

(Department) The Personal Data Protection Authority met in composition Department at its headquarters on Wednesday 24.7.2019 upon the invitation of its President, in order to examine the case referred to in the present history. The Deputy President Georgios Batzalexis, obstructing the President of the Authority Constantinos Menoudakos, and the alternate members of the Authority Panagiotis Rontogiannis, Evangelos Papakonstantinou and Grigorios Tsolias, as rapporteur, in place of the regular members Antonio Symbonis, Konstantinos Lambrinoudakis and Charalambos Anthopoulos, respectively, were present, who , although they were legally summoned in writing, they 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. prot. C/EIS/8420/23.10.2018 his complaint and the no. prot. C/EIS/2687/09.04.2019 his supplementary memorandum to the Authority, A, a former employee of the complained-about company during the period ..., when 1 his employment contract was terminated by the employing company for reasons of reorganization, complains to the former employer company of EKO ABEE a) for unfair processing of his personal data and b) for failure to satisfy his right of access to data concerning him. As the complainant specifically mentions in his complaint and his supplementary memorandum to the Authority, EKO ABEE processed his personal data unfairly by a) altering the quality of his social security data, as well as that of eight other employees in the company, according to the period of his employment at EKO ABEE with his insurance in social security institutions (IKA and ETEAEP) as a new insured, while in fact he was old and b) the concealment in this way of the effect of his previous consecutive insurance period and the right of using the succession insurance provisions on the calculation of the compensation from the defined benefit plan as part of his total agreed remuneration. The consequence of this unfair processing of his social security data was, as he states, firstly, the accumulation of debts of employer contributions and deductions to the ETEAEP auxiliary fund and secondly, the non-payment of the due cost of previous service corresponding to the difference in salaries (old-new insured ). He also complains that despite his repeated requests EKO ABEE has not yet satisfied his right of access to data concerning him and in particular has not granted him a) the primary documents from which the contractual and off-balance sheet financial obligation to cover and payment of the due cost of his previous service due to the cut of the program ... ALICO on ...b) copies of his annual evaluations as well as his evaluation criteria during his employment c) copies of the notifications of the ETEAEP

auxiliary fund to EKO ABEE regarding debts from his insurance as a new insured instead of the correct old insured d) a copy of the group insurance policy No ... between EKO ABEE and ALICO and e) the decision of the Board of Directors of EKO ABEE of ... regarding the reduction of the group insurance policy No . ... On the contrary, as she states, the complainant provided him with a copy of his personal ID as an employee of the company. 2 In particular for his access to the copy of the group insurance policy No ... between EKO ABEE and ALICO and to the decision of the Board of Directors of EKO ABEE of ... regarding the reduction of the group insurance policy No ..., EKO ABEE with the from ... out of court he replied that the specific data cannot be disclosed to him, as they are private documents of the company, non-disclosureable and in any case do not contain his personal data. However, as he claims in his complaint, a) ALICO's group insurance policy includes in its terms the legal and financial obligation to indemnify him as an employee-beneficiary of the plan based on the explicit mention of the plan in the employment contract of ... for indemnification from this program and b) the decision of the Board of Directors of EKO ABEE of ... activated the exercise of his right of choice to use the provisions of the successive insurance and thus early termination of his service time at EKO ABEE and a reduction of the amount of his compensation from the program ... ALICO. He also complains that a) EKO ABEE fraudulently handled the social security data (insurance as new instead of the correct old one) with the aim of initially concealing and then thwarting the payment of the value of his compensation from the ... ALICO program which corresponds to the right and not his obligation to use the provisions of the successive insurance and earlier termination of his service time at EKO ABEE and b) he never gave his consent to the former employer company EKO ABEE for the processing of the social security data in this way. Furthermore, with the no. prot. C/EIS/2071/18.3.2019 his supplementary document to the Authority complains that a) to date the complainant still does not provide him with his evaluation documents, evaluation criteria documents and evaluation scales of his performance as an employee to EKO ABEE for the years ..., as well as the accounting documents, which prove the payment and repayment of EKO ABEE's debts to the ETEAPEP auxiliary fund and b) on ... following a previous relevant telephone communication, the complainant visited the head offices of ELLINIKA PETROLEUM S.A. to receive the above documents, but they were not received. 3 As part of the investigation of the complaint, the Authority sent a document to provide clarifications to the company EKO ABEE, which in its response to the Authority with original number C/EIS/873/04.02.2019 stated that: a) the judgment regarding the correct characterization of complainant as an old or new insured escapes the Authority's responsibilities b) his insurance case has been handled in a manner consistent with the law and his actual insurance data, while his claims of institutional arbitration and

of alteration of his social security data are completely unfounded c) regarding the complainant's request for access to the primary documents with his out-of-court statement from ..., the complainant received from the General Directorate of Human Resources the ... full copy of his personal file d) specifically regarding the requested ' No. ... group insurance policy between EKO ABEE and ALICO, as well as the ... decision of the Board of Directors. her? of the Company, in relation to this insurance policy, EKO ABEE clarified to the complainant that disclosure of these documents is not possible, as they are confidential corporate documents, not divulgable to third parties, which do not contain his personal data e) the applicant invokes the provisions on personal data for the granting of the above documents, while normally he should have sought them through the use of the court system, in the context of his already existing legal dispute with the company f) EKO ABEE never refused to grant copies of the annual evaluations for the period from ... g) the applicant had only requested a copy of his personal file, which has been given to him h) the evaluations are not kept in his personal file so that they can be given to him on ..., especially since he had not submitted independent request to provide the evaluations, therefore his complaint is unfounded, given that the specific request is submitted for the first time in his complaint to the Authority, and in any case he will be given copies of his evaluations after relevant consultation with the relevant department of EKO ABEE and i) finally, all notifications sent by the ETEAPEP auxiliary fund to EKO ABEE regarding the complainant, are part of his individual file and have already been provided to him with the other elements of his file on .... Following this, the Authority, with summons No. G/EX/3318/9.5.2019 and G/EX/3319/9.5.2019 respectively, invited the complainant and EKO 4 ABEE to attend the meeting of the Department Authority on 22.05.2019, in order to hold a hearing of the company on the possible violation of the existing legislation for the protection of personal data, in accordance with the provisions of articles 57 and 58 GDPR in combination with the provisions of articles 19 and 21 of law 2472/1997, as well as those of article 14 par. 10 of the Civil Code (law 2690/1999). During the hearing of 5.6.2019, postponed from 22.5.2019, the complainant A and B, ..., appeared on behalf of the company EKO ABEE, who, after developing their views orally, then submitted their relevant memoranda to the Authority. In particular, the complainant during the above hearing of 5.6.2019, but also with his memoranda No. C/EIS/4266/14.6.2019 and C/EIS/4864/10.7.2019 stated that: a) the EKO ABEE still to this day has not delivered to him full copies of the original group insurance policy ... ALICO including the appendices, the decision ... of the Board of Directors of EKO ABEE regarding the cut of the ... ALICO program and its succession by the ... GROUPAMA program, the accounting documents of the payment of the debts to the ETEAPEP auxiliary fund and the other assessments that were not granted to it on ..., on ... and on ... by EKO

ABEE b) the content of the requested documents which refer to and/or use social security data of the subject (employee - beneficiary) for the calculation of the compensation value from the ALICO program... were not considered by the judges, under the responsibility of EKO ABEE c) was not considered by the judges in the actual cases raises the question of the abusive exercise of the managerial right (in the form of bias) by the bodies of the employer EKO ABEE, through the manipulation and alteration of the quality of the social security data of the employee-beneficiary of the ALICO program... d) in particular, the EKO ABEE with its actions and omissions, in the knowledge of the actual social security data of the employee-beneficiary as well as the qualitative feature of optionality, with the collection, processing, transmission to third parties, retention in the employer's record of defined benefits and use of his social security data in the context of the employment contract of ... with EKO ABEE and the terms of the group insurance program ... 5 ALICO, using incorrect and mutually exclusive actuarial assumptions regarding the time of occurrence of the insurance risk and using creative accounting practices, in such a way that the due service cost to has been kept for many years off the balance sheet of EKO ABEE and the HELLENIC PETROLEUM SA group. and thus not to be measured at fair value and to be settled by paying it to the employee-beneficiary, he systematically and for many years violated the social security data of the employee e) contrary to the claims of EKO ABEE, it is possible to identify the subjects of the data (employees-beneficiaries) of the ... ALICO program based on the social security data, which the employees informed them in writing upon their recruitment, the terms of the ... ALICO insurance policy, the content of the decision of ... of EKO ABEE regarding the program ... ALICO and the financial obligations of a defined benefit employer and f) the reasons why the complainant must have access to the requested documents are that he is owed past service costs and that he has not been paid the amount of ... Euros by ALICO AIG LIFE. The attorney of the complained company EKO ABEE during the above hearing of 5.6.2019, but also with his memorandum No. C/EIS/4339/19.6.2019 stated that: a) the insurance issues raised by the complainant have been the subject of a tripartite conciliation procedure before the competent Labor Inspectorate on ..., which did not take a position and ruled that the resolution of the matter belongs to the competent Courts, to which the employee may appeal, but the complainant never brought an action for the judgment on the issues mentioned in his complaint b) under no. ... decision of the Single-Member Court of Appeal of Athens ruled that the complainant's claims that the termination of his employment contract was due to emotional reasons were not proven by any evidentiary means, and the Court of Appeal, by not passing any judgment on the validity of his claims about the damage he claims to have suffered from the change of the group insurance policy and his characterization as a new instead of an old insured, implicitly rejected them c)

the group insurance policy ..., which has been concluded between EKO ABEE and the insurance company does not contain personal data of complainant as well as the other employees of the company, nor 6 any element that could lead to an indirect identification of him, consequently the complainant unfoundedly invokes the GDPR and the rights deriving from it for the granting of the insurance policy in question and accordingly, there is no obligation of EKO ABEE to grant him a copy of the contract on the basis of the provisions of the GDPR d) the decision of the Board of Directors of EKO ABEE from ..., by virtue of which the termination of the group insurance plan and its replacement by a new insurance plan was approved, does not contain personal data of the complainant, nor of any of another employee, nor any element that could lead to his indirect identification, and the minutes of the Board of Directors of an anonymous company are private documents, and in accordance with the provisions of Law 2190/1920 on anonymous companies (article 7b par. 12) , which was valid until 31.12.2018, third parties and those shareholders who did not attend the General Assembly can get copies of the minutes only after a prosecutor's order to the General Assembly, and the same provision is repeated in article 134 of Law 4548/2018 which was replaced by 1.1.2019 Law 2190/1920 and e) consequently, the complainant is not entitled to exercise the right of access to their content of the documents, because he is a third party, and as such he addresses the Authority without jurisdiction and bypassing the judicial process. 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. With article 94 of the General Data Protection Regulation (GDPR) no. 679/2016, Directive 95/46/EC was repealed from 25.5.2018, when the GDPR came into force no. 99 par. 2 thereof from May 25, 2018. 2. The provisions of articles 13 and 14 GDPR include the information provided by the controller to the subject when personal data is collected. 7 Pursuant to the provisions of article 15 para. 1 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 and, if this is the case, the right of access in the personal data and information detailed in the subsections of the said paragraph. Furthermore, according to Article 16 GDPR, the data subject has the right to demand from the controller without undue delay the correction of inaccurate personal data concerning him. Bearing in mind the purposes of the processing, the data subject has the right to request the completion of incomplete personal data, including through a supplementary statement. If the data controller does not act on the data subject's request, he shall inform the data subject within one month of receiving the request of the reasons why he did not act and of the possibility of submitting a complaint to a supervisory authority and taking legal

action (Article 12 par. 4 GDPR). Also according to the provisions of article 58 par. 2 sec. c of the GDPR, each supervisory authority has, among other things, the remedial power to instruct the data controller or processor to comply with the data subject's requests for the exercise of his rights under the GDPR. 3. In this case, from the data of the case file, the hearing procedure as well as the memoranda submitted to the Authority, the following emerged: Complainant A, a former employee of the complained-about company during the period ..., when the employment contract was terminated of on behalf of the employer company with the no. prot. C/EIS/8420/23.10.2018 his complaint and the no. prot. C/EIS/2687/09.04.2019 his supplementary memorandum to the Authority, complains that the former employer company of EKO ABEE processed his personal data unlawfully by altering the quality of his social security data, as well as that of eight other employees in company, during the period of his employment at EKO ABEE with

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his insurance with social security agencies (IKA and ETEAPEP) as a young person insured, while in fact he was old and the falsification with this way of the effect of his previous consecutive insurance time and of his right to use the provisions of the successive insurance on him calculation of compensation from the defined benefit plan as part of his total agreed remuneration. Consequence of this unfairness processing of his social security data was, he says, firstly, the accumulation of debts of employer contributions and deductions to ETEAPEP auxiliary fund and secondly, the non-payment of the amount due seniority salaries corresponding to the salary difference (old-new secured). He also complains that despite his repeated requests EKO ABEE has not yet satisfied his right of access to data that he concern and in particular he has not granted him a) the primary documents from the from which the contractual and off-balance sheet financial obligation for the coverage and payment of the due amount of his seniority dues of the cut of the program ... ALICO on ... b) copies of the annual

of his evaluations as well as his evaluation criteria during the

c) copies of the notifications of the auxiliary fund

ETEAPEP to EKO ABEE regarding debts from his insurance as

new insured instead of the correct old insured d) a copy of it

of group insurance policy No... between EKO ABEE and ALICO

and e) the decision of the Board of Directors of EKO ABEE of ... regarding its reduction

of group insurance policy No .... On the contrary, as he mentions,

complainant provided him with a copy of his personal file as

employee in the company.

4. Regarding the complainant's request for access to the primary documents

with his out-of-court statement from ..., the complainant received from the General Administration

of Human Resources ... a complete copy of his personal file.

Regarding the two requested documents a) of the group insurance policy

contract No ... between EKO ABEE and ALICO and b) its decision

Board of Directors of EKO ABEE of ... regarding the reduction of the group insurance policy

contract No ..., it did not appear that these documents contain personal

data and therefore the GDPR does not apply. In any case,

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complainants, in order to obtain copies of the requested documents, shall

he could either follow the procedure of the Code of Civil Procedure re

presentation of documents in accordance with the provisions of articles 450-452 of the Civil Code according to

during the pending trial with the accused, or to follow her

demonstration procedure provided for in the provisions of articles 902-903 of the Civil Code

documents.

The notifications from ETEAPEP to EKO ABEE are a part

of his individual file and have been provided to him with his other details

file her ....

The issue of the alleged "alteration of quality" of its data

of social security escapes the competence of the Authority.

Regarding the complainant's access to his evaluations, EKO

ABEE stated that it will satisfy its right of access to them. Min

however, in case he has not been granted all the assessments, the Authority

in accordance with article 58 §2c' of the GDPR instructs EKO ABEE to

comply with the complainant's request for access to

requested ratings.

FOR THOSE REASONS

THE BEGINNING :

1) Gives an order to EKO ABEE, in accordance with the provisions of article 58

par. 2 sec. c' of the GDPR, to comply with his request

complainant A. for his access to the requested evaluations

and to proceed with their immediate provision, in case he does not have it

granted all of them.

2) Rejects the rest of the complaint as fundamentally unfounded for them

reasons mentioned in the reasoning of the present.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou