

Athens, 28-03-2022 Prot. No.: 788 DECISION 08/2022 The Personal Data Protection Authority convened at the invitation of its President in a teleconference meeting on Tuesday 18.01.2022 at 10:30 a.m., in order to examine the case referred to in the history of the present. The President of the Authority, Konstantinos Menudakos, and the regular members of the Authority, Spyridon Vlachopoulos, were present, as rapporteur, Konstantinos Lambrinoudakis, Charalambos Anthopoulos, Christos Kalloniatis, Aikaterini Iliadou and Grigorios Tsolias. Present, without the right to vote, were Chariklia Latsiu, legal auditor - lawyer, as assistant rapporteur and Irini Papageorgopoulou, employee of the administrative affairs department, as secretary. The Authority took into account the following: With the complaint dated from ... (and with no. prot. APD C/EIS/5389/20.08.2021) A informs the Authority that he has been employed by OKANA since ... and that the Organization, subsequently of the provisions of article 206 of Law 4820/2021, which provided for the mandatory vaccination for personnel employed in health service providers and the relevant no. DIDAD/F.69/172/ok.15287 circular of the Ministry of the Interior (53rd circular), informed with the under no. house 38128/10.8.2021 the staff document that OKANA is included in paragraph 2 of article 206 of Law 4820/2021 and therefore the staff of the Organization is subject to the relevant provisions of the above article. Subsequently, following objections submitted, OKANA with the latest under no. 38472/13.8.2021 document informed the staff that it has 1-3 Kifissias Ave., 11523 Athens T: 210 6475 600 E: contact@dpa.gr www.dpa.gr 1 addresses a relevant question to the Ministry of Health, in order to clarify if OKANA falls under the provisions of article 206 of Law 4820/2021. Following this, A complains to the Authority that, although there was no relevant information on the last document sent by OKANA to the Ministry of Health, officials of the Department... made telephone orders to the heads of departments and structures of the Organization to collect the vaccination certificates and the staff sickness certificates. Finally, A requests from the Authority: "1. To prohibit the Organization from collecting any type of certificate that constitutes medical personal data until it is clarified by the Ministry of Health whether or not OKANA is included in the provisions of article 206 of Law 4820/2021 2. To instruct the Organization to any certificate collected to date be destroyed before her. 3. To define a very specific procedure for the collection and management of vaccination and disease certificates that prevents the risk of creating a list of workers, from which a risk for their work and individual rights can arise. The Authority, during the examination of the above complaint, informed under no. prot. APD C/EXE/2038/09.09.2021 document to OKANA for any processing of personal data of employees, public and private sector, for the provision of work at the place of work, pursuant to articles 205 and 206 of Law 4820/2021, in accordance with the GDPR and Law 4624/2019, as well as with the 09.08.2021 Recommendations for Returning to the

workplace of the European Data Protection Supervisor¹ and called on OKANA to provide full explanations on the complainants, as well as clarify specifically whether the Organization has collected – as complained – vaccination or illness certificates of its staff and with what legal basis. In response to the above document from the Authority, OKANA with no. prot. ... (and with no. prot. APD C/EIS/6124/24.09.2021) document informed the Authority that it is a private law legal entity established by Law 2161/1993 (Government Gazette A' 119), ¹ See EPDS Guidance on Return to the Workplace and EUIs' screening of COVID immunity or infection status, available on the website https://edps.europa.eu/data-protection/our-work/our-work-by-type/guidelines_en ² that its purposes were expanded by article 49 of Law 4139/2013 (Government Gazette A'74), as well as that within the framework of its responsibilities the Organization employs 959 people as staff throughout the territory (including 140 structures/units and prevention centers), with a contract of dependent work, with a contract for the provision of independent services, or finally with any other employment relationship. In addition, OKANA informed the Authority that it submitted with no. first ... his document clarifying question to the supervising Ministry of Health regarding the application of the mandatory vaccination measure to his staff, as well as that with article 1 par. 2 of no. D1a/GP.ok.52796 (Government Gazette B 3959/27.8.2021) KYA its staff expressly joined the mandatory vaccination measure, by virtue of Article 206 of Law 4820/2021. At the same time, he pointed out that in articles 2 and 3 of the above-mentioned KYA, the monitoring and control method of compliance with the obligation to vaccinate against the coronavirus is now foreseen and determined, as well as the process of checking compliance with the information systems "Hellenic Public Human Resources Register" of the Ministry of the Interior and ERGANI of the Ministry of Labor and Social Affairs for the employees of the public and private sectors, respectively, with the two National Registers of Vaccinations against the coronavirus and Patients with the coronavirus of the Ministry of Health, which is maintained by IDIKA S.A. the obligation through electronic crossings Furthermore, OKANA with the above document informed the Authority that with the no. 38128/10.08.2021 document - i.e. at a time prior to the issuance of the above-mentioned KYA - invited the Heads of Departments to collect the vaccination and disease certificates of the employees on the basis of the terms and conditions of the provisions of art. b' and i' of par. 2 of article 9 GDPR. At the same time, he informed the Authority that the practice of collecting the vaccination/sickness certificates of the employees was qualified to be carried out centrally by the Department of the Organization, due to the dispersion of its structures/units and its employees across the territory, while now, after the issuance of under no. D1a/ΓΠ.οικ.52796 (Government Gazette B 3959/27.8.2021) KYA, the extraction of information about the

vaccination status of its employees results from the interoperability of information systems, based on article 3 of 3 of the aforementioned KYA, and does not occur reason for searching and displaying the certificates. Finally, OKANA informed the Authority that the immediate priorities of the Organization's Administration are the destruction of the collected certificates, as after the end of the audit they are not used for any other purpose, and their destruction will be carried out in accordance with Directive 1/2005 of the Authority. Subsequently, the Authority with no. prot. C/EXE/2807/07.12.2021 and C/EXE/2805/07.12.2021 documents invited A and OKANA, respectively, to be presented at a meeting of the Authority's Plenary on Tuesday 14.12.2021, in order to discuss the aforementioned complaint. This meeting was attended by A, and Nicoletta Raitsiu, pl. lawyer of OKANA and B, Deputy Head of the Department ..., while C, Data Protection Officer of OKANA was also present. During this meeting, those present, after developing their views, were given a deadline of 10.01.2022 to submit written memoranda. Following this, OKANA with no. prot. 02/10.01.2022 (under no. prot. APD C/EIS/166/11.01.2022) his memorandum informed the Authority that he destroyed the disputed documents and vaccination/disease certificates, which were collected in execution of the ' No. prot. 38128/10.08.2021 of the Organization's document, presenting, among other things, the under no. first ..., ..., ..., ... and ... documents and, pointing out that in any case A's personal data were not processed by the Organization, requests the Authority to reject the considered complaint. On the contrary, A did not submit a relevant memorandum within the set deadline. The Authority, after examining the elements of the file, after hearing the rapporteur and the clarifications from the assistant rapporteur, who was present without the right to vote and left after the discussion of the case and before the conference and decision-making, following a thorough discussion , CONSIDERED ACCORDING TO LAW 4 in the context of vaccination/disease 1. Because, from the provisions of Articles 51 and 55 of the General Data Protection Regulation (Regulation 2016/679) and Article 9 of Law 4624/2019 (Government Gazette A' 137) it follows that the Authority has the authority to supervise the implementation of the provisions of the GDPR, this law and other regulations concerning the protection of the individual from the processing of personal data. In particular, the Authority undertakes the complained processing of the collection of ex officio competence certificates, pursuant to articles 57 par. 1 item. a and h GDPR and 13 par. 1 item h. Law 4624/2019, as the personal data of the complainant A were not processed by OKANA, as he also agrees with the under no. first C/EIS/5389/20.08.2021 his complaint to the Authority, as well as during the hearing before the Authority, given that, beyond and regardless of the mandatory nature of the vaccination measure, the complained processing of vaccination/sickness collection of OKANA employees, either via e-mail or through the Organization's

electronic filing system PAPYRO, constitutes automated processing of personal data, subject to the regulatory scope of articles 2 par. 1 of the GDPR and 2 of Law 4624/2019. In addition, the vaccination/disease certificates in question were included in the Organization's filing system, with classification criteria - depending on the way they were collected - the protocol number of the transmission documents from the individual Structures and Units to the Department ... of the Organization, the names of the employees in the individual Structures/Units, and the subject of the documents transmitted (vaccination obligation). (digital) copies of certificates

2. Whereas, article 205 of Law 4820/2021 (Government Gazette A' 130), as replaced by the provisions of Articles 64 par. 3 of Law 4872/2021 and 1 par. 1 of Law 4876/ 2021, establishes the obligation to show a certificate or confirmation of vaccination or illness for self-employment in both the public and private sectors, specifically providing that: "Employees in the public and private sectors, who have completed vaccination against the 5 coronaviruses COVID -19 or have been ill within the last ninety (90) days, they are required, as they show to the head of the organic unit where they serve or to their employer, respectively, a Digital EU COVID-19 Certificate. (EU Digital COVID Certificate EUDCC) of Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021 and its first article from 30.5.2021 Act of Legislative Content (A' 87), which was ratified with article 1 of Law 4806/2021 (A' 95) with information regarding the status of the natural person-holder with regard to vaccination or disease from the COVID-19 coronavirus, or vaccination certificate of par. 5 of Article 55 of Law. 4764/2020 (A' 256), or positive diagnostic test certificate of par. 1 of article 5 of no. 2650/10.4.2020 (B' 1298) of a joint decision of the Ministers of Health and State, or an equivalent certificate or attestation from a third country, if they exist. The certificate or attestation of the first paragraph is checked by the employer through the special electronic application of par. 1a of article 33 of Law 4816/2021 (A' 118), observing the other provisions of the above article. The obligation to demonstrate is valid until 31.3.2022".

3. Because, with the provisions of paragraphs 1 and 2 of article 206 of Law 4820/2021, the mandatory vaccination of the staff of private, public and municipal health structures was established. Additionally, paragraph 5 of article 206 of Law 4820/2021 provides that: "For the application of paragraphs 1 and 2, the presentation of the EU's Digital Certificate COVID-19 is required. (EU Digital COVID Certificate - EUDCC) of Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021 and its first article from 30.5.2021 Act of Legislative Content (A' 87), which was ratified with the article 1 of Law 4806/2021 (A' 95) with information about the status of the natural person - its owner regarding vaccination or disease from the COVID-19 coronavirus, or vaccination certificate of par. 5 of Article 55 of Law 4764/2020 (A' 256), or a positive diagnostic test certificate of par. 1 of article 5 of no. 2650/10.4.2020 (B'

1298) joint decision of the Ministers of Health and State, or an equivalent certificate or attestation from a third country. The certificate or the attestation of the first paragraph is checked by the employer or the person in charge of the 6th unit through the special electronic application of par. 1a of article 33 of Law 4816/2021 (A' 118), in compliance with the other provisions of the above article ." Subsequently, with the under no. D1a/ΓΠ.οικ.52796 (Government Gazette B 3959/27.8.2021) KYA defined and specified issues regarding the monitoring and control method of compliance with the obligation to vaccinate against the coronavirus. In particular, in article 1 it is defined "1. The provisions herein apply to all natural persons who are subject to compulsory vaccination according to the definitions of article 206 of Law 4820/2021 (A' 130) and the current legislation, as well as to all public and private structures that have the obligation compliance control of the mandatory vaccination (...)".

Subsequently, article 2 provides: "1. In order to implement the purpose of checking the compliance of the obliged personnel of the public and private sectors as defined in article 206 of Law 4820/2021 (A' 130), the administrative head of each public structure or the administrative head or the legal representative of each of a private structure draws up a list of natural persons subject to vaccination of the relevant institution. 2. The list of obligees per organization contains the following: a) identification information as follows: full name, father's name, mother's name, Tax Registration Number (A.F.M.), Social Security Number (A.M.K. A.) or Temporary Social Security Registration Number (P.A.M.K.A.) and b) information regarding their compliance with the vaccination obligation as follows: b) if they are fully vaccinated, b) if they have been ill and when, in order to establish that six (6) months have passed since the positive diagnosis, b) if they have scheduled a first or second dose of vaccination and on which date, b) if they have submitted a request for exemption from mandatory vaccination for medical reasons in accordance with the text legislation providing all necessary evidence for its submission and b) if they have received a response from the competent health committee regarding the request for exemption from mandatory vaccination. 3. To complete the details of the subpara. ba and bb) of paragraph b of par. 2, the obligees of article 1 are obliged, as they provide all necessary assistance, in particular they are obliged, as they demonstrate to their administrative superior 7 the EU Digital Certificate COVID-19. (EU Digital COVID Certificate - EUDCC) of Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021 and its first article from 30.5.2021 Act of Legislative Content (A` 87), which was ratified with the article 1 of Law 4806/2021 (A' 95) with information about the status of the natural person-holder regarding vaccination or disease from the COVID-19 coronavirus, or vaccination certificate of par. 5 of Article 55 of Law 4764/2020 (A' 256), or a positive diagnostic test certificate of par. 1 of article 5 of no. 2650/10.4.2020 (B` 1298) of a joint decision of the Ministers of Health and State, or an

equivalent certificate or attestation from a third country, which are checked according to the provisions of article 205 of Law 4820/2021. For the implementation of sub-para. bj) of par. 2, a responsible declaration is submitted by the liable party for the scheduling of a single/first or second dose of vaccination and the date thereof, and the relevant proof of scheduling an appointment is shown. According to the above, the statement has the status of a responsible statement and entails the legal sanctions in case of a false statement". Finally, in article 3 of the above-mentioned General Terms and Conditions, it is provided: "1. In order to achieve the purpose of checking compliance with the mandatory vaccination, electronic cross-checks can be made with the corresponding entries in the registers and information systems of the public sector. 2. The information system of the "Hellenic Public Human Resources Registry" or the ERGANI Information System of the Ministry of Labor and Social Affairs may interoperate for this purpose with the "National Registry of Vaccinations against the COVID-19 coronavirus", the "National Patient Registry from COVID-19", with the system of prioritizing those vaccinated against the coronavirus COVID-19, as well as with the System for scheduling vaccination sessions against the coronavirus COVID-19, in order to be submitted, through the application of the Human Resources Registry of the Greek State or the Information System ERGANI, those obliged to vaccinate the carriers and to receive a response as to the status of their vaccination or any illness. 3. From the time point of interoperability of the above information systems, the administrative heads of each public and private structure 8 are obliged to register in the Human Resources Register of the Greek State or in the ERGANI Information System of the Ministry of Labor and Social Affairs, the set of those required to be vaccinated in each structure , selecting the indication Obligated to Vaccinate (....). 7. For the time period until the completion of the interoperability of the above systems, the monitoring and control of compliance with the vaccination obligation is carried out in accordance with par. 3 of article 2". 4. Because, according to the provisions of article 4 par. 15 GDPR means health-related data "personal data which relate to the physical or mental health of a natural person, including the provision of health care services, and which disclose information about his state of health". Furthermore, in Recital 35 GDPR provides that personal data of a health-related nature must include all data relating to the data subject's state of health and which disclose information about the data subject's past, current or future state of physical or mental health. It is explained in the aforementioned GDPR recital that: "This includes information about the natural person collected when registering for health services and when providing them as referred to in Directive 2011/24/EU of the European Parliament and of the Council to the said natural person; a number, symbol or identifying feature assigned to a natural person for the purpose of fully identifying the natural person for health purposes;

information resulting from examinations or analyzes of a body part or substance, including from genetic data and biological samples and any information, for example, about disease, disability, risk of disease, medical history, clinical treatment or the physiological or biomedical condition of the data subject, regardless of source, for example, from a doctor or other health professional, hospital, medical device or in vitro diagnostic test.' 9 5. Whereas, further, the European Data Protection Board and the European Data Protection Supervisor in the joint Opinion 04/2021 of 31.03.2021 "on the proposal for a regulation of the European Parliament and of the Council on a framework for issuing, verifying and the acceptance of interoperable certificates of vaccination, examination and recovery, in order to facilitate free movement during the COVID-19 pandemic (digital green certificate)" underline that the vaccination certificate is characterized as a special category, not only because of the information contained in ' this, but also because of the conclusions that can be drawn from it, citing as an example that the date of the first dose of vaccine in a certain country, based on criteria of age group and time priority, can lead to the disclosure of the information that i. h. a young person was ahead of their peers in vaccination scheduling due to immunosuppression or a chronic condition².

6. Taking into account what is contained in the immediately preceding considerations herein, the Authority finds in this case that the certificates of vaccination/disease from the coronavirus COVID-19, as well as the equivalent certificates or attestations provided for in the provisions of articles 205 and 206 par. 5 Law 4820/2021, constitute data concerning health according to article 4 par. 15 GDPR and their processing is subject to the formalities regarding the processing of special categories of personal data of articles 9 GDPR and 22 Law 4624/2019.

7. Since, furthermore, the destruction of personal data constitutes a type of processing, according to article 4 para. 2 GDPR, which consists in the transformation of personal data into non-personal data and which is subject to the personal data protection rules, 2 Joint Opinion 04/2021 of the EDPS and EDPS from 31.03.2021 "regarding the proposal for a regulation of the European Parliament and of the Council on a framework for the issuance, verification and acceptance of interoperable certificates of vaccination, examination and recovery, with a view to facilitating free movement during the COVID-19 pandemic (digital green certificate)", sc. 27, p. 20, available on the website https://edpb.europa.eu/system/files/2021-07/edpb_edps_joint_opinion_dgc_el.pdf 10 as they derive from the GDPR and have been specified by Directive 1/2005 of the Authority, ensuring that appropriate organizational and technical measures have been taken to avoid recovery or in any way unlawful access to them³.

8. Because Article 5 of the GDPR defines the processing principles that govern the processing of personal data. Specifically, it is defined in paragraph 1 that personal data, among others: "a) are processed lawfully and legitimately in a transparent manner in relation

to the subject of the data ("legality, objectivity, transparency"), b) are collected for specified, explicit and legitimate purposes and are not further processed in a manner incompatible with these purposes (...), c) are appropriate, relevant and limited to what is necessary for the purposes for which they are processed ("data minimization") (...), f) are processed in a way that guarantees the appropriate security of personal data, including their protection against unauthorized or illegal processing and accidental loss, destruction or damage, using appropriate technical or organizational measures ("integrity and confidentiality »)). 9. Because, according to the provisions of article 5 paragraph 2 of the GDPR, the data controller bears the responsibility and must be able to prove his compliance with the processing principles established in paragraph 1 of article 5. As the Authority has judged, with the GDPR a new compliance model was adopted, the central point of which is the principle of accountability in the context of which the controller is obliged to plan, implement and generally take the necessary measures and policies, in order for the processing of the data to be in accordance with the relevant legislative provisions. In addition, the data controller is burdened with the further duty to prove himself and at all times his compliance with the principles of article 5 par. 1 GDPR. 3 Directive 1/2005 is available on the website of the Authority. 11 10. Because, as the Authority has judged⁴, taking into account the decisions of the Court of the European Union (CJEU)⁵ and the Council of State⁶, in order for personal data to be processed lawfully, i.e. processed in accordance with the requirements of the GDPR, it will the conditions for application and observance of the principles of article 5 par. 1 GDPR must be met cumulatively. The existence of a legal basis (Articles 6 and 9 GDPR) does not exempt the data controller from the obligation to comply with the principles (Article 5 para. 1 GDPR) regarding legality, necessity and proportionality and the principle of minimization⁷. In the event that any of the principles provided for in article 5 para. 1 of the GDPR is violated, the processing in question is considered illegal (subject to the provisions of the GDPR) and the examination of the conditions for applying the legal bases of articles 6 and 9 of the GDPR is omitted, for the processing of simple and special category personal data. Consequently, the collection and processing of personal data in violation of the principles of Article 5 GDPR is not cured by the existence of a legitimate purpose and legal basis⁸. 11. Because the provision of par. 5 of article 206 of Law 4820/2021 provides for the obligation to show the vaccination certificate, which is checked by the employer or the manager of the health unit, through the special electronic application of par. 1a of the article 33 n. 4816/2021. Subsequently, in paragraph 3a of the above article n. 4816/2021 it is provided that: "When scanning the relevant QR code, the following information will appear exclusively in the electronic application: i) the name of the natural person and ii) an indication regarding the validity, authenticity or integrity or not of the scanned certificate

or attestation'. In addition, it is provided in par. 4 of the same article: "The persons of par. 2a and 2b carry out the absolutely necessary processing of the 4 See in particular, decision 44/2019 of the Authority, s. 17, available on its website. 5 See CJEU decision of 16-01-2019 in case C-496/2017 Deutsche Post AG v. Hauptzollamt Köln, sc. 57. 6 See decision StE517/2018, sc. 12. 7 see L. Mitrou, the general regulation of personal data protection (new law-new obligations-new rights), published by Sakkoula, 2017 pp. 58 and 69-70. 8 See in particular decision 38/2004 of the Authority, available on its website. 12 personal data included in the certificates or attestations of par. 1a for the purpose of checking their validity, authenticity and integrity. It is prohibited, after the completion of the control or verification process, to store or keep copies of the certificates or attestations of par. 1a or the personal data that appear during the scan in any way. 12. Whereas, the European Data Protection Supervisor (hereinafter EDPS) in the Recommendations for the Return to the Workplace from 09.08.2021 points out that the collection of vaccination certificates could constitute a violation of privacy and the prohibition of discrimination of articles 7 and 21 of the Charter of Fundamental Rights of the European Union⁹. And this, because data processing through the collection of certificates may lead to the disclosure of health information regarding the time of the vaccination act (pregnancy, existence of other diseases, etc.). In addition, the disclosure of vaccination status to provide self-employment would be very difficult to keep private/confidential, while at the same time could lead to discrimination among workers. Following this, the EDPS recommends that employers avoid asking their employees for information about their vaccination status, as well as processing related personal data, regardless of the mandatory nature of the relevant measure¹⁰. 13. As a consequence of the above, the verification of the validity of the presented certificates/certificates in fulfillment of the provisions of articles 205 and 206 par. 5 of Law 4820/2021, is carried out through the special electronic application of Article 33 of Law 4816/2021 and is limited, taking into account also what is included in the Authority's Opinion 2/2021¹¹, only to the verification of information of the name of the natural person and the validity, integrity or authenticity of the scans of the non- or 9 Available on the website https://edps.europa.eu/system/files/2021-08/21-08-09_guidance_return_workplace_en_0.pdf 10 p. 5 above of EEPF Recommendations. 11 Opinion 2/2021 sc. 6, available on the Authority's website. 13 certificates/certificates, expressly excluded, after completion of the control and verification process through the display, storage or keeping of copies of vaccination/coronavirus disease certificates. and demonstration control 14. Taking into account the above, from all the elements of the case file, it appears that the complained processing of the collection of vaccination/disease certificates of employees by OKANA, both in accordance with the provision of article 205 of Law 4820/2021 - i.e. in time before it is clarified

whether the staff of OKANA is subject to the mandatory vaccination - as well as in application of the provision of article 206 n. 4820/2021, but also after the issuance of the no. D1a/GP.ok.52796 (Government Gazette B 3959/27.8.2021) KYA and before the interoperability of the relevant information systems, it was done in violation of the principle of article 5 par. 1 item. a' of the GDPR. In particular, OKANA's claim citing the no. DIDAD/Φ.69/172/οικ.15287 circular of the Ministry of the Interior (53rd circular) that the Personnel Departments of each organization were given the opportunity to determine the manner and procedure of vaccination/disease certificates themselves, depending on the structure and organization of each service, and for this reason, as well as the dispersal of the Organization's structures across the territory, the process of electronic/digital collection of vaccination/disease certificates and their registration in the Organization's electronic filing system PAPYROS or their dispatch was advanced by e-mail, shall be rejected as unfounded. And this, because the selected procedure of collecting vaccination/disease certificates was done in violation of the provisions of articles 205 and 206 par. 5 of Law 4820/2021, as well as the provision of article 3 par. 7 of sub no. D1a/GP.oc. 52795 (Government Gazette B 3959/27.08.2021) KYA, which expressly establishes the obligation to show the vaccination/disease certificate and specifies the control procedure of the presented vaccination/disease certificate through the special electronic application of article 33 of Law 4816/2021 . For the same reason, the individual claims of authenticity of the 14 of the complained OKANA, that the people in charge of the Organization's structures, who are mostly doctors, were not willing to undertake the process of checking the certificates through the special electronic application, as well as that it was found difficult for some employees to show their certificates to the head of the unit/department and that they themselves chose to send them to the Department... Furthermore, the Authority finds that the alleged processing of the collection of vaccination/disease certificates was done in violation of the principle of data minimization (Article 5 para. 1 letter c GDPR), as even if the claim that the qualifying procedure was forced was true due to the dispersal of the Organization's structures across the territory, through the collection of vaccination/sickness certificates they were processed and it was possible to indirectly deduce more of the necessary information (health data) of the owner/employees. In addition, the mere time deviation of sending through a protocol the collected digital certificates and checking their validity collectively by the Agency's Department ... was likely to lead to delays, which have the effect of not achieving the purpose of preventing the spread of COVID-19 in the workplace. Besides, if the Authority finds that the complained processing of the collection of vaccination/disease certificates is contrary to the principles of article 5 par. 1 item. a' and c' GDPR, there is no need to examine any legal bases according to articles 9 GDPR and 22 Law 4624/2019, as on the

one hand the existence of any legal bases does not exempt the data controller from observing and applying the general processing principles of article 5 par. 1 GDPR as discussed above, on the other hand the control of compliance with the obligation to show the vaccination/disease certificate pursuant to articles 205 and 206 par. 5 of Law 4820/2021 is specifically regulated by the provision of Article 33 of Law 4816 /2021. Besides, the Authority takes into account that OKANA with the hearing under no. ... (no. prot. APD C/EIS/166/11.01.2022) memorandum informed the Authority, providing 15 52795 and before (Government Gazette B'3959/27.08.2021) KYA relevant documentation with the under no. first ..., part ..., ..., ... and ... documents, that all the vaccination/disease certificates collected by OKANA, in execution of the no. prot. 38128/10.08.2021 of the Organization's document, pursuant to the provision of article 206 of Law 4820/2021 and until the issuance of the under no. D1a/GP.oc. of the interoperability of the information systems of the "Hellenic Public Human Resources Registry" and ERGANI of the Ministry of Labor and Social Affairs with the "National Registry of Vaccinations against the COVID-19 coronavirus" and the "National Registry of Patients from COVID-19", in which case it appears unnecessary the compilation of a list of natural persons subject to vaccination by the relevant body according to article 2 paragraph 1 of the above-mentioned KYA, in accordance with the provisions of paragraph 7 of article 3 thereof, were permanently destroyed in a safe and irreversible manner, taking the appropriate organizational and technical measures, so that it is no longer possible to recover or in any way unlawfully access them after the destruction by technical or other means, in accordance with the provisions of Directive 1/2005 of the Authority. 15. The Authority, in relation to the established violation of the principles of article 5 par. 1 item. a' and c' GDPR for the processing of the collection of vaccination/sickness certificates of employees of OKANA decided that there is a case to exercise its corrective powers under article 58 para. 2 GDPR. In particular, the Authority, by majority, taking into account in recital 148 GDPR the limited duration of the violation from the passing of the law 4820/2021 until the issuance of the no. D1a/GP.oc. 52795 (Government Gazette B'3959/27.08.2021) KYA and the extraction of the disputed information from the interoperability of the relevant information systems, as well as the fact that OKANA destroyed in a secure manner the illegally collected vaccination/disease certificates, reprimands, according to article 58 par. 2 item b GDPR, to OKANA, as data controller, for the collection of vaccination/disease certificates of its employees in violation of the above-mentioned principles of article 5 par. 1 GDPR. However, in the opinion of the minority President of the Authority and the minority members Christos 16 Kalloniatis and Grigorio Tsolias, the above corrective measure is not sufficient to restore compliance with the provisions of the GDPR and Law 4624/2019 that have been violated and should, based on the circumstances established, be imposed,

pursuant to the provision of the article 58 par. 2 sec. i of the GDPR, an additional and effective, proportionate and dissuasive administrative fine according to article 83 of the GDPR, both to restore compliance and to punish illegal behavior¹², amounting to five thousand (5,000) euros, taking into account when evaluating the circumstances that the established violation, which however had a limited duration, concerned a significant number of the Organization's staff (article 83 par. 2 letter a'), that the established collection of the disputed certificates was health data, i.e. it concerned special category processing of personal data of article 9 GDPR (article 83 par. 2 letter g), as well as that OKANA in any case securely destroyed the illegally collected disputed data, mitigating the damage suffered by the data subjects concerned (article 83 par. 2 item c.). FOR THESE REASONS, this Authority unanimously finds that the complained processing of the collection of vaccination/sickness certificates of employees of OKANA was made against violation of the provisions of article 5 par. 1 item a' and c' GDPR, and addresses, reprimand to OKANA, as controller, for this illegality processing.

¹² See OE 29, Guidelines and the application and determination of administrative fines for the purposes of Regulation 2016/679 WP253, p. 6.

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The president

Konstantinos Menudakos

The Secretary

Irini Papageorgopoulou

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