

Athens, 21/02/20

PRINCIPLE FOR DATA PRIVACY

FOR OPIC CHARACTER

Prot. No.: G/EX/1462/21/02/20

A P O F A S H 1/2020

(Department)

The Personal Data Protection Authority met in

composition of the Department at its headquarters on 19.02.20 following the invitation of the President

of her, in order to examine the case mentioned in her history

present. The regular member of the Authority Charalampos Anthopoulos appeared,

regular member of the Authority, as chairman, obstructing the President of the Authority

Mr. Menoudakos and Deputy President George Batzalexis, the

regular member of the Authority Eleni Martsoukou and its alternate members

Authority Evangelos Papakonstantinou, as

rapporteur

and Emmanuel

Dimogerontakis, as rapporteur with the right to vote. He did not attend due to an obstruction

the regular member of the Authority Konstantinos Lambrinoudakis. Present without

the right to vote was Kalliopi Karveli, specialist scientist-lawyer, as

assistant rapporteur, who left after the discussion of the case and before

the conference and decision-making and Irini Papageorgopoulou, employee

of the Authority's administrative affairs department, as secretary.

The Authority took into account the following:

With the no. prot. G/EI /8494/25.10.2018 his complaint to the Authority, A

denounces the illegal processing and transmission of ... and ...

revocations of his autograph wills, by the accused B, C, D, E, T,

Z, H and the Law Firm with the name "D-Law Firm", with

concealment of the revocation, parallax and falsification of the nature of the documents

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which were subsequently characterized by the complainants as

"letters" and which contain his sensitive personal data.

As he specifically complains, a text was drawn up by editing the wills

entitled "opinion" by the 2nd of the accused C, who after

paraphrased the nature of the wills, titling them "letters", received them

wills, copied them, annotated them and quoted full names of both

own and third parties.

He also complains that a) by editing one of the two wills (of

...) the document titled "Graphological Psychological Assessment on him" has been drawn up

from ... of the text of the letter" of the 6th of the accused Z and b) from ... and

then on the initiative of the 1st and 3rd of the accused and with the knowledge of the 4th

of those reported, it was served to 18 natural persons (relatives, colleagues

and friends) as well as a pre-trial document to 5 prosecutors

drawn up by the 1st, 3rd and 4th of the accused, which included in

copy and reproduction of text of his wills, with degrading annotation,

as well as other personal data.

in the context of investigating the complaint, the Authority sent a document to

and 6th of

The 1st, 3rd, 4th, 5th

providing clarifications to the complainants.

reported to no. prot. G/EI /1347/19.02.2019 their answer to

Authority reported that the publication of the content of the two wills received

country in the context of exercising the right to judicial protection on the one hand for the

interest of B's two minor children on the other hand to avoid prosecution

which the complainant has unleashed against all the accused in dozens

extrajudicial and criminal and civil records.

The 7th of the complainants with no. prot. G/EI /1531/26.02.2019 answer

he reported to her that a) he had been the attorney of the fellow lawyer

Athens B in the dispute she has with her ex-husband and complainant A

regarding the custody and maintenance of their minor children, b) the case of

handled jointly with lawyers C and D but has already delivered her

case and has stopped any involvement with it, due to the pressures that

brought against her by the complainant c) she never had the letters in her hands-

wills relied on by the complainant and never filed on her behalf

B documents without her knowledge, and she presented all the documents

took over herself.

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The Law Firm "D-Lawyers Firm" with

the no. first

C/EI /1348/19.02.2019 her document to the Authority stated that the fact that the

of the managers and partners of D recorded on the company's letterhead

the texts, with which he refuted the allegations against him by the complainant,

does not mean that the company bears any responsibility for those that it does not

law and substance is invoked by the complainant on behalf of the complained-of D.

Finally, the 2nd of the complainants with no. prot. G/EI /3512/16.05.2019

his reply stated that the complaint should be dismissed as without merit for

the following reasons: a) the complaint is vague, b) it cannot be substantiated

any complaint before the Authority according to article 21 of Law 2472/1997, c) h

this case is anyway outside its scope

of personal data law, in the absence of a file, d) data processing of the parent was imposed in favor of their superior legal interest minor children, e) the expert acts as an assistant to the court in specialization of vague concepts, therefore it does not act as a public authority with advisory authority, f) the processing is also permissible for sensitive data personal data when it is done in the context of their jurisdictional function courts, in the context of which the disputed opinion was prepared, in accordance with the provisions of article 9 par. 1 sec. f of the GDPR, g) disputes the father's data are simple and do not fall under his restrictive list of article 9 par. 1 of the GDPR, h) in any case an obligation for a previous one authorization of the Authority does not exist in this case according to its provisions article 7A par. 1 sec. e' of Law 2472/97, j) even if someone wrongly judged that therefore, according to Article 7 of Law 2472/97, prior permission from the Authority was required for the disputed use and that therefore this use fell under par. 2 of the article 22 of Law 2472/97, as the petitioner claims, then again the provisions of the GDPR would prevail from a criminal point of view as later and milder rules previous Law 2472/197 and finally, k) the complaint filed by the complainant against C, B and Z were placed on file by prosecutor's order.

Then

of the aforementioned, the Authority with

the no. first

C/EX/6978/14.10.19, C/EX/6980/14.10.19, C/EX/6974/14.10.19, C/EX/6975/14.10.19,

C/EX/6977/14.10.19, C/EX/6979/14.10.19, C/EX/6973/14.10.19, C/EX/6976/14.10.19

and C/EX/6972/14.10.19 calls respectively called the complainant and the

defendants B, C, D, E, T, Z, H and the Law Firm under the name

"D-Lawyers Firm", to attend the meeting of the Department of the Authority on 23.10.2019, in order to have a company hearing on him in the event of a breach of current data protection legislation of a personal nature.

During the hearing on 23.10.2019, the complainant A and a) D were present lawyer, who also represented B, E, T and Z b) Eleftheria Kotsoni, C's attorney-at-law, c) Otiros Adamaretsos attorney-at-law lawyer of H and d) I representative of the law firm "D - Company Lawyers", who, after orally developing their opinions, then submitted their relevant memos to the Authority.

The complainant during the hearing of 23.10.2019, but also with the under no. first G/EI /7690/7.11.19 and G/EI /7692/7.11.19 his memos to the Authority stated that:

a) B forwarded the complainant's autographed revoked wills to C, drafted a text entitled "opinion" and after changing the nature of the of wills, titling them "letters", received the wills, copied them, commented on them and quoted full names of both himself and third parties of persons, b) by editing one of the two wills (the one from ...) the Z wrote the document entitled "Graphological Psychological Assessment of the by ... of the text of the letter", c) from 04.09.2018 onwards at the initiative of B and D and knowledge of E was provided to 18 natural persons (relatives, colleagues and friends) as well as a pre-trial document written to 5 prosecutors from the 1st, 3rd and 4th of the accused, which included in a copy and text reproduction of his wills, with degrading commentary, as well his other personal data and d) for the specific processing operations o complainant filed a lawsuit on 9.5.2019 against the complainants requesting monetary satisfaction for the moral damage suffered.

D during the hearing on 23.10.2019 and himself with B, E, T and Z in sub No. prot. G/EI /7679/7.11.19 in their memo to the Authority stated that a) the complaint must be dismissed because all the allegations of the complainant are unfounded, b) following the complainant's lawsuit filed on 9.5.2019, the complainants have filed a relevant counterclaim against the complainant and c) D's explanations were given to the 23 people at his behest and not B's, as alleged by the complainant.

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C through his lawyer's power of attorney during the hearing on 23.10.2019 and with the under no. prot. G/EI /7683/7.11.19 his memo to the Authority stated that a) in addition to the judicially appointed expert, the submission is also allowed private expertise, b) if the legal opinions contain personal data, the principal holds the position of data controller, c) after delivery of the opinion to the principal, the opinion giver is no longer either processing, and d) the disputed documents do not constitute in themselves structured file.

H through her attorney during the hearing on 23.10.2019 and with the under no. prot. G/EI /7687/7.11.19 its memo to the Authority stated that the same did not act as a data controller but as a data processor as indication of a third controller, the principal of B.

Finally, the Law Firm "D - Firm of Lawyers", through the representative during the hearing on 23.10.2019 and with the no. prot. G/EI /7678/7.11.19 its memorandum to the Authority stated that the company has no involvement in case, since D did not perform any action or omission in his capacity administrator or the member of the company.

The Authority, after examining the elements of the file, the hearing

procedure and after hearing the rapporteurs and the assistant rapporteur, who withdrew after the case was discussed and before the conference and reception decision, after thorough discussion

SEVEN E ACCORDING TO THE LAW

1. When personal data have been submitted to a judicial authority and are in the case file, the Authority has no jurisdiction because the file of the pending trial file is not a file, which is subject in the Authority's powers and control, as the Authority has already judged in its previous decisions (see internal law decision 147/01). Regarding the legality of the collection of personal data and its use when pending trial or a preliminary investigation or interrogation is carried out, the judge or prosecutor official is competent to judge, in the context of the evaluation of the evidence

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media or the investigative material, if the collection of the data is in accordance with them provisions of the law, given that the right to personal protection of the individual's data is now also constitutionally guaranteed in Article 9 A thereof decree.

2. From the elements of the file and the hearing process it emerged that the reported processing acts constitute a legal basis and are included in the action for compensation filed on 9.5.2019 by complainants against the complainants.

Consequently, according to the aforementioned, the Authority is competent to taken over the case, since the issues of the legality of the processing of of the complainant's personal data will be judged and resolved properly and definitely definitively by the competent court, which has taken charge of the dispute lawsuit.

FOR THOSE REASONS

The Authority, taking into account the above, rejects due to incompetence
the complaint of A.

The regular member

The Secretary

Charalambos Anthopoulos

Irini Papageorgopoulou