

GREEK REPUBLIC PERSONAL DATA PROTECTION AUTHORITY Athens, 26-02-2020 Prot. No.: G/EX/1552/26-02-2020 A
P O F A S I NO. 3/2020 (Department) The Personnel Data Protection Authority Charaktira met as a Department composition at
its headquarters on Wednesday, February 12, 2020 at the invitation of its President, in order to examine the case referred to in
the present history. Georgios Batzalexis, Deputy President, in opposition to the President of the Authority, Constantinos
Menoudakou, and the alternate members Evangelos Papakonstantinou, Grigorios Tsolias and Emmanuel Dimogerontakis
were present as rapporteur. They did not attend due to disability, although regular members Konstantinos Lambrinoudakis,
Charalambos Anthopoulos and Eleni Martsoukou were legally summoned in writing. George Roussopoulos, expert
scientist-auditor as assistant rapporteur and Irini Papageorgopoulou, employee of the Administrative Department of the
Authority, as secretary attended the meeting, by order of the President. The Authority took into account the following: A's
complaint No. C/EIS/8963/12-12-2017 was submitted to the Authority, according to which on ... the above requested by e-mail
and at the same time by sending fax, for which he received a proof of delivery, the granting of a copy from the video recording
system of the premises of "MONOTEHOKIKI DIMOTIKI ANONIMI ETERIA GOLF DIMOU GLYFADAS S.A." (hereinafter
"Glyfada Golf") which includes an incident involving the complainant and an employee of the company. This request 1-3
Kifisias St., 11523 Athens, Tel.: 210-6475600, Fax: 210-6475628, contact@dpa.gr, www.dpa.gr was repeated on ..., without
the company responding. The complainant filed a new request on ... receiving protocol number With this request he also
asked for copies of documents concerning him, such as a third party complaint against him, investigative documents, board
decision, again without receiving a response. The Authority with no. prot. C/EX/2245/21-03-2018 document communicated a
copy of the complaint to the Glyfada Golf company and invited it, within a period of fifteen (15) days from its receipt, to provide
its views on the complaint. At the same time, he invited her to immediately examine the complainant's requests, satisfying the
right of access and providing him with every document or electronic file that he holds that concerns him. The company
responded to the Authority with its document No. G/EIS/3668/15-05-2018, stating that it had drawn up a response document
from ..., but the complainant did not come to receive it. At the same time, he stated that he does not keep stored files from
closed circuit television. Furthermore, from this document it appears that, after the interventions of the Authority and the
Ombudsman, the company stated that it intends to immediately send an answer to A. It should be noted that before this
answer, the company submitted the first GN no. /EIS/1314/09-05-2018 notification for the operation of a video surveillance
system in its facilities. The Authority, with its latest document (prot. no. C/EX/3668-1/08-08-2018) informed the complained

company about the application of Regulation (EU) 2016/679 (hereinafter GDPR) and the manner in which which directive 1/2011 of the Authority for video surveillance systems should be interpreted, in view of the Regulation. Also with the same document, he found that the following issues arise from the company's response: The company responded late to the data subject's request, as the response received a protocol number on ..., while the request had been submitted electronically by email on ... and in writing with protocol number on The reply was not sent to the address already indicated by the complainant, but remained with the company. Regarding the essence of the answer, regarding the video surveillance system, although the company stated in its memorandum that it does not keep stored files from closed circuit television, in the aforementioned notification it stated to the Authority that it keeps files for a period of five (5) days. It was therefore unclear whether on ... the video surveillance system was set to record. The Authority requested that the above issues be clarified, with the presentation of appropriate documents, certificates or other documents of a certain date, from which 2 the time of activation of the video surveillance system and whether at the time of sending the initial request of the data subject (on ...) the system in question was configured to be able to record. The complained-about company responded late (and after the reminder No. G/EX/3668-2/24-12-2018) with No. G/EIS/1057/08-02- 2019 document, in which she stated that "Since the beginning of 2017, the above system does not provide the possibility of data storage due to technical problems in the storage system and their non-repair until now, as can be seen from the letter dated 04-01-2019 of the company under the name "Zarifopoulos SA" which we attach to you." From this letter it appears that an echelon of the company Zarifopoulos A.E. made a visit to the Glyfada Golf facilities on ..., but it is still not clear whether or not the then existing video surveillance system was capable of recording or whether this recording had been disabled since the beginning of 2017, as stated by the Glyfada Golf company. For clarification, the Authority sent document No. C/EX/1328/18-02-2019 to Zarifopoulos S.A. asking the following:

a) If it has actually established that the video surveillance system that is (or was) installed on the Glyfada Golf grounds has ceased to be able to record and if it is proven that this has happened since the beginning of 2017, specifying, to the extent if possible, the downtime of said operation. b) When and how was he informed by the Glyfada Golf company about a malfunction of the video surveillance system installed on its premises. The company Zarifopoulos S.A. responded with her document No. C/EIS/3248/07-05-2019 that after a check on ... on the "CCTV CANDY MASTER" system, it was found that the power supply of the cameras located in the administration office was burnt. He also found that the recorder located in the outpost area was burnt out, while one of the cameras in the warehouse area was burnt out and the warehouse recorder is not visible online. For

this system, the acceptance of an offer to remove the damage was done on ... and the intervention on In relation to three other video surveillance systems (GREEN WAREHOUSE, SECRETARIAT, GAS STATION) the company declares that no visit was carried out in 2017. Subsequently, the Authority called with case number C/EX/8101/22-11- 2019 document the company "SOLE SHAREHOLDER MUNICIPAL COMPANY GOLF 3 MUNICIPALITY OF GLYFADAS SA" at a hearing, in relation to the complaint. The complainant was also informed about the meeting, with the Authority's document No. C/EX/8139/25-11-2019. After the postponement of the meeting of 11/12/2019, due to the obstruction of the attorney of the complained company (see no. prot. C/EIS/8669/11-12-2019 and C/EIS/8678/11-12- 2019 documents) the Authority's department met on 18/12/2019. At this meeting, Apostolos Georgoulas, a lawyer with AMDSA ..., was present on behalf of the complained company, while the complainant was also present in person. The representative of the company and the complainant were given a deadline and filed briefs. In particular: With its memorandum No. C/EIS/265/14-01-2020, the complained company briefly supports the following: The company responded to the complainant's request, stating that there are no stored image files concerning him with her from ... document. The complainant was notified by phone, but in bad faith did not attend for collection. The company considers that the complainant seeks in any way to impose a sanction on it for reasons related to his past disputes with members of the Board of Directors. her. Nevertheless, she sent the document to him on As for not providing image files, the company insists that its image was never captured as the system was, at the critical time, down. Although the company Zarifopoulos S.A. had not checked the secretariat's system at the time, the Golf Glyfada company claims that from the fact that it was later forced to restore it and procure a new recording device, as appears from the decision of the Board of Directors with the number ... her, her claim is confirmed. It is noted that from the decision numbered ... of the Board of Directors. of the Glyfada Golf company, it appears that all the recorders in the four subsystems of its facilities were replaced. The complainant, in his memorandum No. G/EIS/273/14-01-2020, presents the history of the case and his relationship with the Glyfadas Golf company. On the issues related to the processing of personal data and of the incident to which his complaint relates briefly states the following: His initial request for right of access was submitted on ... via FAX to the number ... around ... p.m., then via e-mail at around ... p.m., while due to non response, on ... repeated at about ... pm. Finally, on ... filed an application. The complainant states that he was for many years a member of the management of the company, which was sure to have his contact information, such as his email, which they used to 4 inform him about its issues. Therefore, he considers that it was easy for them to send him the answer to his request. The complained company has the obligation by law to employ a security

technician and for this reason has concluded annual contracts, which the complainant cites. The Board of Directors of the company has taken, from the year 2015 to 2019, eight decisions related to the operation of the video surveillance system, without informing the Authority about it as it should have then. It is also pointed out that the complainant raises the issue of illegal representation of the company, arguing that the lawyer represented is not authorized to appear since the company has entered into a contract with a fixed fee with another lawyer, who has even filed relevant documents for the same case previously. The Authority, after examining all the elements of the file, after hearing the rapporteur and the clarifications of the assistant rapporteur, who left after the discussion and before the conference and decision-making, and after a thorough discussion, THINKS ACCORDING TO THE LAW 1 Regarding the issue of the illegal representation of the lawyer of the Glyfada Golf company, the Authority accepts that based on the filed documents the company was legally represented before it, as it has the freedom to choose the way of representation. 2. The issue under consideration concerns non-satisfaction of a request to exercise the right of access, which was exercised on Therefore, it is a suspected violation that occurred before the implementation of Regulation (EU) 2016/679 (GDPR). As the processing activity does not concern a time period during which the GDPR was applied and, according to the subject of the complaint, a possible violation of the right of access does not constitute a "permanent" violation, the applicable provisions are those of the then applicable institutional framework (see related and opinion 8/2019 of the ESPD regarding the competence of the supervisory authority in the event of a change in circumstances concerning the main or only establishment¹, paragraph no. 16). Consequently, the provisions of Law 2472/1997 are applicable to the case under consideration. 1

https://edpb.europa.eu/our-work-tools/our-documents/misljenja-odbora-clanak-64/opinion-82019-competence-supervisory_en

5 3. As defined in article 12 par. 1 and 2 of Law 2472/1997 the data subject has the right to know whether personal data concerning him is or has been the subject of processing (right of access). To this end, he has the right to request and receive from the controller, without delay and in an understandable and clear manner, information that includes all personal data concerning him, as well as their origin. Furthermore, for the more specific case of video surveillance systems, in article 13 par. 1 of Directive 1/2011 of the Authority regarding the use of video surveillance systems for the protection of persons and goods it is stated that "The data controller has the obligation to grant within fifteen (15) days from the submission of the relevant application a copy of the part of the image signal registration where the data subject has been recorded or a printed series of snapshots from the recorded images or, accordingly, to inform the interested person in writing within the same time period

either that it is not depicted or that the relevant part of the record has been corrupted. Alternatively, if the data subject also agrees, the controller can simply display, directly, the above section. To this end, the data subject must indicate the exact time and place he was found within the range of the cameras. When granting a copy of an image, the controller must cover the image of third parties (e.g. by blurring part of the image), since their right to privacy may be violated. In the case of simple demonstration, covering the image of third parties is not necessary." 4. As follows from article 12 par. 4 of Law 2472/1997 the data controller had to respond to access requests within fifteen (15) days, while if he does not respond or if his response is unsatisfactory, the data subject has right to appeal to the Authority. In the event that the controller refuses to satisfy the request of the interested party, he must communicate his answer to the Authority and inform the interested party that he can appeal to it. It should be noted that the period of fifteen (15) days, after the implementation of the GDPR, has been extended to thirty days. 5. The data controller declares that during the period of time when the incident occurred and the right of access was exercised, the recorder of the video surveillance system was not in operation. This is not confirmed by the statement of Zarifopoulos SA. which states that a different subsystem was broken and 6 did not check the subsystem of the Secretariat area. The complained company did not provide any document, either from the installation company or an internal report, such as a document from the security technician, or a document from the Board of Directors. from which it can be concluded that the subsystem of the Secretariat area was non-functional. In fact, in the notification No. GN/EIS/1314/09-05-2018, which the data controller submitted to the Authority late, he stated to the Authority that he keeps records for a period of five (5) days. Therefore, the position of the complained company, that the recorder in question was out of order, is not proven. 6. In any case, even if the system recorder was out of order, the data controller had, based on the provision of article 12 par. 1 of Law 2472/1997, to respond to the complainant if personal data concerning him constituted object of processing, even if negatively, within the period of fifteen days. In this case, it appears that the data controller did not respond within the prescribed period to the requests of the data subject. The response that the controller states was prepared and available to the data subject was not communicated to him until after the intervention of two public authorities and after a long delay. In fact, it should be accepted that the complainant's right of access request was made on the original date of ... as the complainant provides a copy of proof of dispatch. The Glyfadas Golf company considers that the data subject's request was made on ..., when the complainant also received a protocol number repeating his request. However, the company had to respond to his initial requests made via email and FAX, while it had to take care of the satisfaction of the rights of the data subjects and its smooth

exercise. 7. The complainant previously held a position on the Board of Directors. of the Glyfada Golf company. From the file of the case it appears that there are other disputes between the complainant and the company, which do not concern the legislation of the Authority's jurisdiction and therefore are not examined and evaluated. 8. Consequently, from the data in the case file it appears that the data controller violated the provision of article 12 of Law 2472/1997, in relation to the exercise of the complainant's right of access to video surveillance system material which included his image. Furthermore, the Authority takes 7 in particular into consideration, that the data controller showed insufficient compliance with the legislation in force at the time, as at the time of the violation the video surveillance system had not been notified to the Authority, and that the data controller's cooperation with the Authority was particularly difficult. 9. Taking into account the above findings, the Authority unanimously considers that the controller should be imposed the provision in article 21 par. 1 item. b' of Law 2472/1997 sanction referred to in the operative part of the present, which is considered proportional to the gravity of the violation found. FOR THESE REASONS The Authority, taking into account the above: 1) Imposes, based on articles 19 par. 1 item. f' and 21 of Law 2472/1997, to the "SOLE SHAREHOLDER MUNICIPAL COMPANY GOLF MUNICIPALITY OF GLYFADA S.A." a fine of five thousand euros (5,000) euros for the above described violation of Law 2472/1997.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou