

(Department) The Personal Data Protection Authority met in composition Department at its headquarters on 20.11.2019 upon the invitation of its President, in order to examine the case referred to in the present history. The Deputy President Georgios Batzalexis, who was in the way of the President of the Authority Constantinos Menoudakos, and the alternate members of the Authority Evangelos Papakonstantinou and Emmanouil Dimogerontakis, as rapporteur, in place of the regular members Konstantinos Lambrinoudakis and Eleni Martsoukos, respectively, who, although legally summoned, appeared in writing, they did not attend due to disability. The regular member of the Authority Charalambos Anthopoulos and his alternate member Grigorios Tsolias, although they were legally summoned in writing, 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: A (one), a citizen of Albania (born ...), with his appeal to the Authority with protocol number A/EIS/91/18-12-2018 requested his deletion from the National List of Undesirable Aliens (hereafter E.K.A.N.A.) and the Schengen Information System 1 (hereafter S.S.P.). As can be seen from the document No. ... of the Police Directorate [region] X of the General Regional Police Directorate [region] P to the Authority in response to the Authority's document No. A/EX/12/02/05/2019 to provide clarifications regarding the existence of an entry in the above lists, against the applicant A who was arrested on ... was issued by the Police Directorate [region] X nr. first ... decision to return due to his conviction to a three-year prison sentence for illegal drug trafficking, as it appears from the no. ... decision of the Single-Member Court of Criminal Appeals [region] X due to the fact that his presence was deemed dangerous to public order and security and due to the fact that he lacked a legal residence permit. To this end, he was not granted a deadline for voluntary departure, his detention continued until the removal procedures were completed and he was registered with the E.K.A.N.A. and in S.P.S. until .... Then, with the no. first ... decision of the Police Directorate [region] X was reviewed and the above registration in the E.K.A.N.A. was maintained. and the S.P.S. until ... as long as the reasons for the registration were still valid. In particular, as can be seen from the no. first ... document of the Police Directorate of [region] X, the foreigner was arrested again on ... in [region] X as he had entered the Country in violation of the entry ban measure. Also issued was no. ... decision of the Decentralized Administration [region] P by which the no. ... request for the issuance of a residence permit, without granting a deadline for voluntary departure. Also, with the no. ... decision of the Three-member Misdemeanor Court of

[region] Y, the foreigner in question was sentenced to one year in prison for the act of moral turpitude in the supply of mobile phones to prisoners in a joint detention center and to two years in prison for possession of a weapon in prisons by prisoners together, decision which became final with the no. ... decision of the Three-member Court of Appeal [region] X. Finally, with the no. ... decision of the General Regional Police Directorate [region] Ψ rejected the request from ... to delete the applicant from the E.K.A.N.A. and the S.P.S., since it was judged that the reasons of public order and security for which it was registered are still valid. 2 The Authority, after examining the above-mentioned data, heard the rapporteur and the clarifications from the assistant rapporteur, who then left, and after a thorough discussion DECIDED IN ACCORDANCE WITH THE LAW 1. Because, art. 24 of Regulation 1987/2006, in accordance with the provisions of the previous article 96 of the SESA, regulates the conditions for the registration of third country nationals in the Schengen Information System (SIS II). Also, in article 29 par. 2 and 4 it is provided that in order to maintain the registration in SIS II for a longer period of time, it is deemed necessary to have a timely, within three years, specially reasoned decision of the body deciding on the registration, justifying the need to maintain it beyond of the three years. The competent body decides, after a recorded overall and individual assessment, the need to maintain it, otherwise, the registration is automatically deleted (par. 5 of the Regulation). Furthermore, from the provisions of articles 41, 43, 44 of the aforementioned Regulation in conjunction with the provision of article 19 par. 1 sub-section (e) of Law 2472/1997, it follows that the Authority is competent to examine, following an appeal by the subject, the legality of its registration in the S.P.S. list. (SIS II), in accordance with the above provisions issued by the authority responsible for the registration, of the decision on the need to maintain it beyond the time mentioned in the above provisions and if the above conditions for the registration and the of its maintenance, to order the deletion. 2. Because, the articles 1 and 3 of KYA4000/4/32-la'/17.10.2012 respectively provide for the conditions for the registration of foreigners in the E.K.A.N.A. and the ex officio review of each registration every three years. In addition, according to art. 6 of the above KYA, for compliance with the E.K.A.N.A. and the processing of the corresponding personal data shall be subject to the relevant provisions of Law 2472/1997 and in particular to art. 4 and 13 thereof. 3. Because according to the provisions of article 76 par. 1 of Law 3386/2005, the administrative deportation of a foreigner is allowed if: a. Has been finally sentenced to imprisonment for at least one year or, regardless of the sentence, for crimes against the state, 3 treason, crimes related to drug trafficking and trafficking, money laundering, international economic crimes, crimes using means high-tech, currency crimes, crimes of resistance, abduction of a minor, against sexual freedom and financial exploitation of sexual life, theft, fraud, embezzlement,

extortion, usury, the law of middlemen, forgery, false declaration, defamation, smuggling, for crimes involving weapons, antiquities, promoting illegal immigrants into the country or facilitating their transportation or promotion or securing accommodation for them to hide and if his deportation has not been ordered by the competent court. b. He has violated the provisions of this law. c. His presence on Greek soil is dangerous for public order or the security of the country. 4. Because, for the legality of the registration, the body responsible for the registration should in its decision issue a specially reasoned judgment on the "threat" posed by the presence of a foreigner on the national territory (see related Authority Opinion 3/2012) .

5. In the case under consideration, from the information in the file and the clarifications of the Police Directorate [region] X, it emerged that the applicant A was registered by the Police Directorate [region] X in the E.K.A.N.A. and in S.P.S. according to the ... decision of the competent officer of this Administration. From the registration of the foreigner in question in E.K.A.N.A. and in S.P.S. three years have passed and the ... decision of the competent officer of the Directorate of Aliens of Attica has been issued, by which it was reviewed, in accordance with the provisions of subsection c' par.1 of art. 3 of no. K.Y.A. 4000/4/32-Ia and the registration of the above in the S.P.S. was maintained. and to E.K.A.N.A. until ..., since it was judged that the reasons for the registration were still valid. Consequently, according to the aforementioned provisions, the registration of the applicant in the S.P.S. and E.K.A.N.A. is legal, as it was entered in the above lists for reasons of public order and security, as specifically stated in the historical decision of the competent officer of the Directorate of Aliens of Attica, by which it was entered, 4 and before the expiration of three years from the initial registration, it was decided to maintain his registration in the said lists, since it was judged that the reasons for the registration were still valid, and in particular, because a) it was issued by the Police Directorate [region] X no. first ... return decision due to his conviction to a three-year prison term for illegal drug trafficking, according to the no. ... decision of the Single-Member Court of Criminal Appeals [region] X, due to the fact that the presence of

she was deemed dangerous to public order and security and because she lacked

of a legal residence permit and b) as follows from the no. first ... document

of the Police Directorate [region] X, the foreigner was re-arrested on ...

in [area] X as he had re-entered the Country, violating its measure

entry ban.

Consequently, his appeal must be dismissed as unfounded.

For those reasons

The Authority rejects A's appeal for the deletion of his data from  
the S.P.S. and E.K.A.N.A.

The Deputy President The Secretary

Georgios Batzalexis Irini Papageorgopoulou