

Athens, 04-10-2022 Prot. No.: 2458 Decision 01/2022 (Single-person Body) The President of the Authority, as a single-person body according to articles 17 par. 1 of Law 4624/2019 (Official Gazette A' 137), in within the framework of the responsibilities provided for in articles 4 par. 3 and 10 par. 4 of the Regulation of the Authority's Operation (Government Gazette B'879/25.02.2022), met via teleconference on 28-07-2022 in order to examine the case referred to below in history of this decision. Present without the right to vote was Anastasia Kaniklidou, legal auditor - lawyer, as well as Irini Papageorgopoulou, an employee of the administrative affairs department, as secretary. The Authority took into account the following: 1. With the no. prot. C/EIS/2255/14-02-2022 complaint to the Authority of A against the insurance company "NN ELLINIKI MONOPROSOPI ANONYMI ASFALISTIKI ETERIA ZOIS", the complainant complains about a violation of the provisions of the personal data protection legislation. In particular, according to the complainant, the administrator of the apartment building where she lives found her in the mailbox and handed him an envelope 1 Kifisias Ave. 1-3, 11523 Athens T: 210 6475 600 E: contact@dpa.gr www.dpa.gr of the complained-about company, addressed to the complainant, who wrote on the outside back side in bold: "REMARKS: Letter of warning of cancellation of insurance policy number ...". Enclosed in the file was the letter from ... of the complained company, regarding the expiry of the deadline for payment of the insurance premium. In this way, according to the complainant's claims, his personal data (ie name, address, insurance policy number, as well as the fact that said insurance policy is about to be cancelled) became known to third parties. Subsequently, as the complainant claims, in his out-of-court protest to the Data Protection Officer of the complained-about company (in which he complained about the breach of his personal data and called on the company to take measures to deal with the breach), he did not respond the last but two employees of the company, in violation of the personal data legislation. 2. The Authority, following its document with protocol number C/EX/550/01-03-2022, with which it requested clarifications from the complained-about company about the complainants, received in response the protocol number C/EIS/4451/ 03-16-2022 document, in which the complaining company alleges that the cancellation notice letters are sent by various means including sending through a courier company, such as ACS. The letters are delivered by the complained company to ACS in a sealed envelope marked as a policy cancellation warning letter, and the envelope is personally delivered to the recipient. In addition, the personal data mentioned in the file, i.e. the recipient's name, address and indication of the type of letter are the minimum necessary to confirm that the policyholder received the letter and was aware of it, as required by the relevant legislation, but also because of the increased legal, contractual and practical importance, so that it is certain that the recipient

will immediately perceive its importance and the need for immediate action. In said reply document to the Authority, the complainant attached the proof of delivery sent to her by 2 ACS, for the delivery of the letter complained about by the complainant, proving – according to her claims – that the letter was delivered to the addressee. 3. Subsequently, with the Authority's protocol numbers C/EX/1891/21-07-2022 and G/EX/1892/21-07-2022, the Authority summoned the involved parties to appear before the President of the Authority as a one-person body, on Thursday 28-07-2022, in order to discuss the aforementioned case. The attorney of the complainant, Vasilios Kokkinis (AM/...), appeared before the President, after the complainant A, and on behalf of the complained company Mr. Vasilios Giannakopoulos, lawyer (AM/...), head of the Legal Service, Athanasios Kyratsis appeared, Head of Regulatory Compliance and lawyer (AM/ ...), Angeliki Kavouropoulou, lawyer (AM/ ...) and B, Department Manager During this hearing, those present, after developing their views, were given a deadline of 04-08-2022 to submit their written submissions. Following this, the parties timely submitted their memoranda, the complainant under no. protocol C/EIS/9291/02-08-2022 his memorandum, and the denounced from 08-04-2022 and with protocol number C/EIS/9361/05-08-2022 her memorandum. The complainant, both during the hearing and with his memorandum, supported the information mentioned in the complaint, and presented a final decision of the Multi-Member Court of First Instance of Athens (under no. ...), by virtue of which the complaint by the insurance company of the insurance policy was deemed invalid year, on the grounds – among others – that the above declaration of the insurance company on the cancellation of the insurance contract did not acquire legal effect, because the sending of a registered letter warning of the cancellation of the insurance policy via a courier company (in this case ACS AEE) and its receipt by a third party who was not authorized to receive it, does not satisfy the requirement of the law for the delivery of the statement of complaint to the area of authority of the insured. In addition, the complainant in the interlocutory memorandum 3 denies that he received the said letter and that he himself signed the relevant receipt. The complained-about company, both during the hearing and with its memorandum, reiterated the positions it had supported in its document No. protocol of the Authority C/EIS/4451/16-03-2022 and specifically reiterated that the of the warning indication on the outside of the file is absolutely necessary, taking into account the interest of the recipient/data subject, as well as having repeatedly offered the complainant exclusive electronic communication, which he refuses. CONSIDERED ACCORDING TO THE LAW 1. Because, according to paragraph 1 point c of article 5 of the General Data Protection Regulation (Regulation 2016/679), which defines the principles governing the processing of personal data, "personal data are appropriate, relevant and limited to what is necessary for the purposes for

which they are processed ("data minimization"). Because, in this case, from all the elements of the case file, 2. the claims of the parties during the hearing and the submitted memoranda, it appears that the complained processing, consisting of sending to the complainant-recipient a letter envelope of the company, which in the external back on the face of which there was an indication of the subject of the letter (i.e. it was written in bold: "REMARKS: Letter of warning of cancellation of insurance policy under number...") was made in violation of the provision of article 5 paragraph 1 point c of the GDPR, regarding the obligation to observe the principle of "data minimization". Specifically, for the purpose of informing the insured - complainant about the obligations deriving from the insurance contract with the complained-about insurance company by sending 4 a postal letter, it was sufficient to indicate in the envelope of the letter the name, postal address and postal code of the recipient-complainant/insured, information necessary to send the file to the recipient and identify him/her¹. And what was further written on the outside of the file, i.e. the writing of the cancellation warning of the insurance policy numbered ..., was not appropriate and proportionate in relation to the purpose served by the specific processing. Furthermore, the Authority considers that since the inscription abroad in the file of the phrase "REMARKS: Letter of warning of cancellation of insurance policy number ..." is judged to be illegal according to the above, there is no need to examine the individual allegations of the complainant and the complained-about company, regarding with the issue of whether or not, due to the above indication on the outside of the folder, third parties became aware of his personal data, while the arguments presented by the complainant which are based on the one hand on the allegation that he did not sign the receipt of the above-mentioned folder and on the other hand on invocation of the final decision of the Multi-Member Court of First Instance of Athens, by which the cancellation of the insurance policy of the complainant by the insurance company was deemed invalid due to illegal delivery of the registered letter warning of the cancellation of the policy through a courier company, escape the authority of the Authority. complaining the fact that the Data Protection Officer himself did not respond to his request 3. to the Data Protection Officer of the complained company but its employees, does not recommend violation of the legislation on the protection of personal data. And this because, in accordance with the provisions of articles 38 and 39 GDPR, the role of the Controller Data Protection is advisory (not decisive) and does not carry personal liability for non-compliance with the GDPR. Responsible for ensuring and

1 See in this regard the nos. 47/2009 and 14/2022 decisions of the Authority, both published in website of the Authority, www.dpa.gr

to be able to prove that the processing is carried out in accordance with the GDPR is the controller or processor².

Because, the complained company as a data controller has to

4.

complies with the requirements for the protection of personal data, among which is included the obligation to observe its principle proportionality.

5.

Because, in relation to the established violation of its principle

minimization by the insurance company, as controller,

there is a case for the Authority to exercise the corrective measures referred to in article 58 par. 2 GDPR

its powers, and, in particular, to address a reprimand in accordance with article 58 par. 2 item b'

of the GDPR to the complained company for the above violation of article 5

paragraph 1 point c of the GDPR processing and to give an order, according to article 58

para. 2 item, d' GDPR, as hereinafter processed by the insurance company, as

controller, the personal data in an agreed manner

to the requirements of the GDPR, as mentioned above.

FOR THOSE REASONS

The beginning

a) Finds that by mentioning the indication of the subject of the letter in

outer side of the file the provision of article 5 paragraph 1 was violated

point c of the GDPR and,

addresses a reprimand according to article 58 par. 2 item b of the GDPR to the complained

company for the above violation and

b) gives an order, according to article 58 par. 2 item d of the GDPR, as hereinafter processed

insurance company, as data controller, personnel data

character in the manner described above, complying with the requirements

2 See pp. 6, 23 and p. 33 of the Guidelines on protection officers

data of the Article 29 Working Group (WP. 243, rev. 01 from 05.04.2017).

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of the General Regulation of Personal Data Protection.

THE PRESIDENT

THE SECRETARY

Konstantinos Menudakos

Irini Papageorgopoulou

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