indication of military status constitutes processing within the meaning of the GDPR, - that the above listing of the data must fall under one of the legal bases of article 6 par.1 GDPR, of cases c' and e' considered as more suitable inin this case,

- that the above listing of the data must be governed by all the principles of the article

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5 GDPR,

- that with the inscription "he has not fulfilled his military obligations and is not liable

today no military obligation, because he has been exempted from the obligation

conscription" the principle of proportionality is respected, as the goals pursued by

conscription service (information regarding the fulfillment or non-military

tenure) cannot be served by choosing other means,

- that with the above inscription the principle of accuracy is observed, as it is attributed exactly the

military status of the subject and therefore deemed necessary; to

in support of these, it is pointed out that the conscripts who have not fulfilled and do not

subject to military obligation due to reaching the age limit is not going to

subject to military obligation in the future, unlike the exempted

conscripts of article 13 par. 1 of Law 3421/2005 (Government Gazette A' 302) who may

subject to military obligations in the future, if the reasons for it cease to exist

exemption of. Following these, the inscription "is not subject to any military obligation",

does not accurately certify the military status of the subject and

extension defeats the purpose the enlistment certificate is supposed to serve

status, i.e. whether or not someone fulfilled (legally exempted) from the

his military obligations,

- that with the above mention the principle of minimization is respected, as it is only mentioned

the fact of the exemption (and not the more specific reason for it), given that the

Statutory grounds for exemption from conscription vary as to

nature, it is not possible to infer from third parties the reason for his exemption

data subject, so that the interested party is at risk of being adversely affected

discrimination because of this · in support of them, the Ministry of National Defense points out

that the Authority had decided with Decision 1620/2000 that the reference to the legal exemption

from enlistment, constitutes an element necessary for the purpose of the certificate,

while listing elements such as judgment of physical ability, type of ability,

as well as the disease (mental or physical) does not correspond to the purpose of the processing

and therefore the said inscription is illegal, while also with Decision 159/2014,

the Authority had judged that the enlistment status certificate must be written

solely that one fulfilled his military obligations and in

case of exemption that he was legally exempted from them, without mentioning the

specific reason for exemption.

Following these and for all the reasons stated above, the Ministry of National

Defense maintains that the enlistment "has not fulfilled his military obligations

because he has been exempted from military service" on the certificate

military status constitutes legal processing in accordance with the principles set forth

from the provisions of the GDPR and requests with the above no. prot. G/EIS/2393/16-02-2022

request the amendment of Decision 2/2022 of the Authority.

The Authority, after examining the elements of the file, after listening to the rapporteur and

the remarks of the assistant rapporteur, who was present without the right to vote,

after thorough discussion,

THOUGHT ACCORDING TO THE LAW

1. Because, according to article 2 par. 8 of Law 3051/2002 (Official Gazette A' 220) on the "Constitutional

vested independent authorities, modifying and supplementing the system

of recruitment in the public sector and related regulations" issued in execution thereof

of article 101 A of the Constitution "8. Against the executive decisions of the independents

authorities, a petition for annulment may be brought before the Council of State,

as well as the administrative appeals provided for in the Constitution and legislation. Just right

aids against the decisions of the independent authorities can also be brought against

case competent Minister",

2. Because according to article 24 par. 1 of Law 2690/1999 (KDDiad) "If from the relevant

provisions do not provide for the possibility of exercising, according to the next article, a specialist

administrative, or internal appeal, the interested party, for material restoration

or moral damage to his legitimate interests caused by individual administration

act can, for any reason, with his application, request, either from the administrative authority

which issued the act, its revocation or amendment (remedial request), or, by

the authority that is in charge of the one that issued the act, its cancellation (hierarchical

recourse)". Within the meaning of the provision, the remedy application is for the purpose of revocation

or modification of the challenged individual administrative act for legal or factual reasons

its defects attributable to the regime under which it was issued,

3. Because, with the above provisions of article 24 of the Civil Code, the right of everyone is established

"interested" manager, who has suffered material or moral damage from an individual

administrative act, to address the authority that issued said act before

resort to judicial protection (simple administrative appeal, otherwise an application

treatment). This is an "informal" administrative appeal as opposed to the formal ones

"special" and "unequivocal" appeals of article 25 KDDiad. The said appeal has

as a request for the revocation or modification of the above-mentioned individual administration

act, in order to restore the material or moral damage of the applicant, the

caused by the administrative act, in those cases where the law does not provide

the possibility of exercising the above appeals of article 25 KDDiad1,

4. Because, with the current treatment request, the content of which is set forth above

in the history of the present, in essence, legal claims are presented regarding it

meaning of the provisions of article 5 par. 1 GDPR and their application in said case

case, and new and crucial ones are not invoked or presented

real data2,

5. Because all the allegations raised with the present application for remedy have already

examined by the Authority during its examination stage with no. prot. G/EIS/136/10-1-2020

complaint, they were deemed illegal and unfounded with the no. 2/2022 Decision of the Authority,

6. Therefore, there is no documented need to revise it with no. 2/2022 of Decision, n

which was notified to the Ministry of National Defense with no. Prot. C/EX/78/13-01-

2022 document of the Authority.

FOR THOSE REASONS

The beginning

It rejects the no. prot. C/EIS/2393/16-02-2022 his treatment request

Ministry of National Defense against Decision 2/2022 of the Authority.

1 See indicatively, the one with no. 73/2018 Decision of the Authority.

2 See Supreme Court 1175/2013 (sq. 9), 3259/2011 (sq. 9), 434/2007 (sq. 5), 2683/2003 (sq. 5).

The president

Konstantinos Menudakos

The Secretary

Irini Papageorgopoulou