

Athens, 15-10-2018

Prot. No.: G/EX/8160/15-10-2018

GREEK EMPIRE

PRINCIPLE OF PROTECTION OF E OMEN

OF A PERSONAL CHARACTER

A P O F A S I NO. 64 / 2018

The Personal Data Protection Authority held a meeting at the headquarters on 15-05-2018 at 10:00 a.m. following the invitation of its President, for this purpose to examine the case referred to in the present history. They were represented by President of the Authority, Constantos Menoudakos and the regular members of the Authority Konstantinos Christodoulou, Antonios Symvonis, Spyron Vlachopoulos, Constantos Lambrinoudakis, as rapporteur, Charalambos Anthopoulos and Eleni Martsoukou. Also present at the meeting, by order of the President, were I. Lykotraf, expert scientist-computer auditor, as assistant rapporteur, and n Irini Papageorgopoulou, employee of the Department of Administrative Affairs Authority, as secretary.

The Authority took into account the following:

Submitted to the Authority no. prot. C/EIS/7294/12-10-2017 his report

A. With this report, he informed the Authority about a finding of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment Treatment or Punishment, a body of the Council of Europe (hereinafter "Commission" or CPT – European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment), as it has been included in the report he prepared a team of inspectors from the Commission after a visit to Greece on 14-23/04/2015 (this is the document "CPT/Inf (2016) 4" report dated 01/03/2016,

available

and

online

here:

1-3 Kifis St., 11523 Athens, Tel.: 210-6475600, Fax: 210-6475628, contact@dpa.gr, www.dpa.gr

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<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168069667e>

(d=090000168069667e). The finding related to a hidden camera in "a thusa

"lawyers' consultation room" in the Sub-Directorate

of crimes against life and property (hereinafter YDEZI) on the ... floor of

GADA.

Specifically, in said report it is noted (from the translation that

was included in no. prot. G/EIS/827/30-01-2018 document of EL.AS.): "48.

Additionally, the CPT has serious privacy concerns in

attorney-client relationship. A few of the police facilities he visited,

they offered separate areas where prisoners could consult with them

their advocates and where they existed had no serious provision for privacy. For

for example, the room on the ground floor of A.T. [area] X used for

prisoner-advocate communication had a Plexiglas window, through which

the conversation was easy to understand.

Prisoners and their advocates were put in even greater danger by

set up in the "lawyers communication room" at YDEZI (Prosecution Assistance

of crimes against life and property) which is located on the ... floor of GADA,

where the CPT delegation found a hidden recording camera, which was

connected to audio-visual recording equipment in the Deputy's Office

Director of the Directorate of Murders and Kidnappings³⁴. It is undeniable that this constitutes

serious violation of basic guarantees of the C.P.D...

The right of access to a lawyer should include the right

meeting with him in person. Consult with a lawyer of a person under police custody

detention must take place away from the eyes and ears of the police.

It should certainly never be recorded and monitored by investigators

policemen. Over and above the risk that one's right to a fair trial a

to be irretrievably endangered by this relentless police activity, one

a prisoner may not feel free to disclose the manner in which

are treated.

Consequently, the CPT recommends that the Greek authorities take the necessary measures

steps to ensure that police detainees can speak to

their lawyer in person. In addition, a registration survey must be conducted

and follow-up carried out by the Homicide Unit. The Commission a or ele

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also receive confirmation that the tracking mechanism has been removed from it

"lawyers' room" on the ... floor of G.A.D.A..

Footnote 34. The camera was hidden in the speaker grill in the room

lawyer. It was connected to a transformer and cable, which reappeared

in the Office of Assoc. You can see several rooms below. There it was connected to

a fully functional TV and recording device. When asked about it, the

Deputy Director stated: "When lawyers are alone with prisoners,

the space must be observed".

In its response to the above report, the Greek Government states

about this finding (roughly translated from the original text in

English, which is available in the Annex): "Paragraph 48: Request for

information, Complaints about the existence of a camera in the "communication with

lawyers" on the ... floor of the General Police Headquarters of Attica.

The Sworn Administrative Examination was ordered, which was assigned to the Sub-Directorate Administrative Examinations of GADA. Moreover, according to its head Sub-prosecution of crimes against life and property (YDEZI), the system this was obsolete, due to normal wear, and as it was technically out of date as well malfunctioning and has already been removed.

After the completion of the investigation and only the competent decision-making bodies reach their verdict, we will inform you of the result".

Then, with the no. prot. C/EX/8443/24-11-2017 call, Greek Police (hereafter EL.AS.) was summoned before the Authority at the meeting of 12-14-2017 in order to provide clarifications and express her views on the case. From on behalf of EL.AS., the meeting was attended by B, Police Director of Sub-Directorate of Lifetime Crime Prosecution and Ownership of the Directorate of Attica Security, who presented his views orally and responded to questions from the members of the Authority. Then, the Authority with no. prot. G/EX/7294-2/22-12-2017 her document called EL.AS. to grant the data to those who have said its representative at the above meeting. EL.AS filed them in addition to these items with no. prot. C/EIS/827/30-01-2018 document, the which was then completed with the nos. prot. G/EIS/ G/EIS/828/30-01-2018 and C/EIS/3219/27-04-2018 documents. Following the no. prot. C/EX/3470/08-05-

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2018 call, EL.AS. attended the Authority's meeting again on 05-15-2018, at which was again represented by B.

In these documents that the alleged EL.AS. filed with the Authority, it is stated, in support of what B verbally mentioned in the above meetings, that to investigate the findings contained in the CPT Report

a Sworn Administrative Examination conducted by the Sub-Directorate was ordered Administrative Examinations of the Head of EL.AS. and the acting Officer suggested that the case be put on file, a proposal with which he also agreed Director of the competent Department. In addition, EL.AS. states that the CPT Report was submitted by the Directorate of Internal Affairs of the Head of the Hellenic Republic of Greece. in Athens District Attorney's Office, where in the end no criminal charges were brought against him of a person and the case was brought to the office o. Answering a related question of the Authority, EL.AS. notes that no administrative act of EL.AS is available. where to concern the installation of the said video surveillance system.

Also, the Technical Committee of the 6th Department of the Technical Directorate Applications of the Head of EL.AS. inspect the particular system and found that the video camera has multiple faults, yes it is outdated technology and in no case can it cover the existing Service Needs. Also the transformer/charger due to aging of its components does not it is functional, while the repair of the above materials is impossible due to lack spare parts.

Among the documents submitted to the Authority is the document with YDEZI's views on the findings of the CPT. In this document it is stated that v the tour of the CPT members to the premises of YDEZI on 18/04/2015 was keep in mind that the area intended for "lawyers' communication room" does not exists in the service, but the space in question could be used as exception for such communication, in case no other office is available in the service a. Instead, the aforementioned space is used as space bringing in people, fingerprinting and recording/temporary storage persuasive The camera in question is located in this room by the authorities

of the 1990s but it never worked given the technical texture

issues that arose in the first place (inability to transmit a clear image, lack of sound)

falling into disuse a.

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The same paper supports the view that because the camera was placed before

since 1997, the year of issuance of Law 2472/1997, does not fall within the scope of the law

his. The camera was removed on 26-09-2015 and, as it was kept P.O.E.,

its dissolution took place.

In the documents transmitted with no. prot. C/EIS/3219/27-04-2018

transfer letter from YDEZI states, among other things, that the space in question (room)

is used as a multi-purpose area, i.e.: examination and questioning of a suspect,

physical search and fingerprinting, recording, photography and temporary storage

persistent, temporary stay of particularly dangerous criminals. It is noted that

even in cases where the space was not reserved for the above needs,

it was also possible to use it as a place of temporary stay for prisoners

with the consequent also their conversation/communication with their advocates. However, the

a specific space has been used for at least the last five years

exclusively and only as a place of storage of persuasives. In the documents it is stated that the

placement of the system for the sole purpose of monitoring the detainees

people, the safety of employees and staff, prevention

of any illegal action and the control by the Head of Department of their compliance

procedural rules by his subordinates during the examination and interrogation of them

suspects. The camera was covered with a protective frame to protect it from

acts of sabotage by those involved or even by the

personnel so that they do not tamper with it and cause damage. Finally, regarding the

visit of the CPT committee, it is noted that the delegation was accompanied by

interpreter and communication, questions and requests were conveyed through him with resulting in difficulties in the immediacy and completeness of communication. With the above documents, relevant photographic material received by the Commission was also forwarded from the said space and the said video surveillance system (cameras and cables transmission).

The Authority, after examining all the elements of the file and the opinions that developed by EL.AS. at the 14-12-2017 meeting, after hearing the rapporteur and the assistant rapporteur, who left after the debate and before the conference and decision making, and after thorough discussion,

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THOUGHT ACCORDING TO THE LAW

1. According to article 2 par. a' of Law 2472/1997 and recitals 14-17

in the introduction of Directive 95/46/EC, the image data, if they refer to persons, constitute personal data.

2. The storage and reading of a facial image, which is collected by a system video surveillance, which operated permanently, continuously or at regular intervals, in a closed or open place of gathering or passage of persons, recommends processing of personal data in whole or in part automated within the meaning of articles 2 par. d' and 3 par. 1 Law 2472/1997.

3. In accordance with Article 4 of Law 2472/1997, personal data to subject to lawful processing we must:

a) To be collected in a legitimate and legal manner for specified, clear and legitimate purposes and to be legitimate and lawful processing in view of the purposes of these.

b) To be relevant, convenient, and not more than what is each time required in in view of the purposes of our processing.

c) Be accurate and, if necessary, be updated.

d) To be kept in a form that allows their identity to be determined

of their subjects only during the period required, during its term

Authority, for carrying out the purposes of their collection and processing

their.

4. Pursuant to Article 5, data processing is permitted only when the subject

has given his consent, while processing is permitted as an exception

without his consent, when a) The processing is necessary for the execution

contract, in which contracting party is the data subject or for the

taking measures at the request of the subject during the pre-contractual stage, b) H

processing is necessary for the fulfillment of an obligation of the person in charge

processing, which is required by law, c) The processing is necessary for

safeguarding the vital interest of the subject, if this ends in physical or

legal inability to give his consent, d) The processing is necessary for

the execution of a project of public interest or a project that falls within the exercise

of public authority and executed by or delegated by a public authority

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to the third party processor, to whom the data is disclosed, or

e) The processing is absolutely necessary to satisfy the law

interest pursued by the controller or the third party or third parties

to whom the data is communicated and under the condition that this obviously prevails

of the rights and interests of the persons referred to

data and their fundamental freedoms are not affected.

5. According to article 6 par. 1 of Law 2472/1997, the processor is obliged

to notify the Authority, in writing, of the establishment and operation of the office

start processing let's.

6. According to article 10 of Law 2472/1997, "the data controller must receive the appropriate organizational and technical measures for data security and... ..and any other form of non-commercial processing. These measures must ensure level of security commensurate with the risks involved in the processing and h nature of the data that is the object of the processing..."

7. Pursuant to article 11 par. 1 of Law 2472/1997, the controller must, according to the stage of collecting personal data, to inform in a way suitable and clear subject for at least the following elements: identity and the identity of any representative thereof, the purpose of our processing, them recipients or the categories of recipients of the data, and its existence right of access.

8. With the no. 1/2011 Directive of the Authority, its issue is analyzed in particular installation of video surveillance systems for the purpose of protection persons and goods. According to article 5 of said Guide, the legality of our processing is considered in the context of the purpose pursued by the person in charge process and in accordance with the principle of proportionality, which imposes them video surveillance systems are convenient and necessary in relation to him intended purpose, which should not have been achieved by milder means (Article 4 of Law 2472/1997). Its affordability and necessity of video surveillance is estimated based on the risk that the controller wants to deal with in relation to the intended purpose.

Further, the installation points of the cameras and the way of receiving the data must be identified in such a way that the data collected does not

Yes, more than what is absolutely necessary for the fulfillment of its purpose

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let's process and not affect the fundamental rights of the persons who

are located in the area that is being monitored and that this order is not violated could be seen as a "legitimate expectation of a certain degree of protection of privacy" in a specific area.

9. The principle of proportionality is further specified in article 6 of no. 1/2011

Guide, where it is specified that the processing of audio data for the purpose of protecting persons and/or goods, except in exceptional cases.

10. Also, according to article 7 of no. 1/2011 Guide let, the system should not to be used for the surveillance of employees within the workplaces, except in special exceptional cases, in which this is justified by the nature and working conditions and is necessary for the protection of health and the safety of employees or the protection of additional workplaces (e.g. military factories, banks, high-risk facilities). For example, in a typical business office space, video surveillance should be limited in entry and exit areas, without monitoring specific rooms offices or corridors.

An exception may be specific spaces, such as cash registers or spaces with safes, electromechanical equipment etc., provided that the cameras they focus on the asset they protect and not on the employees' premises.

Also, in special areas, such as areas with electromechanical installations o shift manager or the safety manager can actually monitor time the operators of high-risk machines, in order to intervene immediately if an incident occurs, of course.

11. In article 12 of no. 1/2011 Guide let it be specified that for its application

No. 11 par. 1 of Law 2472/1997, the controller must, before a person enter the range of the video surveillance system, to update it, in a way obvious and understandable, that he is going to enter an area that is being videotaped.

12. In the present case, it is proven from the evidence of the file that there was placement of a hidden camera, capable of transmitting image and sound, in the space that of YDEZI on the ... floor of GADA, without the conditions having been met of legality for the installation and operation of a video surveillance system, such as notifying the Authority or placing information boards. Moreover, the purpose invoked by EL.AS., i.e. the surveillance of those brought

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persons, the safety of employees and staff, prevention of any illegal action and the control by the Head of Department of their compliance procedural rules by his subordinates during the examination and interrogation of them suspects, does not constitute a legal reason for installing the camera, given that on the one hand the law does not provide for a relevant competence of EL.AS. and on the other hand no it follows that there is a case of superior legal interest in the sense of article 5 par. 2 item 3 n. 2472/1997.

13. Furthermore, when the report was submitted to the Authority, there was no immediate possibility intervention and on-site administrative control by the Authority, due to time which has intervened and due to the fact that the camera has been removed. Even though it doesn't it was accepted that an administrative act has been issued approving the placement of art because of the camera, the purpose of the placement was clear, as stated in the documents submitted to the Authority. However, there is no evidence other than that which results in the operation and use of the camera during the meetings of detainees with their lawyers. Therefore, he cannot certainty to document that personnel data processing was carried out character through video recording using said camera.

14. Taking into account the above, and considering that it could not be proved that processing personal data, but it turns out that the camera was installed

to the above area belonging to EL.AS., the Authority considers that it should address
in EL.AS. relevant recommendation.

FOR THOSE REASONS

The Authority issues a recommendation, based on no. 19 par. 1 c' of Law 2472/1997, at
Hellenic Police as responsible for our processing, as cares to be observed
henceforth the legal conditions
installation and operating systems
video surveillance.

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The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou

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