

Athens, 13-01-2022 Prot. No.: 78 DECISION 2/2022 (Department) The Personal Data Protection Authority met as a Department at its headquarters on 26.07.2021 at the invitation of its President, in order to examine the case that refers to the history of the present. The President of the Authority, K. Menudakos, and the regular members of the Authority, S. Vlachopoulos, were present, as rapporteur, C. Anthopoulos and K. Lambrinoudakis. Present without the right to vote were K. Karvelis, expert scientist-lawyer, as assistant rapporteur, who left after the discussion of the case and before the conference and decision-making, and G. Palaiologos, employee of the Authority's administrative affairs department, as secretary. The Authority took into account the following: With the no. prot. C/EIS/136/10.1.20 his complaint to the Authority, A states that with his report from ... to the Military Service Φ, he denounced as illegal the inscription on the type A military status certificate of exemption from conscription, requesting the revision of article 44 of the Regulation on the Organization and Operation of the Joint Legal Body Units, and that on ... received the response of the Military Service, which did not justify why the listing of the case of fulfillment or discharge is considered absolutely necessary and appropriate for the purpose of the certificate in question and, therefore, her response was not directly relevant to the subject of the complaint, which requests a comprehensive review of the purpose of the certificate in question. 1 Also with the above complaint and with his supplementary complaint to the Authority, he states that he received an overdue response from GEETHA, to which his report from ... was also addressed, on ... (after the end of 60 days from the initial letter on ... and without a previous request for an extension within 30 days), in which, however, it is not justified why the entry of fulfillment/exemption is considered absolutely necessary and convenient to serve the purpose of the certificate and the wider public interest, and therefore legal. In particular, as it appears from the documents attached to the complaint, in the from ... with no. ... a certificate received by the complainant from Military Service Φ stated 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". Following this, the complainant, with his aforementioned complaint to the Military Service F and the Ministry of National Defense, denounced as illegal the inscription on the certificate of exemption from military service, since, as he claims, the inscription in question constitutes sensitive personal data and is unnecessary in relation to the purpose of the certificate, because it indirectly reveals sensitive personal data, exposing the interested party to the risk of discrimination. With the same complaint, he requested the revision of article 44 of the Regulation of Organization and Operation of the Joint Legal Body Units. In response to the complaint, the Military Service Φ in its relevant document from ... stated that it adheres to the legality of the issuance of the Certificate of Military Status type A received by the complainant

following his application, as long as its content is in accordance with the existing legal framework on legal processing of personal data and related decisions and orders. Also, the complainant received a response from GEETHA on ... according to which the inscription of the fulfillment/exemption on the type A army certificate is considered absolutely necessary and appropriate to serve the purpose of the certificate and the wider public interest, and, therefore, legal. 2 The Authority, in the context of investigating the complainants, sent the no. prot. C/EX/2241/24.3.20 document to provide clarifications regarding A's complaint to the T Military and the Ministry of National Defense. the non-conscription exemption from The Ministry of National Defense in its reply to the Authority from 27.4.20 stated the following: a) the inscription of the data subject's exemption from conscription on the conscription status certificate does not exceed the limits set are set by the current provisions on the protection of personal data, as the Authority for the Protection of Personal Data has already decided, with no. 1620/2000 and 159/2014 decisions, b) the claim of the complainant about the indirect disclosure of sensitive personal data due to the above change is not true, as on the one hand it has already been decided by the Authority's decision 159/2014 that the simple mention constitutes sensitive personal data , on the other hand, the provisions of Law 4624/19 no longer contain the concept of sensitive data, with the consequence that there is no longer the relative distinction between personal and sensitive data provided for by Law 2472/97 and that there is no classification in terms of protection provided, c) with regard to the existing form of enlistment status certificates, the written provisions for the protection of personal data have been taken into account, as well as the relevant decisions of the Authority, d) given that, the reasons provided for in the law for exemption from conscription vary in nature, it is not possible to infer from third parties the reason for the discharge of the data subject, nor to risk the interested party to be a victim of adverse discrimination because of this, e) his claim about third party access to the data of the person exempted from conscription is not true, as, as a rule, third parties are denied access to said data, with the exception of course of the case of the legally authorized by the subject of the personal data, f) if the requested certificate is submitted to a 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 bear a legal justification, therefore and given that the action of the Public Administration is governed by principle 3 of equal treatment, there is no scope for adverse discrimination due to his exemption from military service and g) the content of the certificate of military status in question is fully harmonized with the current legislation on data protection of a personal nature and related decisions and orders. The Authority, after examining the complaint and the elements of its 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, OUGHT IN ACCORDANCE WITH THE LAW 1. According to the provisions of article 5 paragraph 1 of the GDPR, personal data should, among other things, a) be processed lawfully and legitimately in a transparent manner in relation to the subject of the data ("legality, objectivity and transparency"), b) to be collected for specified, explicit and legal purposes and not to be further processed in a manner incompatible with these purposes, c) to be appropriate, relevant and limited to what is necessary for the purposes for which they are submitted to processing ("data minimization") and d) be accurate and, where necessary, updated. 2. In accordance with article 42 of the Regulation of Organization and Operation of the Joint Legal Body, enlistment changes are registered in the enlistment rations by the staff of the Service, who are responsible for issuing the relevant administrative act and are confidential information that is not disclosed to third parties, and the type of changes registered in the files is determined by orders issued by the GEETHA. The observance of confidentiality is an obligation and responsibility arising from the current legislation on the protection of personal data, while exceptionally it is possible to notify third parties of changes or data from the computerized 4 files and military registers, in accordance with the conditions set by the currently applicable legislation on the protection of the individual from the processing of personal data and for the reasons referred to exclusively therein. Furthermore, in accordance with article 44 of the Regulation of Organization and Operation of the Joint Legal Body, enlistment status certificates are used in cases where the interested parties wish to certify their enlistment status or to certify all or some of their enlistment changes. In order to make a decision regarding the recording of all or certain changes, the purpose for which the interested party requests the issuance of the certificate is taken into account, and if this is not clearly inferred from the relevant application, the changes in classification and dismissal, award are written on the certificate officer ranks and swearing-in, recognition of time of service and entry into the reserve and the time that is not counted as time of actual military service. For the issuance of the certificates, the provisions of the current legislation on the protection of the individual from data processing are taken into account of a personal nature. Changes that refer to unsuitability for enlistment or in granting deferment on health grounds or transfer of rank for reasons of health or in a crisis of physical capacity are written in harmony in accordance with the applicable legislation for the protection of the individual from processing of personal data. But it is possible, if explicitly if the interested party requests it in his application, the changes should also be indicated

these, as registered in his military service. For incumbents

in case of insubordination or desertion, a certificate of military status is not issued.

3. In order for the personal data to be lawful

processing, i.e. processing in accordance with GDPR requirements, should

to cumulatively meet the conditions of application and observance of its principles

article 5 paragraph 1 GDPR.

The certificates of military status issued by the

recruiting offices based on the information registered in

recruitment portion should include only as much information as is

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necessary for the purpose for which they are granted. The inscription of anyone
of another element that does not meet this purpose is unnecessary and
contravenes the principles of proportionality, affordability and
minimization of the processing set by its aforementioned provisions
GDPR.

In particular, the main purpose of the military status certificate
of general content, type A certificate, is the certification that
one is no longer subject to military obligations. The inscription, therefore, in
certificate of any other given contravenes the above principles and,
therefore, it is illegal. It is understood that in the granted certificate
legally include more data or even all of the enlistment data
changes if required by law for the purpose for which
the certificate is granted. In this view, which relies on the GDPR,
the aforementioned provision of article 44 of the Regulation is harmonized
of Organization and Operation of the Joint Legal Body, by which it is provided
that certificates of military status are used in the cases

in which the interested parties wish to certify their enlistment status or the certification of all or some of their enlistment changes, that for listing all or some changes, the purpose is taken into account for which the interested party requests the issuance of the certificate and that for the issuance of the certificates, the provisions of the applicable law are taken into account legislation to protect the individual from data processing of a personal nature.

4. In the case of A's complaint, it was granted to the complainant certificate of enlistment status type A, "after a relevant application for any lawful use", as stated in the certificate itself, in which it is ascertained that the complainant "has not fulfilled his military obligations obligations and does not currently have any military obligations, because he has to be exempted from military service".

However, according to what is mentioned above, this certificate does not legally contains the information that the complainant has not fulfilled the his military obligations and that he has been released from the obligation

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conscription, since it was not granted for a specific purpose, for which he was against law necessary to verify these data, but for any legal use. In this case, therefore, it was sufficient to certify that the complainant is not liable Military Service.

FOR THOSE REASONS

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INVITES the Ministry of National Defence, as controller, to issue for the complainant again the certificate of enlistment status type A' with the inscription only given that he no longer has any

military obligation.

The President The Secretary

Kon/nos Menudakos

Paleologo Georgia