

Athens, 07-02-2018

PRINCIPLE OF DATA PROTECTION  
OF A PERSONAL CHARACTER

Prot. No.: G/EX/333-1/07-02-2018

A P O F A S H 11 /2018

( not)

The Personal Data Protection Authority met in composition

Department at its store on 31-01-2018 following the invitation of its President,

in order to examine the case referred to in the present history.

G. Batzalexis, Deputy President, who obstructed the President, attended

of the Authority K. Menoudakou, P. Rontogiannis, X. Tsiliotis, as rapporteur, and Gr.

Tsolias, substitute members, in place of regular members A. Symvonis,

Sp. Vlachopoulos and X. Anthopoulos respectively, who although were summoned

in writing they did not attend due to obstruction. I was present at the meeting, without a right

vote, was E.I. Tsakirdou, lawyer – expert scientist, as assistant rapporteur,

which left after the discussion and before the conference and reception

decision, and E. Papageorgopoulou, employee of the Administrative Department

Affairs, as secretary.

The Authority took into account the following:

With no. prot. C/EIS/5022/19-07-2012 document of A submitted

let's treat her with no. 135/2011 of the Authority's Decision. Specifically, the Authority with

reviewed the aforementioned decision with no. prot. G/EIS/4431/20-06-2007

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appeal by A against the television stations ET-1, NET and ET-3 of the company

ERT SA, with which the appellant complains both to the Protection Authority

Personal Data as well as the National Radio and Television Council

the, according to his claims, illegal projection of his face, as visual

investment of the reports that the above stations showed in the news deltas of...

regarding the abuse of prisoners at Police Station X.

From the excerpts of the relevant news bulletins sent to the Authority by

above television station, the following emerged:

A) The presentation of the issue of ill-treatment of foreign prisoners in

Police Department X from the central news delta of NET of .... lasted 16

minutes and 25 seconds. Initially, a report was presented about the incident

of abuse and a discussion followed with a representative of the Greek Police

and journalists. The report, images of which were shown during

during the discussion, he presents the video with the scenes of abuse as well

and images from the entrance of Police Department X. The video shows a

chief guard who abuses foreign (two) prisoners

as well as the two prisoners. There is no blurring on the faces of all three

(blurring) with the result that they are recognizable. In the images from his entrance

of the Police Department, the appellant is presented in a close-up, the one against

the time when the images were taken by the television crews

stations, served the purpose of entering the Police Department in question. Except

by the appellant, other police officers are also presented, who are executed

also guard duty when entering or leaving the building. From the report and

the discussion shows that there are three persons involved in the case: the chief constable,

who is shown in the relevant video, a policeman and a border guard

guardian.

B) The same issue was presented in the news reports of ... and ... of ... and the

TV station ET-3. In the report presented in the first of the

the applicant's face does not appear in the above news bulletin. instead

appears in the report that was presented in the news delt of .... according to

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a way that also appears in the report presented by the NET television station.

The only difference consists in the fact that the faces of the warden as well as of

of two foreign prisoners are not recognizable as it has been applied to them

fogging method.

According to the appellant's claims, the above, without his consent,

projection of his image, as a visual overlay of reports on abuse

prisoners at Police Station X, which happened during the visit of

of television station partners in the said Department to perform in the income

duties of purpose, constitutes an insult to his personality.

The Authority, with the no. 135/2011 Decision, rejected the appeal, as well

considered that the display of a face as a visual investment in a report being shown

from delt the news does not violate law 2472/1997 without exception. Specifically, with her

contested decision held that in the specific case it exists

justified interest of the public opinion to be informed of its fact

abuse of prisoners in a police station, while at the same time the insult of

of the applicant's right to the protection of his personal data, through

of the projection of his face as a visual investment of the television reports

station broadcast on the news deltas, does not exceed the limits set by the principle of

proportionality, taking into account the fact that in no case

the belief is created in the television viewer that the appellant is involved in

alleged illegal acts.

With the remedy request, the appellant requests the reconsideration of his appeal,

sticking to his claim that the above projection of his image without it

his consent constitutes an insult to his personality.

The Authority, after examining all the above elements, after hearing him  
rapporteur and the assistant rapporteur, who left after the debate and before  
conference and decision-making, and after thorough discussion,

CONSIDERED ACCORDING TO THE LAW

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1. In accordance with the provision of Article 24 § 1 of Law 2690/1999 (KDDiad): "If by  
the related classes were not provided for the possibility of exercising, according to the following article,  
of proof, or of a thorough appeal, the person in question, for the restoration  
material or moral damage to his legal interests caused by personal  
valid act may, for any reason, upon his application, request, either from the  
judicial authority that issued the deed, its revocation or amendment (application  
treatment), or, from the authority which is in charge of the one that issued the deed, the  
its annulment (initial appeal)'. The simple administrative appeal (Article 24)  
submitted by the manager who has suffered material or moral damage from the law  
of his interests from an individual administrative act, to the authority that issued the act  
(request for treatment) and has as its object the revocation or amendment of an express  
individual administrative act (see Spiliotopoulos, Manual of Administrative Law  
2002, § 251).

2. As the Authority has already considered (see, i.e., Decisions 122, 140, 190/2012, and  
35/2016, available on its website, see and Annual Report 2012, 3.10. Inside  
Information Collection, 3.10.1 Radio and TV broadcasts, Annual Report 2016, 3.9.  
Mass Media, 3.9.1. Radio and TV broadcasts), after the constitutional  
revision in 2001, by which the provision of article 15 par. 2 was replaced

of the Constitution, the control over the content of radio and television broadcasts and the imposition of administrative sanctions belong to his exclusive competence National Radio and Television Council (NRC). Therefore, the competence of the Authority in relation to the broadcasting media has been limited and no longer extends to Dissemination of personal data through radio and television broadcasts. For content of relevant broadcasts (news bulletins) exclusively competent to the National Radio and Television Council (NRC), which, as it appears from the elements of the file (see the document with no. prot. ESR 1058/30-08-2007, attached to the treatment request), has already been received.

As a result of this, due to incorrect interpretation and application of the above order, the Department of the Authority that issued the no. 135/2011 Decision, ruled that he had jurisdiction to investigate the appeal, and then dismissed it as

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essentially baseless. Therefore, the request for treatment must be accepted, withdrawn the challenged decision and to reject the appeal due to lack of jurisdiction Principle.

#### FOR THEIR REASONS

The Authority revoked the offending no. 135/2011 Decision and rejected the appeal due to incompetence.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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