

Athens, 03-09-2021 Prot. No.: 2001 DECISION 39/2021 (Department) The Personal Data Protection Authority met as a Department at its headquarters on 26.05.2021 at the invitation of its President, in order to examine the case that refers to the history of the present. The Deputy President G. Batzalexis, obstructing the President of the Authority K. Menoudakos, the regular members of the Authority S. Vlachopoulos and K. Lambrinoudakis, as rapporteur and the alternate member of the Authority G. Tsolia, in place of the regular member X. Anthopoulos, were present. , who, although legally summoned in writing, did not attend due to disability. Present without the right to vote were K. Karveli, expert scientist-lawyer, as assistant rapporteur, who left after the discussion of the case and before the conference and decision-making, and E. Papageorgopoulou, employee of the Authority's administrative affairs department, as secretary. The Authority took into account the following: With no. prot. C/EIS/1084/20 and C/EIS/2648/20 his complaints to the Authority, A complains to the Municipal Transport Company of Rhodes "RODA" for illegal processing of his personal data. Specifically with the no. prot. C/EIS/1084/20 his complaint complains that after his dismissal from the Municipal Transport Company of Rhodes "RODA", he requested a certificate of previous service that he worked in the company, which was granted to him, adding, however, in violation of the principle of proportionality that he was dismissed due to a criminal act, thus causing, as he claims, damage to his interests. 1 Also with the second one with no. first C/EIS/2648/20 complaint he complains about the company for not satisfying his right of access. In particular, following a lawsuit filed against him for embezzlement by the company, as a former employee in the position of debt collector, he asked the company for judicial use of his defense, as a defendant in the criminal trial, with his request from ... to be granted a copy of the video footage who recorded the CCTV of the bus in the driver's seat of the bus on the day of the incident in question on However, as he complains, the company never responded to his request, rejecting it implicitly, in violation of the provisions of articles 12 par. 3 and 15 of the GDPR. Following these, the Authority sent to the complainant the documents with no. prot. G/EX/1084-1/6.4.20 and G/EX/2648-1/22.6.20 documents to provide clarifications on the accused, which in no. prot. C/EIS/ 4683/20 her response document stated the following: a) the video recording and filming that took place is not illegal, but is allowed exceptionally, as is the use of their disputed material, when there are reasons of public interest, relating to the prevention of crimes, the protection of legitimate interests and the protection of private and family life, b) all employees of the company, drivers and collectors, have been informed and are aware of the specific processing, and c) the issued certificate of previous service is legal, true and fully responsive to reality. Then the Authority with no. prot. C/EX/567/4.2.21 and C/EX/568/4.2.21 summons respectively invited G. Lampadakis, attorney-at-law of

the complainant A and the complained Municipal Transport Company of Rhodes "RODA" to attend the meeting of the Authority on 10.02.2021, in order to discuss the above complaint. During the hearing, which took place on 24.02.21, following a postponement from the discussion on 10.02.21, the attorneys of the complainant Georgios Lampadakis and Ilias Zografidis and on behalf of the 2nd Municipal Transport Company "Roda" D. Tsikkis, President of the business after the power of attorney of lawyer Spyridoulas Passaris. The attorneys of the complainant both during the hearing and with the no. prot. C/EIS/1546/21 in their memorandum to the Authority stated the following: a) the complainant has not yet satisfied the complainant's right of access to the video footage in question, nor has she answered anything related to his request b) even though the case of the criminal hearing was put on file, the complainant needs the material in question for his defense in the civil trial for compensation from the complainant, c) during the hearing the legal representative of the company stated that the video material has been deleted and that he has been informed verbally by the complainant, while such a thing never happened and neither did the complainant mention it in her response document to the Authority in 2020, d) the certificate of previous service contained his personal data unnecessary, relevant, and depending on the intended purpose, in violation of the provisions of articles 678 of the Civil Code and 5 of the GDPR, e) at a later time requested to be granted a new certificate, in which again, although it was not stated that he was dismissed due to a criminal act, it was stated that he was dismissed due to termination before the agreed time for a good reason, and f) finally, with his third new application and at the same time a complaint to the Labor Inspectorate, the complainant granted him a new certificate in which he mention of the hiring and firing decisions, so even this third certificate does not meet the criteria of 678 AK, as long as someone with the numbers of the decisions can refer to DIAUGEA and see the full text of his dismissal, where he appears as an exception. The President of the Municipal Transport Company of Rhodes "RODA" D. Tsikkis and the attorney-in-fact S. Passaris, both during the hearing and with the case no. prot. C/EIS/1862/21 in their memorandum to the Authority stated the following: a) regarding the certificate of previous service, personal data was processed only in the light of the right of access, as long as the certificate was not transmitted to third parties, in any case after the from 23.12.20 of the complainant's new request, the company issued a new certificate with a correct 3 repetition in which only the time of his employment, the period of his employment and the type of his work are indicated, b) the recording of personal data by the a video camera installed inside the buses above the driver's seat only records the ticketing transaction between the driver and the passenger, without depicting faces and without sound, and the data collected through the video surveillance system is not stored in an archive system, and the duration their observance is

limited to seven (7) days, after which they are automatically deleted, c) the ... the camera footage was automatically deleted, a fact of which the complainant was aware and had been verbally informed and d) as of 3.3.21 the Board of Directors has voted in favor. the company's written CCTV policy, which is attached to the Authority. The Authority, after the hearing and the examination of the elements of the file 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 THE LAW

1. According to the provisions of article 5 par. 1 item a', b' and c' of the GDPR, personal data should a) be lawfully and legitimately processed in a transparent manner in relation to the data subject (principles of legality, objectivity and transparency), b) collected for specified , express and legitimate purposes and not be further processed in a manner incompatible with these purposes (principle of purpose limitation), c) are appropriate, relevant and limited to what is necessary for the purposes for which they are processed (principle of data minimization). Furthermore, in accordance with Article 12 para. 3 of the GDPR, "the data controller shall provide the data subject with information on the action taken upon request pursuant to Articles 15 to 22 without delay and in any case within one month of receipt of the request . This deadline may be extended by a further two months if necessary, taking into account the complexity of the request and the number of requests. The data controller shall inform the data subject of said extension within one month of receipt of the request, as well as of the reasons for the delay." Finally, according to Article 15 of the GDPR, the data subject has the right to receive from the data controller confirmation as to whether or not the personal data concerning him is being processed. 2. Also, according to article 678AK "At the end of the contract, the employee can demand from the employer a certificate for the type and duration of his work. Only if the employee specifically requests it, the quality of his work and his conduct are confirmed." 3. In the present case, based on what emerged from the hearing process and from the examination of the file's elements, the complained Municipal Transport Company of Rhodes "RODA", as the controller, a)in violation of the provisions of article 5 par. 1 item c' of the GDPR, granted to the complainant following his dismissal from the company, a certificate seniority in which it was registered except for its type and duration of work and the information that he was dismissed due to a criminal act and b) v violation of the provisions of articles 12 par. 3 and 15 of the GDPR, he never answered in writing to the complainant's request of 22.7.19 to be granted a copy of the footage captured by his CCTV

bus in the driver's seat of the bus on the day of the incident

disputed incident on 23.2.20, implicitly dismissing it.

Following these, a violation of the above-mentioned provisions of the principle of proportionality (article 5 par. 1 letter c GDPR), of the non-satisfaction of right of access, as well as non-information on his request complainant for access to data concerning him (articles 12 par. 3 and 15 GDPR).

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4. In view of the above, the Authority, taking into account its gravity violation that was proven and the insult caused by it to complainant, considers that it should be imposed on the complainant by application of the provision of article 58 par. 2 sec. i' of the GDPR effective, proportional and dissuasive administrative fine, according to article 83 of the GDPR¹.

Because the violation found by the Authority of the provisions of articles 5 par. 1 item c', 12 par. 3 and 15 GDPR falls under the cases of enforcement administrative fines of article 83 par. 5 sec. a' and b' GDPR.

FOR THOSE REASONS

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It imposes on the Municipal Transport Company of Rhodes "RODA", as responsible processing, for the reasons stated at length in its rationale present, the proportional and dissuasive administrative fine that appropriate in the specific case, according to the special circumstances thereof a) in the amount of five thousand (5,000.00) Euros, for the violation of the provisions of articles 12 par. 3 and 15 GDPR and b) in the amount of three thousand (3,000.00) Euros, for the violation of the provisions of article 5 par. 1 item c' of the GDPR, i.e in total the administrative fine of eight thousand (8,000.00) Euros.

The Deputy President The Secretary

George Batzalexis

Irini Papageorgopoulou

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See OE29, Guidelines and the application and determination of administrative fines for the purposes of regulation 2016/679

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