

Correct Repetition for the determination of the teleconference meeting Athens, 07-08-2021 Prot. No.: 1654 DECISION

27/2021 (Department) of the President of the Authority Constantinos Menoudakou, The Personal Data Protection Authority met as a Department via teleconference on the 17 -02-2021 at the invitation of its President, in order to examine the case referred to in the present history. Georgios Batzalexis, Deputy President, was present, as the substitute member Grigorios Tsolias was unable to attend, as rapporteur, in place of the regular member Charalambos Anthopoulos, who, although legally summoned in writing, did not attend due to being unable to attend, and the alternate member Evangelos Papakonstantinou, in place of the regular member, Konstantinos Lambrinoudakis, who, although legally summoned in writing, did not attend due to disability. The meeting was attended by order of the President, Kyriaki Karakasi, legal auditor - lawyer, as assistant rapporteur and Irini Papageorgopoulou, employee of the Authority's administrative affairs department, as secretary. The Authority took into account the following: Complaint No. C/EIS/476/19-01-2021 was submitted to the Authority - request for review of A, which is a request for treatment, after the attached relevant documents, against the filing act of 04.01.2021 with no. Prot. C/EIS/6482/2020 of the latter's complaint, 1 Kifisias Ave. 1-3, 11523 Athens T: 210 6475 600 E: contact@dpa.gr www.dpa.gr notified to him with no. Prot. C/EX/81/05.01.2021 forwarding document of the Authority. In particular, it was submitted to the Authority with no. Prot. C/EIS/6482/2020 complaint by A against the Department of Cultural Heritage and Antiquities of the Security Directorate [area] X. In the context of the above complaint it is stated that the applicant already addressed the above Department in view of the Press Release submitted by ... with his arrest by the competent prosecuting authorities and the formation of a case against him based on the provisions of the Law on the Protection of Antiquities and cultural heritage in general. In the complaint it is pointed out that there was a series of publications in the press from which more identifying information of the complainant emerged than what was included in the above Press Release, with particular reference to the latter's occupation while, in addition, the complainant claimed that the mass media was notified of his apology before it was completed. The complainant communicated to the Authority as relevant documents after his complaint both his application from 12/08/2020 to the above-mentioned Department of the Security Directorate [region] X and the following one with no. First ...21.08.2020 response, from which it follows that the Service in question only informs the Office of Information for Journalists of the General Police Directorate [region] X and not the media emphasizing that the Press Release regarding the complainant is anonymized, as long as and the disputed Press Release with five disputed articles of the electronic press also dated In addition, he additionally submitted to the Authority the no. Prot. C/EIS/7106/2020 document notifying the subpoena-subpoena

from 14.10.2020, on 16.10.2020, when the complaint file submitted to the Authority was completed in order to start processing it. Subsequently, the Authority, after examining the above complaint and after taking into account all the documents submitted by the complainant as well as any relevant information, issued the above-mentioned filing act from 01.04.2021 to the extent that the first one was evaluated as obviously unfounded, 2 per inasmuch as it was based on a factually incorrect basis, in view of the fact that the Press Release in question was anonymized without any reference to the professional status of the then complainant, as he claimed. The other reason for filing the said complaint was that the dispute did not fall within the scope of the legislation on the protection of personal data as well as within the competence of the Authority for the reasons mentioned in detail there. The above filing act was notified to the complainant and already applicant with no. Prot. C/EX/81/05.01.2021 transmittal of the Authority. Subsequently, the complainant submitted against the above act the case under review with no. Prot. C/EIS/476/19.01.2021 request for a review of his case, according to the aforementioned, which has the status of a request for treatment and with which he briefly develops, among other things, the following: 1) The applicant, after repeating the first reason of act of filing on the apparent unfoundedness of the complaint, states that the no. First ...21.08.2020 the aforementioned document of the Department of Cultural Heritage and Antiquities does not, however, negate the fact that a breach of his personal data took place, as the center of gravity shifted from the anonymized Press Release of the complainant to the disputed press publications and in the way of collecting individual data by journalists. 2) Next, the applicant claims the following: "If my request was manifestly unfounded, the controller would have been able to charge me a reasonable fee. In this case it is the controller who has to prove that my request is unfounded or excessive." 3) In addition, the applicant states that "...it is the Authority that must prove that the request is unfounded". 4) The applicant also claims that he had no information from the Authority about the progress of his complaint. 3 5) The applicant reiterates allegations, which are included in the supplementary document he submitted to the Authority from 16/10/2020, emphasizing, among other things, that most of the publications that included his personal data took place before the completion of the pre-investigation procedure concerning him . 6) In addition, the allegation is made that the impugned act of filing is binding on the judgment of an independent judicial official, before whom the Petition of the applicant from 14.10.2020 is pending regarding the violation of the legislation on the protection of personal data . 7) The applicant also invokes his right to appeal before the Council of State by submitting a request for annulment against an act of rejection of an open appeal while also referring to the appeal provisions of the Code of Civil Procedure. 8) Finally, the applicant claims that the Authority did not take into account the facts of the filed complaint.

Then, the Authority after examining the elements of the file and after hearing the rapporteur and the assistant rapporteur, who left before the conference and the decision, after a thorough discussion, OUGHT IN ACCORDANCE WITH THE LAW 1.

Because, the art. 2 par. 8 of Law 3051/2002 on the "Constitutionally enshrined independent authorities, amendment and completion of the recruitment system in the public sector and related regulations" which was issued in execution of article 101

A of the Constitution states that "8. Against the executive decisions of the independent authorities, a petition for annulment may be filed before the Council of State, as well as the administrative appeals provided for in the Constitution and the legislation. Legal aid against the decisions of the independent authorities can also be exercised by the relevant Minister". 4 2.

Article 24 par. 1 of Law 2690/1999 (KDDiad.) stipulates that "If the relevant provisions do not provide for the possibility of exercising, according to the following article, a special administrative or individual appeal, the an interested party, for the restoration of material or moral damage to his legitimate interests caused by an individual administrative act, may, for any reason, with his application, request, either from the administrative authority which issued the act, its revocation or amendment (application treatment), or, by the authority that is in charge of the one that issued the act, its annulment (hierarchical appeal)".

In the true sense of the provision, the request for treatment aims to revoke or modify the individual administrative act in question for its legal or factual defects that go back to the regime under which it was issued. 3. Because, with the above provisions of article 24 KDDiad. establishes the right of every "interested" administrator, who has suffered material or moral damage from an individual administrative act, to address the authority that issued the act in question before resorting to judicial protection (simple administrative appeal, otherwise a request for treatment). This is an "informal" administrative appeal in contrast to the standard "special" and "individual" appeals of article 25 of the Code of Civil Procedure. The appeal in question requests the revocation or modification of the above-mentioned individual administrative act in order to restore the material or moral damage to the legal interests of the applicant caused by the administrative act, in those cases where the law does not provide for the possibility of exercising the above appeals of article 25 KDDiad1. 4. As can be seen from the content of the present application, the applicant on the one hand complains about the legal correctness of the act of archiving and for this reason

in essence, it introduces invalidating claims, on the other hand, it either repeats them

allegations of his complaint, which, however, were taken into account and

already evaluated during the examination of the case in order for the Authority to issue

the contested act of filing, or proposes new allegations without

1 See indicatively the one with no. 73/2018 Decision of the Data Protection Authority.

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be substantiated by new evidence. Therefore, the applicant seeks reconsideration

of the legal correctness of the contested filing act, moreover,

without citing or presenting new evidence, from the assessment of which

a different judgment could arise under the legal conditions.

5. Therefore, the Authority adheres to the above from 04.01.2021 and forwarded to the applicant with letter no. prot. C/EX/81/05.01.2021 document of the Authority deed archiving.

FOR THOSE REASONS

The beginning

He rejects it with no. prot. C/EIS/476/19-01-2021 treatment request and

adheres to the above from 04.01.2021 filing act of the case.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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