

Athens, 02-28-2018

Prot. No.: G/EX/1707/28-02-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 19 /2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on 15.02.2018 at 10:00 a.m. following an invitation from

Its President, in order to examine the case mentioned in the history

of the present. They were attended by the Deputy President, G. Batzalexis,

obstructing the President of the Authority, K. Menoudakou, and the substitutes

members of the Authority X. Tsiliotis, as rapporteur, G. Tsolias and P. Rontogiannis, in

replacement of regular members S. Vlachopoulos, C. Anthopoulos, and Ant.

Conspiracy respectively, which, although they were legally summoned in writing, were not attended due to obstruction.

Present without the right to vote was K. Karveli, E.E.P.-lawyer, as

assistant rapporteur and E. Papageorgopoulou, employee of the administrative department affairs, as secretary.

The Authority took into account the following:

With the no. prot. C/EIS/7665/24.10.2017 her application to the Authority, A

requests the intervention of the Authority for its information from the Directorate of Tourism of Education (hereinafter DDE) of Athens regarding the implementation of the non-grant sick leave and salary cut to B, Principal of X Gymnasium of Athens.

As it appears in particular from her above-mentioned application to the Authority and the documents attached to it, with its reference from ..., which

was duly forwarded by the HYPPETH to the 1st Court of Athens, the applicant complained that B stated in his document to the Athens Misdemeanor Prosecutor's Office that was absent from his duties on sick leave for two (2) weeks on period March-April 2013, while the Service's license system had not been informed of this permission. Following this, the 1st Athens Court since investigated the complaints, proceeded to not grant a license and cut it of B's salary for the above period, because the complainant testified with an application with a transfer letter from X Gymnasium of Athens to A'/thmia Hygienomics Commission, which opined that he is entitled to sick leave, however he testified beyond the deadline to the DTE A' of Athens the necessary for the granting of the requested sick leave supporting documents. The applicant was informed of her result her report-complaint from the First Athens Court of Appeal with no. Inc. first Then, with her application from ..., which was forwarded to DTE A' of Athens with the no. first ... prosecution order of the Prosecutor of Primary Athens, A requested to be informed by the Director of DTE A' of Athens and President of PYSDE for the implementation of the non-granting of sick leave leave and salary reduction to the complainant B, both in her capacity as complainant, but also due to her legitimate interest in view of pending cases disciplinary and criminal proceedings against the accused, after complaints and lawsuits filed by her against him. Specifically, such as states in its application to the Authority, is pending, among other things, for adjudication to the Primary Disciplinary Council the referral of B after relevant her complaint-report as well as the no. ... lawsuit, which he filed in burden of the applicant. However, as stated in her application to the Authority, DDE 1 of Athens, while notifying her of the non-granting of sick leave and salary cut to the complainant B, has not yet satisfied the request

informing her about their implementation, citing that it is about personal data of third parties. For this reason, the applicant requests her intervention Authority, in order to be granted the requested data.

The Authority, after examining the elements of the file and after hearing him rapporteur and the clarifications from the assistant rapporteur, who then left before the decision conference, after thorough discussion

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THOUGHT ACCORDING TO THE LAW

The Authority has ruled that N. 2472/1997 recognizes its obligations controller only towards the data subject and not him of a third party (see Opinion 4/2009 on the extent of authority of the Authority on third party requests for personal data and relevant reference to Annual Report 2009, Section 3.9.3.1.). In particular, according to the Opinion 4/2009 Law 2472/1997 includes in articles 5 par. 2 and 7 par. 2 the conditions under which personal collection and processing is permitted data, respectively simple and sensitive, while article 4 sets the general ones processing principles that apply to both categories of personal data. The law grants authority to the Authority to judge the subscription of conditions of the admissibility of said processing including any transmission of data to third party recipients. But not this implies, as a logical necessity, the authority of the Authority to impose on controller obligation to provide personal data and further sanction for non-fulfilment of this obligation. Competence with this content should be explicitly provided for in the law. Therefore, N. 2472/1997 does not establish claims by third parties for the provision of information.

Furthermore, the provisions of Law 2472/1997 establish the prohibition in principle of the processing of personal data, and provide for the terms and conditions conditions, based on which the processing is legal and permissible personal data. Specifically, articles 5 and 7 of the above law do not establish third-party claims for processing the subject's personal data, rather they only set the limits of legal behavior of the data controller. These provisions constitute the legalizing bases of processing and no establish as a rule the right of third party access to personal data of the subject. Consequently, the Authority, which in accordance with its competence imposes sanctions only for violations of Law 2472/1997, does not have the authority to order the satisfaction of third parties' requests for information, nor can it impose sanctions for not providing personal data to third parties applicants. The decision to transfer the personal data to the applicant third party ultimately belongs to the controller, who, if an administrative authority,

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is controlled by the Council of State and the administrative courts, while, if he is a private person, subject to the control of the civil courts.

In the considered case, as set out in the history, the applicant A requests her intervention of the Authority, in order to oblige the DTE A' of Athens to inform it about the implementation of the non-granting of sick leave and salary cut to complainant B. However, according to the aforementioned, the Authority does not have the authority to order the satisfaction of its request for the provision of specific information, nor can it impose sanctions for not their provision.

FOR THOSE REASONS

The Authority rejects A's application due to incompetence.

The Deputy President The Secretary

Georgios Batzalexis Irini Papageorgopoulou