

No. Fac.: 11.17.001, A/P 190/18 January 31, 2019 MUNICIPALITY OF ENGOMI Personal Data Protection Officer of the Municipality of Engomi Attn. Mr. Sokratis Sarri PERSONAL DATA PROTECTION COMMISSIONER DECISION SUBJECT: Complaint/complaint about personal data breach I am referring to REAL FACTS complaint/complaint submitted to the Office of the Commissioner for Personal Data Protection regarding a breach of your citizen's personal data with No. Fac.: 11.17.001, AP190/2018 (new file number 11.17.001.006.001) and I inform you of the following: 2. On 16/10/18 there was a complaint/complaint from Ms. XX, that on the same day and at 10 :36 a specific employee of the Municipality of Engomi, who has not been named, called her on her mobile phone. After the complainant did not answer her call, this employee called her father, who informed him that there were debts owed by the complainant to the Municipality of Engomi. At 10:56 the complainant called the Engomi Municipality employee asking for an explanation as to why she gave the specific information to her father and where she found his phone. The employee of the Municipality replied to her "Good, my daughter, you are acting like this, I told your father about it" and insisted that there was no problem in this fact, that is, she called him and informed him. She also mentioned that her father's phone number was given to her by some others. 3. The Municipality of Engomi (through the Data Protection Officer) was requested to be involved in the specific complaint/complaint, bearing in mind that there is an obligation on the part of the employees of the Municipality not to share personal data with third parties. 4. The Municipality of Egomi responded to our request by admitting that this is indeed how the events were. He gave his own explanation as to how the personal data was shared with a third party. 4.1 In particular, he stated that from the investigation he carried out it emerged that an employee of the Municipality of Engomi, specifically Ms. --, who was authorized to communicate with citizens on issues of uncollected debts, 1 tried to contact the complainant on two phone numbers, which were listed in a relevant list given to her by the Tax Department of the Municipality of Engomi. When there was no response to the first call, the employee of the Municipality tried to find her on the second phone number. This phone call was answered by the complainant's father, who asked to know for what issue they want her from the Municipality of Engomi, telling her characteristically "Tell me what do you want her for? Tell me to tell her." The employee of the Municipality then informed the father of the complainant that the matter concerns some debts of his daughter to the Municipality of Engomi. He then demanded to know what he owed to settle it and expressed his displeasure at his daughter's debts. The complainant later called the Municipality of Engomi and complained about the issue of information about the debt to her father and invoked the issue of personal data. The Engomi Municipality employee explained that the number belonging to her father had been given to her by the Tax Department regarding her debts

and she thought that he could be informed as well. He pointed out to the complainant that it was urgent to be informed because they would proceed with legal measures against her in case the amount due was not paid, bearing in mind that in previous communication with the complainant about her debts, she showed indifference and did not take them back, as she had promised. An investigation was also carried out at the Taxation Department of the Municipality of Engomi, where it was confirmed that in the General Register of Citizens, which is kept on the basis of articles 9 and 10 of Law 111/1985, the data of which is obtained either by personal communication with the citizens or through the owners of the properties which are taxable, both the contact numbers were registered, one of the complainant and one of her father and it is from this record that the two contact numbers were obtained. It should be noted that the complainant stated that her details were given to the Municipality of Engomi for billing purposes by the owner of the house she was renting in Engomi based on the rental document which was on her husband and herself and did not concern her father. The Municipality of Engomi had the right to impose a tax for the collection of dogs on the owner or tenant or owner of real estate based on article 84(g) of Law 111/1985 and based on article 92(4) of the K.D.P. 176/2006. 4.2 Additionally, the Municipality of Engomi stated that the specific employee did what she did bearing in mind, (1) the seriousness and urgency of the situation, since they would proceed to take legal measures if the balance was not settled, (2) the fact that in a previous communication for this matter the complainant did not call back even though she had promised and there was concern that she would not respond now, (3) that the telephone of the complainant's father was on a list given to them by the Tax Department and (4) the narrow degree kinship of the person requesting information, with the intention of helping. 4.3 Furthermore, the Municipality of Engomi stated that on the occasion of the incident it has proceeded with recommendations to the Municipal Services so that personal data is not shared with third parties, regardless of the degree of kinship or other circumstances. At the same time, it continuously takes measures for the protection of Personal Data considering the issue as extremely important by making two educational presentations on the General Regulation, with the circulation of five recommendations/information notes regarding the 2 protection of personal data both to the Municipality Administration , the Heads of Departments as well as the existing staff (two before the implementation of the GDPR and three after), with the implementation of incrementally increasing technical security measures and with his own initiative of announcing a Joint Tender for Harmonization with the Regulation by the Development Company of Nicosia (ANEL) , the implementation of which is expected to start soon. 4.4 In a letter sent to the Municipality of Engomi dated December 4, 2018, you were informed of the prima facie decision of the Commissioner, that is, based on the facts and the

legal framework that governs them, it was decided that there is a violation of Article 6(1)(a) of Regulation (EU) 2016/679 since there was an unauthorized disclosure of personal data of the data subject, namely the subject of her debts to the Municipality of Engomi to a third party, namely the complainant's father, without the prior express and fully informed consent of the data subject, namely the complainant. 4.5 Based on the powers granted to the Personal Data Protection Commissioner, by articles 58 and 83 of Regulation (EU) 2016/679, although you had already presented some positions and opinions regarding the specific complaint/complaint, you were invited if you wish to complete by presenting further positions and opinions on this matter. 4.6 Your reply was received on December 21, 2018 that you did not wish to add anything else about this particular incident, beyond what you stated in your letter dated November 20, 2018. LEGAL FRAMEWORK 5. According to Article 6(1) of Regulation 2016/679 a processing is lawful only if and as long as at least one of the following conditions applies: a) the data subject has consented to the processing of the data of his personal nature for one or more specific purposes, b) the processing is necessary for the performance of a contract to which the data subject is a contracting party or to take measures at the request of the data subject prior to the conclusion of a contract, c) the processing is necessary to comply with a legal obligation of the controller, d) processing is necessary to safeguard a vital interest of the data subject or another natural person, e) processing is necessary for the fulfillment of a task performed in the public interest, or in the exercise of public authority assigned to the controller, f) the processing is necessary for the purposes of the legitimate interests pursued by the controller or a third party, unless these interests are overridden by the interest or the fundamental rights and freedoms of the data subject that require the protection of personal data, in particular if the data subject he is a child. Item f) of the first paragraph does not apply to the processing carried out by public authorities in the exercise of their duties." 3 6. As stated in article 4 of the Regulation as well as in the preamble of Law 125(I)2018: "personal data breach" means the breach of security that results in the accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access of personal data transmitted, stored or otherwise processed;

"consent" of the data subject means any indication of volition, free, specific, explicit and in full awareness, with which the data subject indicates that it agrees, by statement or by clear affirmative action, to be the subject processing the personal data concerning him;

"controller" means the natural or legal person, the public authority, the

agency or other body that, alone or jointly with others, determine the purposes and the manner of personal data processing; when its purposes and manner of this processing are determined by the law of the Union or the Republic, the person in charge processing or the special criteria for its appointment may be provided by the Union law or the law of the Republic;

7. Based on article 57(1)(f) of Regulation (EU) 2016/679 as well as the article 24(b) of Law 125(I)/2018 which provides for the Protection of Natural of Persons Against the Processing of Personal Data and for the Free Circulation of Their Data, the Protection Commissioner Personal Data has the authority to handle complaints that submitted by data subjects.

8. In the case where a violation of the Regulation is found, the Commissioner Protection of Personal Data, may be based on article 58 par. 2 of the Regulation to impose corrective powers in addition to or instead of measures referred to in this article, to impose an administrative fine by virtue of of article 83, always according to the circumstances of each individual case case. Based on the provisions of article 32(3) of Law 125(I)/2018, the which apply the provisions of article 83(7) of the Regulation, the administrative fine that can be imposed on a public authority, cannot exceed two hundred thousand euros (€200,000).

END

9. In the present case, the complainant's data was shared to her father, after the Municipality employee found his contact details to exist in the Tax Department of the Municipality from before and after relied on the fact that in a previous communication on this matter the complained she didn't call back even though she promised and there was concern

maybe he doesn't respond now, because then they would proceed with legal proceedings measures against it in case the amount due is not paid. THE certain employee, mistakenly thought (as he himself admits Municipality of Engomi) and after advice from the father of the complainant, that could report to him about the related debt. There was a violation by a party of the employee of the Engomi Municipality of the provisions of article 6(1)(a) thereof Regulation (EU) 2016/679, since there was unauthorized processing and i.e disclosure of personal data of the data subject,

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that is, the issue of the complainant's debts to the Municipality of Engomi in third person, namely to her father.

10. It is also taken into account that the Municipality of Engomi on the occasion of the incident has proceed with recommendations to the Municipal Services so that they do not personal data are shared with third parties, regardless of the degree of kinship or others specific

complaint, the Municipality of Engomi continuously takes measures for it protection of Personal Data considering the issue as exceptional important by making two educational presentations for the General Regulation, with the release of five recommendations/information notes

regarding the protection of personal data both to the Administration of the Municipality, the Heads of Departments as well as the existing staff (two before application of the GDPR and three thereafter), with the application of incremental increases technical security measures and with his own initiative to call the public Competition for Harmonization with the Regulation by the Development Company Nicosia (ANEL), the implementation of which is expected to start soon.

11. It is also not lost on me that the data disclosed was to the father of the complainant, with the ultimate aim of preventing according to it is possible to take legal measures against the complainant and since o her father had been willing and encouraged the official of the Municipality of Engomi to report and convey any information to him.

12. Therefore, bearing in mind the above facts, the legal aspect on on which this decision is based and the analysis as it has been explained above, I consider that it is not one of the offenses in which it should be administrative fine imposed. On the contrary I consider that the taking of a corrective measure in the form of a reprimand would be enough to the Municipality of Engomi.

13. Under the powers conferred on me by Article 58(2)(b) of the GDPR 2016/679, I reprimand the Municipality of Engomi and call on it to pay attention such as in the future not to repeat illegal sharing of data personal nature of the data subject, without the ex obtaining his prior consent for this.

Irini Loizidou Nikolaidou

Data Protection Commissioner

Personal Character

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