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Athens, 08-04-2019

Prot. No.: G/EX/2592/08-04-2019

PRINCIPLE FOR DATA PRIVACY

FOR OPIC CHARACTER

P O F S H 7 / 2019

The Personal Data Protection Authority met after

invitation of its President to its headquarters on Tuesday 19.2.2019 in continuation of

the meeting of Tuesday 26-06-2018 at 10:00, in order to examine the

case referred to in the history of the present. Its President was present

Authority, K. Menudakos, and regular members K. Christodoulou, A. ymbonis, K.

Lambrinoudakis, C. Anthopoulos, and E. Martsoukou, as rapporteur. The regular

member P. Vlachopoulos, although legally summoned in writing, did not attend due to

obstruction.

they also attended the meeting by order of the President, without right

vote, M. Alikakou, lawyer-expert scientist, as assistant rapporteur,

which left after the discussion and before the conference and reception

of decision, and E. Papageorgopoulou, employee of the administrative department

affairs, as secretary.

The Authority took into account the following:

Publications on the internet, which came to the knowledge of the Authority,

presented that the company with the name "One Team Limited Company

of Organizations and Integrated Communication" (henceforth ONE TEAM) compiled

study entitled "Odor in Western Thessaloniki - Recording of existing

situation - May 2017" (hereinafter Study) on behalf of the Group Greek

Petroleum (hereafter ELPE). The said Study (104 pages) was posted on internet freely accessible and contained, among other things, sensitive data of a personal nature (political views, participation in a trade union organization, participation in associations of persons).

With no. prot. C/EX/25.9.2017 in its document the Authority requested clarifications and from the two above-mentioned bodies in relation to the above-mentioned Study. With the one with no. prot. G/EI /7315/12.10.2017 response document of ONE TEAM claimed that the company has taken over from ELPE "various works and projects, none of which have personal details and are indeed sensitive any citizen" asking the Authority to inform it about it existence of a relevant complaint in order to respond specifically.

ELPE responded to the Authority's above document with no. first G/EI /7581/20.10.2017 document, with which they initially confirmed the conclusion of a private agreement with ONE TEAM with the object "the implementation of an integrated program of outreach and informing the public opinion in outermost area of the Kordliou of Thessaloniki", where ELPE maintains industrial facilities. specifically, according to their claims

ELPE, the provision of ONE TEAM's services was agreed upon in two distinct terms phases: a) the phase of the recognition of the existing situation (assessment) and strategic planning and b) the action plan development phase.

In particular, the above agreement refers, among other things (term 2 of Phase 1), that ELPE commissioned ONE TEAM to carry out "list mapping of different stakeholders at local level (communities, universities foris, political figures, NGOs)". Furthermore, ELPE confirms the existence of the disputed study and report on it in their above response document that "they never rejected or accepted this study, as the collection and

processing of personal data of specific natural persons
within the scope of application of the agreement and the purpose thereof
of agreed services, not in agreement with the values and principles of
ELPE, as reflected in the Group's Code of Ethics
GREEK PETROLEUM. Under unspecified circumstances, this study was leaked,
resulting in the knowledge of a large circle of persons". Finally, the ELPE
state that with the statement of complaint from 6.9.2017 to ONE TEAM
denounced the above private agreement.

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The Authority came back with a new document (prot. no. C/EX/6874-2/4.12.2017), this
the time addressed only to ONE TEAM, with which he requested from the company
she to send her opinions regarding the processing in question, as well
both from the above response of the ELPE, as well as from an investigation by the Authority at
internet regarding the disputed study, the above response of ONE TEAM
that he never processed personal data on their behalf
ELPE seemed to be incorrect. the said document the Authority referred to
specifically in the posting of the study in question on a specific website,
in which it was also mentioned that ONE TEAM had replied regarding it
under investigation claiming that it was confidential documents they had
intercepted. specifically, based on what was claimed in said publication
ONE TEAM's response stated, among other things, "The Technical Department
Support and Communication Systems One Team A.E. find out
this morning leak of her confidential files as well as wiretapping
electronic communication, from a file where the principles of safe use are observed.
Part of them, concerning the Hellenic Madness series, were published –
possibly falsified – suddenly on blogs and websites".

the above document of the Authority, ONE TEAM responded with the no. first
C/EI /705/26.1.2018 her document, with which she finally admitted that based on
of a private agreement had undertaken the planning and implementation of the program
communication and corporate reputation management regarding the odor issue
in the area of Western Thessaloniki. For this purpose, as stated in
in its above document, ONE TEAM proceeded "to the gradual gathering of elements,
information and opinions that have been expressed and made public and
last name (website, social media, blogs, etc.). Her design
study was delivered to selected recipients at ELPE in May 2017 via
electronic mail message, in electronic form. Actually one
Link leads to the electronic document of the study." THE ONE TEAM
also claimed that the gathering of the above facts and information was
absolutely necessary, but also legal, as sources were public websites and
social media, freely accessible, where the subjects themselves
were expressing their opinions. Finally, ONE TEAM repeated what they had
states in its initial reply document to the Authority that, that is, none

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of the subjects has not submitted a relevant complaint nor has he proceeded with another
action against the company.

then, the Authority called the parties involved, i.e. the company ONE TEAM
and the ELPE Group, in hearing at the Plenary meeting of 27.2.2018. THE
first appeared before the Authority represented by the manager
her advisor, A and her attorney, Panos Gerolimos, and expressed
and her opinions in writing with no. prot. G/EI /2026/13.3.2018 reminder
her. The ELPE Group was represented by the legal advisor Alcibiades
Poulia and expressed his views in writing with no. first

With the above memo, ONE TEAM has added additional information to what he had so far declared to the Authority, admitting, however, that "Regarding nominal references, at some point in the Study, become indicative references in individual reactions, in order to capture the causes of of protests and ultimately to prove the credibility of the Study. In the context of these reports and to document the financial findings, there is also a specific reference to the name and surname, as well as indicative and only in case of bankruptcy. Also, there are references to ideological spaces or parties, to which members of the municipal council were indeed assigned only members who participated in the public debate that took place during specific period of writing of the Study and were placed in relation to instead of it". Furthermore, regarding security measures, ONE TEAM argued, among other things, that a draft of the disputed study was placed in ONE TEAM employee's personal account in the flip application and "the Link of the link to the presentation was sent by A, via email to 4 recipients".

In addition, ONE TEAM referred to the 14/9/2017 Advisory Note of the expert, whom the EMU TEAM assigned to check whether the measures had received by the company was sufficient even if the "leak" had been made by the company. according to the said note "the best possible protection of the privacy of the file during its distribution by the members of the partnership 'ONE TEAM' and the unaltered access to the graph information ONLY from the two above-described users of the 'ONE TEAM' partnership". Finally, the ONE TEAM to support its claims of fair and lawful collection of personal data stated that the processing in question "concerns exclusively

and only our client, as the data was not transmitted or shared to third parties and as a result we were not obliged to notification, and to obtain relevant permission from the Authority as provided for in article 7 A, par. 1, p. b".

The ELPE clarified, with their above memorandum, among other things, that they have never instructed EMU TEAM to process personal data and denied acknowledging or accepting the submitted study. specifically, regarding the creation of a file with personal data they argued that this "is part of the agreed object of the above agreement and fulfill the purpose of the agreed services, and of course do not agreement with the values and principles of ELPE, as they are reflected in Code of Ethics of the HELLENIC PETROLEUM Group".

The Authority, after examining all the elements of the file, after hearing her rapporteur and the assistant rapporteur, who was present without the right to vote and withdrew after the discussion of the case and before the conference and the taking a decision, and after a thorough discussion, taking into account in particular:

1. The provisions of article 2 par. a', b', d', g' and i' Law 2472/1997 on the protection of the individual from the processing of personal data according to which, as applicable, "For the purposes of this law are understood as: a) "Personal data", any information that refers to the data subject [...]. b) "Sensitive data" the data concerning racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership organization, health, social welfare and love life, related with criminal prosecutions or convictions, as well as participation in related above

associations of persons

[...] d) "Processing of personnel data

character" ("processing"), any task or series of tasks carried out,

by the State or by a legal entity under public law or private law or

association of persons or natural person with or without automated assistance

methods and are applied to personal data, such as the collection, h

registration, organization, preservation or storage, modification, export, h

use, transmission, dissemination or any other form of disposal, association or o

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combining, linking, binding (locking), erasing, destroying [...]

g) "Processing Officer" anyone who determines the purpose and manner

processing of personal data, such as natural or legal

person, public authority or agency or any other body. [...] the)

"Processor", anyone who processes personal data

character on behalf of a controller, such as natural or legal

person, public authority or agency or any other organization."

2. The provisions of article 4 paragraph 1 of Law 2472/1997, according to which "[...] the

personal data to be subject to legal processing must: a) Yes

are collected lawfully and lawfully for specified, clear and lawful

purposes and that there is legitimate and legal processing in view of the purposes

of these. b) To be relevant, convenient, and not more than each time

required in view of the purposes of the processing. [...]"

3. The provisions of article 7 paragraph 2 of Law 2472/1997, according to which "1.

The collection and processing of sensitive data is prohibited. 2. By

exception allows the collection and processing of sensitive data [...]

after permission from the Authority, when one or more of the following occur

cases [...]."

4. The provisions of article 10 par. 2 et seq. of Law 2472/97, according to which "2. For the controller must choose the processing persons with corresponding professional qualifications who provide sufficient guarantees in terms of technical knowledge and personal integrity to comply privacy. 3. The data controller must receive the appropriate organizational and technical measures for data security and protection them from accidental or wrongful destruction, accidental loss, alteration, prohibited dissemination or access and any other form of unfair processing. These measures must ensure a level of security commensurate with the risks that implies the processing and the nature of the data that is its object processing. [...] 4. If the processing is carried out on behalf of the person in charge by a person not dependent on him, the relevant assignment is mandatory in writing. The assignment obligatorily stipulates that the person processing the conducts only by order of the person in charge and that the other obligations herein article shall be borne by him accordingly."

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5. The provisions of article 19 par. 1 item h) Law 2472/1997, according to which "The Authority has the following powers in particular:... h) It acts ex officio or subsequently complaint administrative checks in the context of which the technological infrastructure and other means, automated or not, that support it data processing. He has the right of access to the data for this purpose personal nature and collection of any information for its purposes control, without any kind of confidentiality being able to oppose it...", at above, the concept of administrative controls does not include only the on-site ones audits, but also audits conducted through data collection with others

ways, such as for example through correspondence or through meetings with them controlled entities, as in this case.

THOUGHT ACCORDING TO THE LAW

1. The collection of information referring to natural persons and concerning political views, participation in trade union organization and participation in associations of persons, as in the present case, constitutes processing personal data and particularly sensitive data within the meaning of article 2 para. d'

N.2472/1997. In order for the above processing to be legal, it should the conditions for applying the provisions of articles 4 and 7 of Law are met.

2472/1997. In particular, for the processing of sensitive personal data is required, in addition to the fulfillment of at least one of the conditions that refer to article 7 par. 2 of the aforementioned law, the data controller to has previously requested and received the Authority's permission.

2. According to the general provision of article 4, paragraph 2 of Law 2472/1997, the obligations of of the law regarding the processing of personal data shall be borne by him controller. his obligation also corresponds to this general rule controller to take the appropriate measures according to article 10 par. 3 security. In particular, the controller must receive such appropriate organizational and technical measures for data security and protect them from accidental or wrongful destruction, accidental loss, alteration, prohibited dissemination or access and any other form of unfair processing.

1 in the present case, the provisions of Law 2472/1997 apply, as the processing received country in 2017, i.e. a year before the implementation of the GDPR.

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These measures must ensure a level of security commensurate with them risks involved in the processing and the nature of the data it is

object of processing.

3. the case in question, from the elements of the case file, the

hearing, the submissions and the whole process

the following resulted:

. The company ONE TEAM collected, among other things, information related to

political views, participation in trade union organization and participation in

associations of persons, which, according to the disputed Study, were active

regarding the problem of the stench that came from their operation

ELPE in the area of Western Thessaloniki. ONE TEAM therefore proceeded

in processing personal data and especially sensitive personal data.

The collection in question took place in the context of the takeover by ONE TEAM

contractual obligation based on the private agreement of 4/19/2017 that had

concluded by the company in question with ELPE. In particular, according to the above private

agreement, ONE TEAM undertook the obligation "to design and

implement an integrated program of outreach and information to public opinion

in these areas, providing communication & time management services

reputation to ELPE". Furthermore, on page 2 of the agreement it is stated that

among these services is "2. Mapping a list of differences

stakeholders at the local level (public universities, political

persons, NGOs, etc.)". ONE TEAM therefore processed the above

for the account of ELPE based on the above agreement. In this way,

ONE TEAM was the executor of the disputed processing, while ELPE

were the data controller within the meaning of the provisions of the article

2 items g and h of Law 2472/1997, respectively. The ELPE claim that the EMU

TEAM did not act on their behalf, but acted voluntarily and

regardless of any corresponding intention of ELPE, it is not valid

because, in addition to the above condition of the private agreement, ELPE received the Study in question as completion of Phase 1 by electronic mail which was sent to them by EMU TEAM in early May 2017 and they proceeded so upon payment of the agreed price, as defined above private agreement, as both ELPE and ONE TEAM confirmed

during the examination of the case at hand. In addition, after receiving the above

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of electronic mail, ELPE proceeded to Phase 2 of it

agreed program. ELPE maintains that both its continuation

program, as well as the payment of what was agreed for what had been delivered up to that point

work of honor in EMU TEAM do not in themselves imply the party

the acceptance of the disputed Study, citing, in particular, the fact that it did not

they had checked. Except that, however, this fact was not proven before her

In principle, the claim is rejected because from the evidence that has been presented

there is no non-acceptance and refusal of approval by the ELPE of the Study nor the

tacit rejection of it. On the contrary, from the above, taking into account

term of the above private agreement, according to which "The two parties

agree that upon completion and/or during Phase 1 they will

further agree on the degree and intensity of implementation of Phase 2",

it is concluded that ELPE approved the Study in question for this reason as well

they both proceeded to pay the agreed price to the EMU

TEAM, as well as in phase 2 of the agreed program. And yes, without them

ELPE sent the 06.9.2017 out-of-court statement of complaint to the EMU

TEAM, with which they terminated the private agreement from 19.4.2017 and

stated that they do not accept the disputed Study for the reason that "it belongs to

object of the work", the justification, however, that of the complaint is not found

based on the information brought to the Authority's attention.

B. in the present case, ELPE, as the data controller, requested the

ONE TEAM based on the private agreement of 19.4.2017, among others, the

"Mapping a list of different audiences (stakeholders)". For this purpose,

ONE TEAM proceeded to collect personal data, both "simple" and

and sensitive². For the collection of sensitive personal data,

ELPE, as the controller, owed, according to what is presented

above in paragraph 1, to have received permission from the Authority, which neither

requested and by extension neither received. Regardless, the said

processing could not, however, find support in any of them

legal bases provided for in article 7 par. 2 of Law 2472/1997.

Besides, the fact that ONE TEAM invokes that it collected the disputed items

personal data from publicly accessible sources, such as "websites, media

² Now, "special categories of data" according to the GDPR.

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social networking sites, blogs, etc." under no circumstances may

make the processing in question legal, as the purpose of the original one

posting-publicity of said information and data is another

from the purpose for which they were finally collected by ONE TEAM³.

therefore, the processing carried out by EMU TEAM on behalf of ELPE

based on the above-mentioned private agreement is contrary to the provisions

of article 7 of Law 2472/1997 and for this reason constitutes illegal processing.

C. Regarding the processing of "simple" personal data that

contained in the Study, the existence of legality was not proven before the Authority

base in accordance with the provisions of article 5 par. 2 of Law 2472/1997, but neither

ELPE's claims are based on some of those defined in this provision

legal bases. ELPE claims that they requested the disputed Study without nominal data, because they had a superior legal interest according to article 5 par. 2 e' of Law 2472/1997 and refer in particular to no. first C/EI /2033/13.3.2018 Reminding them that "The preparation of a study is in progress for the examination of public opinion and its disturbance by the liturgy of refinery, with the aim of ELPE to determine and obtain the necessary credit and environmental measures, in consultation with the authorities and in function with the ambitions of the "mapped" persons, in order to protect it district of Western Thessaloniki as a legal interest of ELPE. They have, that is, the legal interest of ELPE to protect the environment and human health, in the context of compliance with relevant and social legislation their timely responsibility. [...] Anytime an inadvertent intervention was found in the environment, ELPE took every necessary measure to restore it of any unpleasant situation and the conflicting study". The claims, however, they do not establish a legal interest of ELPE for the processing in question because refer to their obligations imposed by the applicable legislation, regardless of existing opinions and any complaints of stakeholders and, therefore, the collection and use of their nominal elements has no relevance to the above described intended purpose.

3 For examples, see Authority decision 59/2016.

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therefore, the controversial collection of "simple" personal data is not legal

notwithstanding the provision of article 5 par. 2 item e' Law 2472/1997.

D. according to the opinion of Mr. K. Christodoulou, a member of the Authority, it should in addition, any violation due to the lack of a previous one should be examined informing the subjects of the data in question.

E. The Authority has already judged⁴ that as a violation of personal data means the breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access of personnel data character transmitted, stored or otherwise submitted to processing in accordance with article 10 par. 3 of Law 2472/1997. From the letter and him purpose of the provision of article 10 par. 3 of Law 2472/1997 it is clear that the obligation that of the controller is both preventive and repressive character. Preventive, so that the applicable measures prevent incidents breach of personal data, repressive, so that any incident may can be detected and investigated.

The obligations arising from the above mentioned article 10 par. 3 of the law. 2472/1997 regarding the security of the processing are borne by the person in charge processing. When the controller uses another person not depending on him, as in the present case, "the relevant assignment is made mandatory in writing". The data controller must also control the performed during processing⁵.

in the present case, the leak in question constitutes a violation of privacy of data as stated above and proves the lack of sufficient and appropriate technical and organizational measures according to article 10 par. 3 of the Law. 2472/1997. ELPE, as the controller, should have received the appropriate organizational and technical measures for the security of the data that they were also processed to protect them from any infringement. Against

the procedure for examining the case were not presented to the Authority sufficiently

data, so that the manner of the leak in question can be ascertained. Moreover,

from the entire case file and what the ELPE themselves supported

4 See indicative decision 98/2013. See and Opinion OE29 under no. 03/2014 on Personal Data Breach Notification WP 213.

5 Now, the General Regulation (EU) 2016/679 in cases of violations imposes the obligation to both the controller and the executor to receive immediately measures (Article 33).

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during the hearing on 27.2.2018, it emerged that ELPE did not proceed with any

internal audit after the leak of the disputed Study, in order to check

if the leak came from them, how the leak took place,

coke. Furthermore, from the data provided by the processor ONE

TEAM, including an opinion from a special expert regarding

with the leak, they did not make it possible to investigate the breach.

According to the above, the above incident of violation is the responsibility of ELPE, which,

as a controller, they should have ensured a level of security

proportionate to the risks entailed by the processing in question and the nature

of the data.

F. Following the above, the Authority, after taking into account its seriousness

infringement and the general facts of the case, unanimously decides that it should

be imposed on the data controller, based on article 21 par. 1 item b' N.

2472/1997, the sanctions referred to in the operative part of this on the one hand for

illegal processing in accordance with articles 5 and 7 of Law 2472/1997 and on the other hand for

failure to take appropriate organizational and technical security measures

in accordance with the provisions of article 10 of Law 2472/1997, which led to

personal data breach incident.

The beginning

For those reasons

A) It imposes a fine of 20,000 euros on ELPE, as data controller,

for illegal processing according to articles 4, 5 and 7 of Law 2472/1997.

B) Imposes a fine of 10,000 euros on ELPE, as controller,

for failure to take appropriate organizational and technical security measures,

in accordance with the provisions of article 10 of Law 2472/1997, which led to

personal data breach incident.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou