

Athens, 01-09-2022 Prot. No.: 2163 Decision of the President of the Authority no. 1/2022 (Single-person Body) The President of the Authority as a single-person body according to articles 17 par. 1 of Law 4624/2019 (Government Gazette A' 137), in the context of the powers provided for in articles, 4 par. 3 para. a' and 10 par. 4 of the Authority's Operating Regulations (Government Gazette B' 879/25.02.2022) and the powers provided for in article 15 par. 8 of Law 4624/2019 in conjunction with article 58 par. 2 f GDPR, met via video conference on 30.3.2022 in order to examine the case mentioned below in the history of this decision. Present without the right to vote were Eleni Martsoukou, legal auditor, as well as Irini Papageorgopoulou, an employee of the Department of Administrative Affairs, as secretary. The Authority took into account the following: 1. Because with the no. prot. C/EIS/8434/28-12-2021 report of the General Confederation of Workers of Greece (GSEE), submitted to the Authority with no. prot. C/EIS/8017/8-12-2021 relevant complaint form and with the no. prot. C/EIS/2147/11-2-2022 Bank Employees Organizations of Greece (OOE), the above trade unions are directed against the Ministry of Labor and Social Affairs in its capacity as the Federation reference 1 Kifisias Ave. 1-3, 11523 Athens T: 210 6475 600 E: contact@dpa.gr www.dpa.gr processing and personal data are to be included in the character of the responsible General Register of Trade Union Organizations of Employees (hereinafter: GE.MI.S.O.E.), which is observed in accordance with the provisions of no. 62599/2021 of ministerial decision (Government Gazette B' 4279/16-9-2021) and request, among other things, that GSEE be issued by the President of the Authority a temporary order for the immediate total restriction of the operation of GE.MI.S.O.E. and a consequent ban on the entry of data into it by trade unions, until the final decision of the Authority to ban the operation of GE.MI.S.O.E., due to the urgent nature of the need for protection from the start of the Registry and the mentioned as illegal processing of personal data by the Ministry of Labor and Social Affairs to the detriment of fundamental collective and individual rights of the trade unions and the natural persons of their members, and the OTOE to be issued by the President of the Authority a temporary order for the prohibition of its operation GE.MI.S.O.E. until the final decision is issued by the Authority, as well as to consider its report with the report of the GSEE. In particular, the complainants state, among other things, that with the operation of GE.MI.S.O.E. impermissible state supervision and intervention in the process of obtaining legal personality of the organization is introduced in violation of article 23 par. 1 of the Constitution and control over the exercise of trade union rights, that the statutory possibility of the services of the Ministry of Labor and Social Affairs to refuse registration in the register is equivalent to a licensing procedure, i.e. an additional and unnecessary administrative criterion for the exercise of the constitutionally guaranteed rights of articles 2, 22 par. 2 and 23 par. 1 of the Constitution and, therefore, that the purpose of the

data processing. Furthermore, the complainants claim that when entering the data in the register it is not clearly specified who is the controller or who are the joint controllers or who is the controller, so that the protection of the data from those responsible for it becomes effective, that it is excluded establishment of the disclosure of data related to membership in a trade union on a legal basis other than the consent of its member, that the access of third parties to the data registered in the register and their processing for other purposes is expanded, that the minimum retention period of the data is not expressly provided for data or at least the criteria for determining it and that no impact assessment of the processing on personal data was carried out nor was an Opinion of the Authority requested or formulated on the provisions of the draft law of the later Law 4808/2021 on GE.MI.S.O.E. The Authority following the no. prot. C/EXE/3034/31-12-2021 and C/EXE/438/16-2-2022 of its documents, with which it requested from the Ministry of Labor and Social Affairs clarifications on the petitions and the requests for granting a temporary order, received in response the no. prot. C/EIS/864/24-1-2022 document (on the GSEE report) with an attached relevant impact assessment regarding data protection, carried out before the processing in question, and the one with no. prot. C/EIS/2986/1-3-2022 document (on both petitions) thereof, already communicated to the petitioners via e-mail following the prot. no. C/EIS/1569/1-2-2022 and C/ IS/3276/4-3-2022 of these related requests. With these documents, the Ministry claims that the processing in question does not require an immediate decision, because it is not likely to cause a significant risk to the personal data of the data subjects involved, and requests that the requests for the issuance of a temporary order, for those referred to in them, be rejected reasons. During the Authority's teleconference meeting, GSEE was present through the attorney of Elli Varhalias (a.m. DSA ...), OTOE through the attorney of Xenofontas Kontiadis (a.m. DSA ...), while the Ministry of Labor and of Social Affairs through the attorney-in-fact of Grigorios Lazarakos (a.m. DSA ...). During the meeting, those present developed their views and then submitted relevant memoranda within the deadline set for this purpose by the President. 2. Because according to par. 4 of article 54 of Law 4635/2019, "a) All workers' trade unions, workers' associations and employers' organizations and especially those that enter into collective 3 General Register employment contracts or and appoint their representatives in the administrations of the bodies supervised by the Ministry of Labor and Social Affairs, as well as in its collective bodies, they are obliged to be registered in the Register of Trade Unions of Employees and Employers' Organizations of the Ministry which is maintained in the ERGANI information system of the Ministry of Labor and Social Affairs Cases. b) In the Ministry of Labor and Social Affairs, Trade Union Organizations of Employees (GE.MI.S.O.E.) are created, in which the following elements are observed: a) the statute of the trade union organization and any amendments thereto, as well

as any deed of its dissolution, b) the number of members of the trade union organization that took part in the elections for the appointment of management, c) the composition of its management bodies, d) the headquarters of the trade union organization and contact details and e) its financial statements, if they exist government or co-financed sources of funding to the organization itself or its affiliated entities. [...] d) By decision of the Minister of Labor and Social Affairs, every issue related to the creation of the Register of Trade Union Organizations of Employees and Employers' Organizations, the publicity of its data and every necessary technical detail as well as the provision of information in relation to its data shall be regulated register and with respect to the protection of personal data, especially in relation to the representativeness of trade unions of workers and employers". In accordance, moreover, with article 2 of law 1264/1982 par. 4 and 6, as this article was replaced by article 83 of law 4808/2021 "4. At GE.MI.S.O.E. the following information is kept in digital form for each trade union organization, which it must submit to GE.MI.S.O.E.: a) the information referred to in article 81 of the Civil Code, b) the statute of the trade union organization and any amendments thereof, as well as any act of its dissolution, c) the number of its members who had the right to vote at the most recent general assembly for the election of the trade union organization's governing bodies, the number of members who voted in these elections, the order of election of the elected and the composition of the administrative bodies of the trade union organization, as they result from a responsible statement of the president of its board of directors, d) if there are 4 state or co-financed sources of funding for the organization itself or entities connected to it, its financial statements and its main financial figures in terms of revenue by category of revenue, in particular membership fees, donations and sponsorships, grants and State subsidies, resources from contributions that are withheld compulsorily or otherwise, as well as other income, and in terms of expenses by category of expenses, in particular salaries of employees, compensations, travel and any other kind of benefits to trade unionists, third party fees, rents, as well as other operating expenses. [...] 6. If the trade union organization does not register with GE.MI.S.O.E. or does not submit the information of par. 4 or does not keep them updated, then, for as long as the omission lasts and until it is remedied, they are suspended especially the following rights of the trade union organization and executives of which, either to exercise or to control their exercise, require the restoration of the specific omission, namely:

a) Until any omission related to the elements of c.

a', b' and c' of par. 4, the right of trade union organization is suspended

to negotiate collectively and draw up collective labor agreements,
in accordance with article 6 of Law 1876/1990, the protection of its executives
of union organization against dismissal and transfer, pursuant to
article 14, with the exception of paragraphs b and c of par. 5, and her rights
trade union organization and its executives, in accordance with articles 16 and
17...".

According to article 1 of no. 62599/2021 (Government Gazette B´ 4279/16-9-2021) of decision
of the Minister of Labor and Social Insurance entitled "Register
of Trade Union Organizations of Employees and Organizations of Employers", "Sto
Information System ERGANI II (PS ERGANI II) of the Ministry of Labor and
of Social Affairs, the Register of Trade Union Organizations is created
of Employees and Employers' Organizations, of article 54 of Law 4635/2019 (A´ 167).

The Register is kept in electronic form as a database in PS ERGANI II and
consists of the following individual Registers: a) General Register of Trade Unions
of Employees' Organizations (GE.MI.S.O.E.) and b) General Register of Organizations
of Employers (GE. MH.OE.)'.

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Furthermore, according to article 2 of the same law, entitled "Registration at
GE.MI.S.O.E.", "1. The trade unions of par. 3 of article 1 of n.
1264/1982 (correct: "of par. 2", where distinction of trade unions in
primary, secondary and tertiary), including
of trade unions of article 30 of Law 1264/1982, as well as the associations
persons referred to in paragraph 5 of article 3 of Law 1876/1990, are required to register
electronically at GE.MI.S.O.E., through a special online platform, which
is observed in PS ERGANI II. This obligation does not apply to marine works
Organisations. 2. The platform registration application is completed and submitted

by the legal representative of the trade union organization or by a specific person authorized by him, in the name and on behalf of her. 3. Failure to register at GE.MI.S.O.E. as well as the failure to file or update them elements of paragraph 4 of article 2 of Law 1264/1982, brings about the effects of par. 6 of the same article. 4. a) The organizations of par. 1 of this article, the which are established after the entry into force of the present, acquire legal status personality and the effects of articles 83 et seq. of the Civil Code come from the moment of their registration at GE.MI.S.O.E. b) The registration to GE.MI.S.O.E. replaces the obligation to register organizations in the special book of trade unions of the competent Court of First Instance".

In article 10 par. 1 and 3 of the under the heading "Providing information" it is defined that "1. The trade unions of workers, the associations of persons of par. 5 of Article 3 of Law 1876/1990 and employers' organizations, which are registered in the Register of Trade Union Organizations of Employees and Employers' Organizations of the Ministry of Labor and Social Affairs, as well as individual employers, may, for the exercise of the laws 1876/1990 and 1264/1982 of their rights and their response to corresponding obligations, to request the granting of data and copies files from the service, following their special request through it platform and if they demonstrate a special legal interest. The application is being reviewed from the service and if the conditions are met, they are granted electronically through of the platform, the requested data or part thereof. In any case, no it is allowed to grant any element concerning the financial statements

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of these. 2. ... 3. Any submission of an application for the provision of data by a natural person, whether or not a member of an organization of workers or employers, is rejected by the service

as unacceptable. The access of these persons to elements and data which concern workers' or employers' organizations or unions of persons, is carried out with the existing ones, until the issuance of this ways, namely through the judicial services or the organizations themselves". Finally, according to article 12 of no. 62599/2021 n.a., entitled "Protection personal data", "The data and files, which are imported in the General Registry, are kept in the General Secretariat of Labor of the Ministry Labor and Social Affairs, observing all the required rules protection of personal data, included therein. The General The Labor Secretariat is responsible for their processing. All the involved agencies take the required technical and organizational measures for ensuring the protection of the subjects' data. The present decision is valid from 1.1.2022". However, according to his press release Ministry of Labor and Social Affairs, the Register of Trade Unions Organizations

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(<https://ypergasias.gov.gr/xekina-tin-1i-fevrouariou-i-leitourgia-tou-mitroou-ton-syndikalistikou-organoseon/>).

3. Because a necessary condition for the issuance of a temporary injunction is the strong probability that the intended processing may cause risk to the fundamental rights and freedoms of their subjects data, for the prevention of which the prohibition is necessary or a restriction. Regardless of the issues of legality of the provided by aforementioned personal data processing provisions, which arise and will be judged by the Authority during the examination of the reports of the above trade unions and already applicants, does not apply to

in this case the above condition for granting temporary
order for the protection of natural persons against the processing of
personal data from the application of these provisions, for
which (natural persons) only the Authority is responsible for, given that with art
due to regulations it is not expanded, but in accordance with the provisions of article 10 thereof
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with no. 62599/2021 n.a., the circle of persons entitled to
access to the personal data registered and
are held at GE.MI.S.O.E. and limited to those that prove expert
legitimate interest in receiving the data for the exercise of the provisions of
Law 1876/1990 and Law 1264/1982 of their rights and their response to
corresponding obligations.

Because, in view of the above, there is no reason to issue a temporary injunction.

FOR THOSE REASONS

THE BEGINNING

Denies requests for interim injunction.

The president

Konstantinos Menudakos