

GREEK REPUBLIC PERSONAL DATA PROTECTION AUTHORITY Athens, 29-06-2020 Prot. No.: G/EX/4512/29-06-2020 A  
P O F A S I NO. 18/2020 (Department) The Personnel Data Protection Authority Character met as a Department composition  
at its headquarters on Wednesday 12-02-2020 at the invitation of its President, in order to examine the case referred to in the  
present history. The President of the Authority, Konstantinos Menudakos, and the alternate members, Evangelos  
Papakonstantinou, Grigoris Tsolias and Emmanouil Dimogerontakis, appeared in place of the regular members Konstantinos  
Lambrinoudakis, Charalambos Anthopoulos and Eleni Martsoukou respectively, who, although legally summoned in writing,  
did not attend due to disability. The meeting was attended by order of the President, Georgia Panagopoulou, specialist  
scientist - auditor as assistant rapporteur and Irini Papageorgopoulou, employee of the Authority's administrative affairs  
department, as secretary. The Authority took into account the following: Submitted to the Authority under no. prot.  
C/EIS/6013/04-09-2019 complaint with which Mr. A (hereinafter "complainant") complains to NEW YORK COLLEGE S.A.  
(hereinafter "complainant" or "complainant company") that it carried out targeted telephone call with which he proposed his  
participation in a seminar subsidized by the OAED aimed at the unemployed. They addressed his telephone communication  
knowing his status as unemployed. The complainant states that he tried to exercise the right to information and access 1-3  
Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, [contact@dpa.gr](mailto:contact@dpa.gr) / [www.dpa.gr](http://www.dpa.gr), sought the data protection  
officer, but he considers that the correspondence and the answers he received were not satisfactory since he was not informed  
of the type and origin of the data kept by the complained company about his person and why he became the recipient of the  
specific telephone communication. The Authority, in the context of examining the complaint in question, sent the complainant  
with no. prot. C/EX/6013-1/03-10-2019 document in which she requested her opinions on the accused. The complained  
company responded with no. prot. C/EIS/7002/15-10-2019 document, with which he questioned the making of the call while for  
the hypothetical case that it was made he claimed that the complainant himself may have expressed an interest in one of the  
subsidized programs and the call to refer to the company's response to this interest. Then the complainant also sent the no.  
prot. C/EIS/7242/22-10-2019 additional document with which he proves that the call was made, since the list of incoming calls  
he received from his telecommunications provider includes the phone number belonging to the company being complained  
about. Then the Authority called with no. prot. C/EX/6013-2/13-11-2019 document New York College S.A. in a hearing, in order  
to discuss the above complaint as well as the general practice followed in such type of phone calls. With the no. prot.  
C/EX/6013-2/13-11-2019 call was notified and the one with no. prot. C/EIS/7242/22-10-2019 supplementary document of the

complainant in which it is contained with the presumption that the telephone call was made. The complained-about company attended the meeting of 25-11-2019 through the attorney of Georgia Sitou with AMDSA..., who presented her views orally while, after receiving a deadline, filed the no. prot. C/EIS/8534/06-12-2019 memorandum. In the memorandum, he repeats what he mentioned in no. prot. C/EIS/7002/15-10-2019 its document, i.e. that a) the telephone number from which the telephone call was made belongs to the company and in particular to the Thessaloniki branch, b) no information regarding the employment status is kept and the complainant's contact details in the records kept by the company c) it was not possible to identify under what circumstances and for what reason the telephone call was made, and that the complainant himself may have expressed an interest in the subsidized programs that were available on at that time when the telephone communication was a continuation of his own expression of interest, d) during the period when the call was made at the company's branch in Thessaloniki, a total of 11 of the 15 employees were working, and 2 at the secretariat, e) the short delay in the response to the complainant (only three days after the statutory 30 day deadline) is due to the absence of staff due to the summer holidays holidays at that time. 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 debate and before the conference and decision-making, and after a thorough discussion, THINKS ACCORDING TO THE LAW 1 . In article 4 par. 7 of Regulation (EU) 2016/679 (General Data Protection Regulation - GDPR) the data controller is defined as "...the natural or legal person, public authority, agency or other body which, alone or jointly with others, determine the purposes and manner of processing personal data...". 2. In accordance with the provisions of article 5 par. 1 sec. a' of the GDPR, personal data are processed lawfully and legitimately in a transparent manner in relation to the subject of the data ("legality, objectivity, transparency"). 3. Natural persons (data subjects) have the right to be accurately and clearly informed about the collection and use (processing) of their personal data. This right is governed by the basic principle of the GDPR, the principle of transparency (related articles 12-14 of the GDPR). 4. The GDPR introduces the principle of accountability, according to which data controllers who collect and process personal data must design their procedures and technical and organizational systems in such a way that they can demonstrate, at any time, both before the supervisory authorities as well as the courts, that they are fully compliant with 3 what the GDPR provides. The introduction of the accountability principle shifts the 'burden of proof', regarding the lawfulness of processing and GDPR compliance, to the controllers or processors themselves. The data controller is obliged based on the principle of accountability (see article 5 par. 2 in conjunction with articles 24 and 32 of the GDPR) to choose the appropriate legal basis from those

provided for by article 6 para. 1 of the GDPR, as well as to be able to prove in the context of internal compliance the observance of the principles of article 5 par. 1 GDPR. 5. In the case at hand, New York College SA is the controller since it is proven that it processed the complainant's personal data, addressing the complainant by telephone in his capacity as unemployed. The placement of the call is also confirmed by the provided list of incoming calls. 6. The controller did not provide any evidence to explain how it processed the complainant's personal data, i.e. it was unable to substantiate the legality of the processing, in violation of the principle of accountability. He did not provide information either on the special case of the complainant, or on the general policy he followed for the processing in question, while these were requested by the Authority. Furthermore, the processing was carried out in a non-transparent manner towards the data subject, as both during the call and after exercising the right, he was not provided with the information provided for in the GDPR. 7. As a data controller, it follows that New York College violated the principles of Article 5, paragraph 1 of the GDPR as well as the obligation (principle) of accountability according to Article 5 para. 2 GDPR, i.e. violated fundamental principles of the GDPR for the protection of personal data. 8. As a consequence of the above violation, it was not possible to satisfy the right of information and access exercised by the complainant. 9. The Authority, after establishing the above violations of the provisions of the GDPR, which are included in the violations mentioned in article 83 paragraph 5 of the GDPR, taking into account: a) that it is likely that it is not an isolated incident as the violation concerns a category of processing, i.e. the processing of personal data of those interested or candidates for participation in 4 subsidized programs aimed at specific groups of citizens, such as the unemployed, and the way in which communication is made with them b) the nature of the damage and in particular the feeling created in the citizen that he is being targeted by a data controller with knowledge of his personal data which is not publicly available,

c) that it is not personal data of articles 9 and 10 thereof

GDPR, according to the information brought to the attention of the Authority

d) that only one relevant complaint was submitted,

e) that no administrative sanction has been imposed in the past by the Authority on controller,

f) that the controller's turnover for 2018, as it appears

from with no. prot. C/EIS/8534/06-12-2019 his memorandum, amounted to 5,972,436

euro,

judges, based on the criteria of article 83 paragraph 2 of the GDPR, that the effective, proportionate and dissuasive fine appropriate to the above violation is five thousand (5,000) euros.

#### FOR THOSE REASONS

The Personal Data Protection Authority:

A. He instructs the company NEW YORK COLLEGE S.A. within three (3) months

from the receipt of this, informing the Authority:

i. to make the processing operations in accordance with the provisions of the GDPR

personal data regarding those interested in participating in

subsidized training programs,

ii. to take all necessary measures of internal compliance and accountability to

principles of article 5 paragraph 1 and paragraph 2 in combination with article 6 paragraph 1 GDPR.

B. It imposes on the company NEW YORK COLLEGE S.A. the effective, proportionate

and dissuasive administrative fine appropriate to the specific case

according to the special circumstances thereof, in the amount of five thousand (5,000.00) euros.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou