

Athens, 20-05-2019 Prot. No.: G/EX/3608/20-05-2019 AUTHORITY FOR THE PROTECTION OF PERSONAL CHARACTER

DATA A P O F A S I 12/2019 The Authority for the Protection of Personal Character, met, following an invitation of its President in a regular meeting at its headquarters on 23-04-2019 at 10:00 a.m., in order to examine the case referred to in the history of this present case. The President, K. Menoudakos, the regular members A. Symvonis, S. Vlachopoulos, K. Lambrinoudakis and E. Martsoukos and the alternate member Georgios Nouskalis, who had also been designated as rapporteur, in place of the regular member K. Christodoulou, were present. who, although legally summoned in writing, did not attend due to disability. Regular member X. Anthopoulos and his alternate member G. Tsolias did not attend the meeting due to disability, although they were legally summoned in writing. Finally, E. Papageorgopoulou, an employee of the administrative affairs department, attended the meeting, by order of the President, without the right to vote, as secretary. The Authority took into account the following: Complaints of shareholders and/or former shareholders against the Thessaloniki Urban Transport Organization (OASTH) were submitted to the Authority (G/EIS/9304 and 9305/28-12-2017, 182/09-01-2018, 254 , 288 and 296/12-01-2018, 328 and 361/15-01-2018, 1305 and 1306/14-02-2018), with which A, B, C, D, E, Z, H, Th, I, K, L and M (hereinafter complainants) complain about the illegal processing of their personal data by the President of the OASTH, with the publication of their names in a press conference given by the President of the OASTH on ... 2 and the publication of a list 29 shareholders (and/or former shareholders) which was included in a relevant OASTH press release published on the same day (see e-mail message from the OASTH Press Office, dated ... and subject "...". In particular, these complaints refer to the the following: At a press conference of the President of the OASTH, after the entry into force of Law 4482/2017, which took place in Thessaloniki on ... public without their consent or consent and without any prior information their personal data, which was indeed incompletely presented and incorrectly combined as a result of their personal data being illegally published in the press, on the internet and in social media and giving false impressions and information for their face. Specifically, according to the complaints, the details of 29 people, including the complainants, were shared, which, in addition to their names, their percentage of participation in the share capital of OASTH, the acquisition price in euros and the date of the acquisition contract. The complaints are accompanied by the out-of-court declaration-protest-invitation of 28 shareholders of OASTH to this Organization, which was delivered to the Organization on 07-11-2017, i.e. before the above-mentioned date of the press conference of the President of the Organization and the issuance of the relevant bulletin Press (...). With this out-of-court declaration, the protesting shareholders, which include the complainants (except for B and D), requested that they be paid the

balance of the 2016 dividend attributable to their shares, as well as the corresponding 2017 dividend at least for the period until the entry into force of Law 4482/2017, which regulated, among other things, issues of the acquisition of OASTH by the Greek State. Furthermore, some of the complainants allegedly submitted, after the above interview, applications to the OASTH, for their information regarding the processing of their personal data by the Organization, as well as for the granting of the personal data concerning them and the return of all the elements of their file as shareholders of OASTH. 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, [contact@dpa.gr](mailto:contact@dpa.gr) / [www.dpa.gr](http://www.dpa.gr) 3 The Authority, applying the legal framework that was in force at the time of the disputed data processing and the filing of the above complaints, i.e. Directive 95/46/EC and its implementing law 2472/1997 (see also the powers of the Authority provided for in General Regulation (EU) 2016/679 on the protection of personal data), after examining all the elements of the file, after listening to the rapporteur, and after a thorough discussion, IT WAS CONSIDERED IN ACCORDANCE WITH THE LAW 1. The Authority has been repeatedly concerned<sup>1</sup> with cases of conflict of the right to the protection of private life (article 9 par. 1 sec. b) of the Constitution) and personal data (article 9A of the Constitution) with the freedom of journalistic information (article 14 par. 1 and 2 of the Constitution) and the right of citizens to information (article 5A of the Constitution). These rights are constitutionally equal and of equal weight and therefore any conflict between them cannot be resolved by an abstract and fixed ranking of their values. The executive law of article 9A of the Constitution (law 2472/1997) has established certain criteria for harmonizing these rights and resolving conflicts between them within the framework of the principle of proportionality (see article 5 par. 2 letter e) and article 7 par. 2 item g' of Law 2472/1997), on the basis of which, the more special circumstances of each specific case are evaluated. 2. The Authority has judged that the processing of personal data for journalistic-informative purposes is permitted if there is a justified interest of the public in information (Article 5 para. 2 letter e) in combination with the criteria set by Article 7 paragraph 2 letter g' of Law 2472/1997 on the exercise of the journalistic function and is applied by and large also in the case of simple data). 3. Furthermore, in article 4 of Law 2472/1997, the general conditions for the legality of the processing of personal data are set, among which is the principle of purpose and proportionality. In particular, the processing 1 See indicatively the Authority's decisions 100/2000, 24/2005, 25/2005, 26/2007, 43/2007, 58/2007, 17/2008, 36/2012, 165/2012, 16/2015, 17/2015, 41 /2017. 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, [contact@dpa.gr](mailto:contact@dpa.gr) / [www.dpa.gr](http://www.dpa.gr) 4 personal data is permitted, even without consent, according to article 5 par. 2 item. e' of Law 2472/1997, i.e. when there is an overriding legal interest of the data controller or a third party. Such legal interest also means the right to

information, both of the informer and of the informed (articles 14 par. 1-2 and 5A Comp.). 4. Regarding the publication in a press conference by the President of the OASTH of the names and the disputed list of 29 shareholders (and/or former shareholders) of the Organization (see the from ... press release of the OASTH), which were subsequently published in the press /internet, it is researchable whether the specific processing of personal data was absolutely necessary in order to inform the public about the operation and future of the public good of transport in Thessaloniki and to protect the interests of the above Organization, i.e. ultimately the State and the users of the relevant service. FOR THESE REASONS, the Authority considers that the OATH, within fifteen (15) days of receiving this notice, should present its views on the complainants and answer the following questions: a) If the data of the shareholders disclosed during the above-mentioned press conference by the President of the OASTH were already made public or had already become more widely known, b) If this data previously existed in the OASTH file or in another file accessible by the OASTH or was notified to the Organization first with the date of 06-11- 2017 out-of-court statement-protest-invitation of the complainants, c) The procedural actions, which either the OATH or the above shareholders may have taken, before the above interview and the issuance of the relevant press release of ..., d) If the shareholders, whose names were made public, constitute all of the shareholders, and in any case document the reasons for which the specific 29 names were made public, e) If exercised e of the complainants, as subjects of the data, any right (right of access/objection), and in the affirmative case, to 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, [contact@dpa.gr](mailto:contact@dpa.gr) / [www.dpa.gr](http://www.dpa.gr) 5 the relevant response of the OASTH is sent or the reasons for which the Organization did not respond and/or did not satisfy the relevant request should be mentioned. The President of the Authority The Secretary Konstantinos Menudakos Irini Papageorgopoulou 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, [contact@dpa.gr](mailto:contact@dpa.gr) / [www.dpa.gr](http://www.dpa.gr)