

Athens, 24-04-2019

Prot. No.: G/EX/3095/24-04-2019

PRINCIPLE FOR DATA PRIVACY

FOR OPIC CHARACTER

A P O F A S H 9/2019

(Department)

The Personal Data Protection Authority met in composition

Department at its store on Wednesday 13.02.2019 and after a postponement on

06.03.2019, following the invitation of its President, in order to examine the

case referred to in the history of the present. The Georges appeared

Bazalexis, Deputy President in the absence of the President of the Authority

Konstantinou Menoudakou and the alternate members Panagiotis Rontogiannis,

Grigorios Tsolias, as rapporteur and Evangelos Papakonstantinou as replacement

of regular members Antonios Hymbonis, Charalambos Anthopoulos and Konstantinos

Lambrinoudakis respectively, who, although legally summoned in writing, were not

attended due to obstruction. they also attended the meeting by his order

President, E. Maragou, specialist scientist - examiner as assistant rapporteur, who

withdrew after the discussion and before the conference and decision and E.

Papageorgopoulou, employee of the Department of Administrative Affairs of the Authority, as

secretary.

The Authority took into account the following:

A, a citizen of Albania

(born ...), with the no. protocol

A/EI /52/05.09.2018 her appeal to the Authority requested her deletion from the

engen Information System (hereinafter also .P. .) and the National Directory

of Unwanted Aliens (hereinafter, E.K.A.N.A.) in order to continue and

complete the process of issuing a residence permit in Greece.

With no. prot. A/EX/52-1/18.10.2018, the Authority invited the

Directorate of Foreigners of the Ministry of Citizen Protection to inform her

regarding the existence of an entry in the above lists.

The Directorate of Foreigners with no. primary ... from ... (the Authority's primary no

A/EI /71/14.11.2018), her document informed the Authority about the details of her

registration of the foreigner in question by attaching the relevant documents.

As can be seen from the above document of the Directorate of Aliens to the Authority,

the applicant A was registered with the E.K.ANA.A. and in .P. . on ... until ...,

by virtue of no. ... decision to return to her country by her Supervisor

Foreigners' Administration "because he was arrested on ... to a) lack legal documents

residence documents in our country and be deemed dangerous for Public Order against

violation of article 76 par. 1-b, c and 3 of Law 3386/05 in conjunction with article 21

Law 3907/11. With the number ... from ... decision of the Tr. Plim. Piraeus

was sentenced to ten (10) months imprisonment for 1) forgery with

use of a forged document and 2) attempt to forge a false certificate as well as to

banishment for life. An appeal was filed against the decision (while) and on ... the p' was issued

no. ... decision of the Tr. Court of Appeal Plim. Piraeus, (according to the above appeal

decision), which suspended the execution of the three-member decision

Criminal Court of Piraeus until the issuance of a final decision on the appeal and

b) is registered in the list of undesirable foreigners. The above request

for renewal of the residence permit was rejected, remaining in our country against

violation of the provisions of Law 3907/11 and Law 3386/2005."

The appeal (the applicant appealed against the decision of the Tripartite

Misdemeanor Court of Piraeus,) was heard on ... and issued the decision with number

... with which the criminal prosecution of the applicant was definitively terminated ... "because

statute of limitations for acts of 1) forgery of a certificate using and 2) of attempted attestation fraud, which were carried out in Piraeus within first five months of the year ... and (in the region) X, on ...'.

Subsequently, with the no. ... by ... decision of its competent officer Directorate of Aliens of Attica, it was decided "the renewal of his/her registration above alien on the National List of Undesirable Aliens and if took place in the Schengen Information System (SIS) until .../2020, as long as the reasons for registration continue to apply".

However, on ... applicant A testified before the Directorate of Aliens Attica request for deletion from E.K.AN.A. and P. With the no. ... decision by ... of the Director of the Directorate of Aliens of Attica was decided on rejection of said request "because the duration time has not passed registration. Also, until today the foreigner in question has not filed evidence for the removal of the reasons for registration, which follows valid n...".

Due to the aforementioned rejection decision, the applicant submitted to Initiate the above-mentioned request for deletion, citing, among other things, the fact that under no. ... decision, which she attached to her application, "The criminal prosecution against me for the acts of forgery was finally dismissed certificate using and attempting to forge false certificates that were made in Piraeus, following the hearing of the appeal brought by which it was decided the deletion of the judicial expulsion which had been imposed on me by the no. ... decision by the three-member criminal court of Piraeus."

The Authority, after examining the aforementioned data, heard the rapporteur

and the clarifications from the assistant rapporteur, who left after the debate and before conference and decision, and after thorough discussion,

SEVENTH ACCORDING TO THE LAW

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1.

Because, the art. 24 of Regulation 1987/2006 in accordance with provisions of the previous article 96 E regulates the registration conditions third country nationals in the European Information System (SIS II). Also in the article 29 par. 2 and 4 provides that to maintain the registration in SIS II for longer period of time, timely existence within the three-year period is deemed necessary specially reasoned decision of deciding the registration of an instrument, which to justifies the need to maintain it beyond three years. The competent body decides after a recorded overall and individualized evaluation need to maintain it otherwise, the registration is automatically deleted (par. 5 Regulation). Besides, from the provisions of articles 41, 43, 44 of the aforementioned Regulation in combination with the provision of article 19 par. 1 sub-section (e) of Law 2472/1997, it is concluded that the Authority is competent to consider, following an appeal by the subject, the legality of its entry in the list .P. . (SIS II), in accordance with provisions above issued by the competent authority for the registration, of the decision for the need to maintain it beyond the time mentioned by the above provisions and if the above conditions of the registration are not met and of its maintenance, to order the deletion.

2. Because, article 1 and article 3 of KYA4000/4/32-la' /17.10.2012, as this was replaced and is valid with article 1 par. 2 of KYA4000/4/32-n'/31.03.2017, provide respectively the conditions for the registration of foreigners in

I DID. 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.ANA.A. and the processing of the corresponding personal data are applied

relevant provisions of Law 2472/1997 and in particular of Art. 4 and 13 thereof.

3. Because, from the combined interpretation of the above and article 76 par. 1

item a' of Law 3386/2005 it follows that "serious criminal acts" are understood not

only those that carry a sentence of imprisonment of at least one year

but also those expressly listed in the provision of article 76 par. 1 item a' of

above law. specifically, as "serious criminal acts" are also understood

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crimes of forgery and use of forged documents (Authority Gazette no.

3/2012).

4. Because, for the legality of the registration both in case of conviction and

and in the event of the existence of nuances of evidence for the commission of a "serious crime

deed", from those mentioned above, the body responsible for the registration will

must take into account and take into account all the circumstances in his decision

commission of the criminal act and to issue a specially reasoned judgment for it

"threat" constituted by the presence of a foreigner on national territory (see

previous thought).

5. the case under consideration, from the information in the file and the

clarifications from the Directorate of Aliens of Attica, it emerged that the applicant A

registered with E.K.ANA.A. and in .P. . for reasons of public order and

of security on ... until ... , based on the no. first ... Decision of

Head of the Foreigners' Office of Attica. In particular, it was registered first,

for violation of the provisions of Law 3386/2005 on entry, residence and

social integration of third country nationals in the Greek Territory as well as
secondly, for the reason that it was judged as dangerous for public order and safety due
of her conviction at first instance for the offenses of forgery using a document
and attempted usurpation of a false certificate.

It should be noted that the applicant, regardless of her suspension in
burden of criminal prosecution due to statute of limitations, entered Greek territory
deprived of legalizing residence documents so she was deemed dangerous for her
public order. Its attributed and now disappeared by statute of limitations category
forgery using a document and attempting to obtain a false certificate
does not in any way change the fact of the applicant's illegal entry and
extension of her characterization as dangerous for public order. not at all
case, a foreigner is not allowed to stay in Greek territory without them
legal formalities.

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Consequently, in accordance with the aforementioned provisions, its registration
applicant in .P. . and E.K.A.N.A. it is legal, as it was registered
in the above lists for reasons of public order and security, before
and after three years from the initial registration, it was decided to maintain it
of its registration both in .P. as well as in E.K.A.N.A.

Consequently, her appeal must be dismissed as unfounded.

For those reasons

The Authority rejects A's appeal for the deletion of her data from the
.PI. . and E.K.A.N.A.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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