

Athens, 01-12-2022 Prot. No. 3074 DECISION 62 / 2022 (Department) The Personal Data Protection Authority met as a Department following the invitation of its President via video conference on Wednesday 3-8-

2022 at 10:00 a.m., in order to examine the case referred to in the present history. The Deputy President of the Authority, Georgios Batzalexis, who was in the way of the President of the Authority, Constantinos Menoudakos, and the alternate members of the Authority, Maria Psalla as rapporteur and Demosthenes Vougioukas, in place of regular members Grigorios Tsolia and Konstantinos Lambrinoudakis, who although legally summoned, were present. they did not attend due to disability.

Present without the right to vote were Anastasia Tritaki, specialist legal scientist, as assistant rapporteur, and Irini Papageorgopoulou, employee of the administrative affairs department, as secretary. The Authority took into account the following: With the no. First Authority G/EIS/5995/21-9-2021 complaint, as supplemented with the no. Authority Prot.

2021 memoranda, A, as a candidate for a first-level professor position at School X of the National and Kapodistrian University of Athens based on announcement no. ..., complained that during the election process to fill the position and in order to evaluate his candidacy, the reporting committee searched, collected and correlated his personal data from third sources, for which, according to his claims, there was no his prior consent or information. Furthermore, the complainant asserted that he exercised the rights to restrict the processing of his data under Article 18 of the GDPR, as well as his right to object to the processing of his data under Article 21 of the GDPR, but according to his claims, the exercise of his of the right of restriction was without effect, while regarding the satisfaction of the right to object, the complainant replied to the complainant that it could not be applied, as the complained forms of processing had as their legal basis article 6 par. 1 item. 3 GDPR, while the right applies only to the legal bases of article 6 par. 1 item and GDPR. The Authority, in the context of examining the above complaint, sent the document C/EX/2299/13-10-2021 to the National and Kapodistrian University of Athens to provide opinions on the matters mentioned in the above complaint. With no. Prot. Authority C/EIS/7387/11-11-2021 in its memorandum, the complained National and Kapodistrian University of Athens, argued among other things that the complained forms of processing, which concern exclusively publicly accessible sources, were necessary in order for the reporting committee to comply with article 6 par. 1 item 3 GDPR with its legal obligation stemming from the provisions of article 19 par. 4 item. c' of Law 4009/2011 (Government Gazette A' 195), as replaced by article 4 par. 4 of Law 4405/2016 (Government Gazette A' 129) and in force at the time of the election process, in order that "a) to analyze and evaluate the work and personality of each candidate, passing judgment on his contribution to the progress of science, b) to formulate his opinion if the candidates meet

the qualifications required by law and in particular on the relevance of his knowledge position to be filled with the academic subject of the doctoral thesis, as well as the relevance of this, scientific, teaching, clinical or artistic work of the candidates with the academic subject of the position to be filled, c) if more than one candidate is judged, to carry out the comparative and their evaluative ranking." According to what was mentioned in the above answer, the legal basis of the processing is article 6 par. 1 item. c' of the GDPR, without requiring the consent of the data subject and subsequently, article 21 of the GDPR on objection to the processing of data cannot be applied, as it is not provided for in the case of processing based on article 6 par. 1 item. c' of the GDPR. After examining the details of the file, the Authority sent letter no. Authority Prot. C/EXE/ 967/28-04-2022 summons for hearing to the accused and the no. Authority letter C/EXE/ 970/28-04-2022 to the complainant, in order to attend, via teleconference, a hearing before the Department of the Authority on 4/5/2022 at 11.00 a.m., regarding the discussion of as above complaint. The discussion was postponed to 1/6/2022, when it took place, via teleconference. At the meeting in question, the complainant A attended with his attorney Antonio Vasilopoulos (AM DSA 17377), and on behalf of the complained National and Kapodistrian University of Athens, attended by B, Vice Chancellor of Academic Affairs and Student Affairs EKPA, C, President of the Department of Economic Sciences , D, member of the Three-Member Advisory Committee, professor of the Department of Economic Sciences and Charalambos Pallas, lawyer, EKPA legal advisor (AM DSA 22844) and on behalf of Space Hellas, Data Protection Officer of EKPA, E. Both parties, after having verbally developed their views, received during this meeting a deadline for presenting memoranda to further support their claims, which they submitted on time, the complainant on 06/16/2022, the complained on 06/17/2022. During the above hearing of 1/6/2022, but also with the no. prot. C/EIS/8030/16-06-2022 following the hearing of his memorandum, the complainant repeated the allegations he raised before the Authority. The denounced National and Kapodistrian University of Athens with the no. prot. C/EIS/8060/17-06-2022 after hearing his memorandum, argued among other things that the Advisory Committee, having from article 19 par. 4 para. c of Law 4009/2011 (Government Gazette A' 195) , as amended by article 4 par. 4 of Law 4405/2016 (Government Gazette A' 129), legal obligation to render a fully reasoned and documented judgment regarding the candidates, may take into account other elements about the work or the personality candidate who may know from other sources or their personal perception, referring indicatively to 2199/2020 Decision (3rd Section) of the Council of State. Further, the complainant reiterated that the Advisory Committee consulted only public sources, to which every citizen has access, and which provide a "presumption of accuracy". He further added that the complainant was informed about the search for data from the above sources within a

reasonable time, in accordance with the provisions of article 14 par. 3 para. a) GDPR. With reference to the satisfaction of the rights exercised by the complainant, the complainant repeated the allegations he raised before the Authority regarding the right to object under article 21 GDPR, while he also argued that, given that the right to limit processing based on article 18 GDPR, was exercised in combination with the right to object of Article 21 GDPR, there is no case of its application. Finally, the complainant argued that the complainant received a clear and specific answer on the above from the University's Data Protection Officer. The Authority, after examining the elements of the file and what emerged from the hearing before it and the parties' memoranda, after listening to the rapporteur and the clarifications from the assistant rapporteur, who was present without the right to vote, after a thorough discussion, THINKS IN AGREEMENT BY LAW 1. Because, from the provisions of articles 51 and 55 of the General Data Protection Regulation 2016/679 (GDPR) and article 9 of law 4624/2019 (Government Gazette A' 137) it follows that the Authority has the authority to supervise the application of the provisions of the GDPR, this law and other regulations concerning the protection of the individual from the processing of personal data. 2. Because, with article 5 par. 1 of the GDPR the principles that must govern a processing are set and with par. 1 item. a' of the above article provides, among other things, that "Personal data a) shall be processed lawfully and legitimately in a transparent manner in relation to the subject of the data ("legality, objectivity and transparency")", while according to Recital 39 GDPR "Any processing of personal data should be lawful and fair. It should be clear to natural persons that personal data concerning them is collected, used, taken into account or otherwise processed, as well as to what extent the personal data is or will be processed. This principle requires that any information and notice regarding the processing of such personal data be easily accessible and understandable and use clear and plain language. This principle concerns in particular the information of data subjects regarding the identity of the controller and the purposes of the processing and further information to ensure fair and transparent processing in relation to the natural persons in question and their right to receive confirmation and obtain notification of related personal data subject to processing.

Natural persons should be informed of the existence of risks, rules, guarantees and rights in relation to the processing of personal data nature and how to exercise their rights in relation to this processing (...)".

3. Because, according to article 6 par. 1 item c' of the GDPR regarding legality

of processing: "1. Processing is only lawful if and as long as it is valid at least one of the following conditions: (...) c) the processing is necessary for compliance with a legal obligation of the data controller, (...)", whereas according to Reason 41 of the GDPR "Whenever this regulation refers to a legal basis or legislative measure, this does not necessarily presuppose legislation passed by a parliament, subject to requirements according to the constitutional order of the specific member state. However, this legal basis or the legislative measure should be clearly formulated and accuracy and its application is predictable for persons subject to it, in accordance with the case law of the Court of Justice of the European Union (the "Court") and the European Court of Human Rights."

4. Because, as defined by article 12 par. 1 "The data controller receives the appropriate measures to provide the data subject with any information that referred to in articles 13 and 14 and any communication under articles 15 to 22 and of article 34 regarding processing in concise, transparent, understandable and easily accessible form, using clear and simple wording, especially when this is information addressed specifically to children. Information provided in writing or by other means, including, if appropriate, electronically. When requested by the data subject, the information may be given orally, subject to the condition that the identity of the data subject is proven by other means.", while according to article 14 of the GDPR "1. When the data of a personal nature have not been collected from the data subject, the controller provides the data subject with the following information: (...) 2. In addition to the information mentioned in paragraph 1, the controller provides the data subject with the following information which are necessary to ensure fair and transparent processing regarding

the data subject: (...). 3. The controller provides the information referred to in paragraphs 1 and 2: a) within a reasonable time from the collection of the personal data, but at the latest within one month, taking into account the special circumstances in which personnel data character are processed, b) if the personal data are to be used to communicate with the data subject, the at the latest upon first contact with said data subject, or c) if notification to another recipient is provided, at the latest when the data of a personal nature are disclosed for the first time. (...)" and according to Recital 60 GDPR "The principles of fair and transparent processing require to inform the data subject of the existence of the processing operation and its purposes. The controller should provide the subject of the data any further information necessary for the assurance fair and transparent processing, taking into account the specific circumstances and context within which personal data is processed character. (...)"

5. Because the Authority has the authority to deal with A's complaint against Ethnikos and Kapodistrian University, as far as its above-mentioned history is concerned case, it appears that the complainant searched, collected and correlation of the complainant's personal data, which constitute forms of non-automated processing of personal data character, in the sense of article 4 par. 2) GDPR, while this data included in the evaluation report of the nominations, therefore in a system archiving in the sense of article 4 par. 6) GDPR, therefore it is about processing subject to the regulatory scope of articles 2 par. 1 of the GDPR and 2 thereof Law 4624/2019.

6. Because during the discussion before the Department, it emerged, among other things, that the search, collection and association of candidates' personal data

faculty members from third-party sources for the purpose of evaluating their candidacies, it states question of meeting the conditions of legality, transparency and existence of a legal basis, as well and issue of providing information to the candidates, which they present

more general interest, relating to important and not capable of being determined

number of both subjects and controllers, i.e. candidate members

Teaching and Research Staff on the one hand and Higher Education Officers

Institutions on the other hand.

7. Because according to article 8 par. 1 of the Authority's Operating Regulations (Official Gazette B' 879), the Department of the Authority may refer a case to the Plenary of the Authority, at responsibilities of which it belongs, among others, according to article 4 par. 1 item i' of the Regulation of Operation of the Authority (Government Gazette B' 879), the examination of cases which introduced by the President or referred by the Department due to importance or of their general interest.

FOR THOSE REASONS

It unanimously refers due to general interest the considered case to its entirety for consideration at the Authority's Plenary Session.

The Deputy President The Secretary

Georgios Batzalexis Irini Papageorgopoulou