

Athens, 03-04-2020 AP: C/EX/2462/03-04-2020 GREEK REPUBLIC PERSONAL DATA PROTECTION AUTHORITY Tel.

Address: KIFISIAS 1-3 TEL.: FAX: 115 23 ATHENS 210-6475600 210-6475628 DATE 05/2020 The Personal Data Protection

Authority met, at the invitation of its President, in an extraordinary meeting , via teleconference, on Monday 16.03.2020 at 10:00 a.m., in order to examine the case referred to in the history of the present. The President of the Authority, Konstantinos Menudakos and the regular members of the Authority Spyridon Vlachopoulos, Konstantinos Lambrinoudakis, Charalambos Anthopoulos and Eleni Martsoukou were present. Grigorios Tsolias, alternate member of the Authority, also attended the meeting at the invitation of the President, as rapporteur. Present, without the right to vote, were Chariklia Latsiu, legal auditor - lawyer, as assistant rapporteur and Irini Papageorgopoulou, employee of the administrative affairs department, as secretary.

The Authority took into account the following: From oral questions submitted to the Authority, from 2 relevant publications¹ and from the data that have been created due to the epidemic caused by the COVID-19 coronavirus, the need to inform the public on the one hand to understand the risks, of the rules, guarantees and rights of individuals, as data subjects, and on the other hand, raising awareness of public authorities and private entities, as controllers, regarding the obligations arising from the institutional framework for the protection of personal data from their processing carried out in the context of the extremely urgent and unforeseeable need to manage personal data to deal with the negative consequences, due to the emergence of the coronavirus COVID-19 (hereinafter "the coronavirus"), to limit its spread and to take relevant legislative measures. The Authority, after examining the data, after hearing the rapporteur and the clarifications from the assistant rapporteur, who was present without the right to vote and left after the discussion of the case and before the conference and decision-making, after a thorough discussion, OPINIONED ACCORDING TO THE LAW 1. Since, from the provisions of articles 51 and 55 of the General Data Protection Regulation (Regulation 2016/679) - hereinafter GDPR - and article 9 of law 4624/2019 (Government Gazette A' 137) it follows that the Authority has the authority to supervise the implementation of the provisions of the GDPR, this law and other regulations concerning the protection of the individual from the processing of personal data. In particular, from the available medical data 1 See, in particular, relevant publications in the press until 13.03.2020: The secret project "Artemis" for the coronavirus", <https://www.zougla.gr/greece/article/to-aporito-sxedio-artemis-gia-ton-koronoio>, Corona virus: The risks for patients' personal data" available at <https://www.oneman.gr/life/koronoios-oi-kindinoi-gia-ta-prosopika-dedomena-ton-asthenon/>, "Feig-vollan citizens and the Commission is preparing... a study!" available at

<https://www.reporter.gr/Diethnh/Diethneis-Eidhseis/424055-Feig-Bolan-ta-iatrika-dedomena-twn-politwn-kai-h-Komision-proetoi>

mazei%E2%80%A6meleth, The disinformation about the coronavirus is launched with new spam and phishing campaigns" available at

<https://www.digitallife.gr/i-parapliroforisi-gia-ton-koronaio-ektoksevetai-me-nees-ekstrateies-spam-kai-phishing-70551>, " The coronavirus COVID-19 and the GDPR" available "Coronavirus: Questions and answers - What applies to salaries, leaves, quarantine, travel" available at https://www.ethnos.gr/oikonomia/91878_koronaio-erotiseis-kai-apantiseis-ti-ishyei-gia-misthoys-adeies-karatina-taxidia

<https://www.taxheaven.gr/news/47738/gdpr-korwnoios-thlergasia-kai-metra-asfaleias><https://www.taxheaven.gr/news/47738/gdpr-korwnoios-thlergasia-kai-metra-asfaleias>. <https://www.liberal.gr/apopsi/o-koronoios-covid-19-kai-o-gdpr/289487>, telework and security measures" available at , "GDPR: Corona virus, in 3 the provisions of articles 57 par. 1 pc. a', b' and d' of the GDPR and 13 par. 1 item a' and b' of Law 4624/2019 it follows that the Authority has ex officio competence to monitor and enforce the implementation of the provisions of the GDPR and Law 4624/2019 and to promote the awareness of the public and the controllers and processors on understanding the risks, rules, guarantees and rights and on their obligations under the GDPR, respectively, during the processing of personal data carried out in the context of the management of the coronavirus pandemic crisis. 2. Because, according to the provisions of article 4 par. 1 of the GDPR means personal data "any information concerning an identified or identifiable natural person ("data subject"); an identifiable natural person is one whose identity can be ascertained, directly or indirectly, in particular by reference to an identifier identity, such as a name, an identity number, location data, an online identifier or one or more factors that characterize the physical, physiological, genetic, psychological, economic, cultural or social identity of that natural person"². Also, in article 4 par. 5 of GDPR 2016/679 is defined as pseudonymization: "the processing of personal data in such a way that the data can no longer be attributed to a specific data subject without the use of additional information, as long as said additional information is kept separately and subject to technical and organizational measures in order to ensure that they cannot be attributed to an identified or 2 Furthermore, recital 26 of GDPR 2016/679 underlines that: "The principles of data protection should be applied to any information that concerns an identified or identifiable natural person . Pseudonymized personal data that could be attributed to a natural person using supplementary information should be considered information about an identifiable natural person. In order to determine whether a natural person is identifiable, account should be taken of all means which are reasonably likely to be used, such as for example their separation, either by the controller or by a third party to directly or indirectly ascertain the identity of the

natural person. In order to determine whether any means is reasonably likely to be used to verify the identity of the natural person, all objective factors, such as the cost and time required for identification, should be taken into account, taking into account the technology that is available at the time of processing and technology developments. Data protection principles should therefore not apply to anonymous information, i.e. information that does not relate to an identified or identifiable natural person or to personal data that has been made anonymous in such a way that the identity of the data subject cannot or will not be can now be ascertained. This regulation therefore does not concern the processing of such anonymous information, not even for statistical or research purposes, among others. 4 identifiable natural person"3. 3. Because the extremely urgent and unforeseeable need to deal with the negative consequences due to the emergence of the coronavirus results in the need to take adequate and necessary (thus proportional) measures of all kinds (legislative, technical and organizational, etc.) to prevent and the limitation of the spread of the corona virus which entail the processing of personal data, but this does not mean that the protection of personal data should be compromised against the limits provided by the GDPR and national legislation, which include respect for the principle of the Rule of Law. On the contrary, in critical circumstances such as the present one, the need for vigilance and protection of personal data is highlighted in order to achieve the goal of dealing with the pandemic, but without circumventing, in the name of the fight against the coronavirus, the GDPR, the principles of protection of the of privacy deriving from European and international law, and national legislation, with which exceptional arrangements have been established to deal with the above risk based on procedures provided for by the Constitution With the provisions of article 25 par. 1 fourth paragraph of the Constitution are defined the conditions under which it is possible to limit individual rights which, according to the same provisions, is subject to the observance of the principle of proportionality. From the provisions of article 8 par.2 ECHR it follows that the right to the protection of private life and correspondence, insofar as they concern personal data, may be limited, in accordance with the interpretative criteria that arise from ECtHR jurisprudence, as long as it aims to protect health. From the provisions of article 52, in combination with articles 7 and 8 of the CRC, it is possible to limit the rights in question in cases such as the pandemic, as long as the core of the right is not violated and the principle of proportionality is applied. Recital 4 of the GDPR shows that the right to the protection of personal data is not absolute, but must be data and facilitate controllers and processors to comply with their data protection obligations. The explicit introduction of 'pseudonymisation' in this Regulation is not intended to preclude any other data protection measure.' 5 is assessed in relation to its function in society and weighed against other fundamental rights, in accordance with the principle of

proportionality. The GDPR respects all fundamental rights and observes the freedoms and principles recognized in the Charter, in particular respect for private and family life, residence and communications, protection of personal data, freedom of thought, conscience and religion, freedom expression and information, business freedom, the right to an effective remedy and an impartial tribunal and cultural, religious and linguistic diversity. In particular, article 21 par. 3 S. establishes the obligation of the State to take care of the health of the citizens and to take special measures for the protection of youth, old age, disability and for the care of the needy, while from the provisions of article 22 par. 1 S. arises the obligation of the State to protect the right to work and to ensure the creation of employment conditions for all citizens, i.e. the creation of safe employment conditions, as specified by the more specific legislation. Finally, the GDPR provisions themselves provide the legal basis for the processing of personal data, in cases where the processing is necessary for "the monitoring of epidemics and their spread" as well as for "the prevention or control of communicable diseases and other serious threats to health" (see request. s. 46 and 52 GDPR), so that the principle of legality in accordance with the principle of the rule of law is fulfilled in principle. 4. Because Article 2, paragraph 1 of the GDPR provides: "This regulation applies to the automated processing of personal data, in whole or in part, as well as to the non-automated processing of such data which are or are to be included in a system archiving". Accordingly, Article 2 of Law 4624/2019 states: "The provisions herein apply to, in whole or in part, the automated processing of Personal Data, as well as to the non-automated processing of such data, which are or are to be included in a system archiving by: a) public bodies or b) private bodies, unless the processing is carried out by a natural person in the context of an exclusively personal or domestic activity". 6 5. Because Article 5 of the GDPR defines the processing principles that govern the processing of personal data. Specifically, it is defined in paragraph 1 that personal data, among others: "a) are processed lawfully and legitimately in a transparent manner in relation to the subject of the data ("legality, objectivity, transparency"), b) are collected for specified, explicit and legitimate purposes and are not further processed in a manner incompatible with these purposes (...), c) are appropriate, relevant and limited to what is necessary for the purposes for which they are processed ("data minimization"), d) are accurate and, where necessary, updated; all reasonable steps must be taken to ensure that personal data that is inaccurate, in relation to the purposes for which it is processed, is deleted or rectified without delay ("accuracy") , e) are kept in a form that allows the identification of the data subjects only for the time required for the purposes of processing of personal data; personal data may be stored for longer periods, as long as the personal data will only be processed for archiving purposes in the public interest, for scientific or historical research purposes or for statistical purposes,

in accordance with Art. 89 paragraph 1 and as long as the appropriate technical and organizational measures required by this regulation are applied to safeguard the rights and freedoms of the data subject ("restriction of the storage period"), f) are processed in a way that guarantees the appropriate security of personal data, including their protection against unauthorized or unlawful processing and accidental loss, destruction or damage, by using appropriate technical or organizational measures ('integrity and confidentiality')'. 6. Because in application of the principles of personal data processing according to article 5 par. 1 GDPR, special attention should be paid to the evaluation of the possible collection and retention of only the necessary information that is exclusively related to the intended purpose and therefore appropriate information (principles of limitation of processing combined with the principle of proportionality). The collection and processing must be legal, on the one hand, i.e. it must be based on one of the legal bases of Article 6 GDPR, on the other hand, in a case where its implementation is based on a special law, e.g. in predicting a legal obligation, the required conditions must also be met. 7 It is recalled that due to the imbalance of power between employer and employee and according to the Authority's jurisprudence, consent should be the last legal basis for processing in matters of labor relations and, in any case, it is on the condition that it is freely and validly provided. The processing must be transparent, i.e. in the knowledge of the data subjects and not take place secretly. In addition, the controller is obliged to provide the data subjects with all necessary information before the start of the processing. Based on the principle of purpose, the data in question may not be further processed, i.e. processed beyond the purposes for which they were collected, and must be kept for the absolutely necessary time to achieve the intended purpose. Based on the principle of accuracy, moreover, the collected personal data must be accurate and when necessary updated, e.g. in a case in which an employee was recorded as carrying symptoms of the disease or even diagnosed positive, while subsequently, repeated tests gave the opposite - negative result. Based on the principle of secure processing (in particular the obligation to maintain the confidentiality of information) by taking the necessary technical and organizational security measures, the data controller is not allowed to communicate said data to third parties, unless provided by law or can to prove the legality of the relevant action. It is pointed out that the collection and general processing of personal data that are of a burdensome nature and constitute a restriction of individual rights must take place, in compliance with the legal conditions, after any available appropriate measure, which will be chosen by the data controller, will have been previously excluded. 7. Because, according to the provisions of article 5 paragraph 2 of the GDPR, the data controller bears the responsibility and must be able to prove his compliance with the principles of processing established in paragraph 1 of article 5. As the Authority⁴ has judged, with the

GDPR a new model of compliance was adopted, the central dimension of which is the principle of accountability in the context of which the data controller is obliged to plan, implement and generally take the necessary measures and policies, in order for the processing of data to be in accordance with the relevant legislative provisions. In addition, the responsible 4 See Authority decision 26/2019, paragraph 8, available on its website. 8 processor is burdened with the further duty to demonstrate at all times its compliance with the principles of article 5 par. 1 GDPR. Compliance with the requirements of the GDPR and national legislation is an ongoing process which it starts already before the collection and processing of the data with the planning of the relevant procedures and ends only with the final deletion of the data. 8. Because the data controllers must constantly adapt to the new conditions created due to the coronavirus and therefore comply with the requirements of the GDPR and national legislation, among others, they must inform the data subjects, update the article log file 30 GDPR, the data processing contracts with processors pursuant to Article 28 GDPR, the policies and procedures for the processing of personal data but also to consider the possibility of drawing up a special policy to prevent and deal with the incidents of the coronavirus to the extent that it is carried out data processing, carry out impact assessment where necessary, consult with the Data Protection Officer (DPO) and train staff on personal data protection during the pandemic. 9. Because article 6 of the GDPR provides: "1. The processing is lawful only if and as long as at least one of the following conditions applies: a) the data subject has consented to the processing of his personal data for one or more specific purposes, b) the processing is necessary for the performance of a contract whose the data subject is a contracting party or to take measures at the request of the data subject prior to the conclusion of a contract, c) the processing is necessary to comply with a legal obligation of the controller, d) the processing is necessary to preserve vital interest of the data subject or other natural person, e) the processing is necessary for the fulfillment of a task performed in the public interest or in the exercise of public authority delegated to the controller, f) the processing is necessary for the purposes of legitimate interests pursued by the controller or a third party, unless these interests are overridden by the interest or fundamental rights and freedoms of the data subject that require the protection of personal data, in particular if the data subject is a child. Point f) of the first paragraph does not apply to the processing carried out by public authorities in the exercise of their duties. 2. Member States may maintain or adopt more specific provisions to adapt the application of the rules of this Regulation regarding processing to comply with paragraph 1 points c) and e), specifying more precisely specific requirements for processing and other measures to ensure lawful and legitimate processing, including for other special cases of processing as provided for in chapter IX". 10. Because Article 9 of the GDPR provides: "1.

The processing of personal data that reveals racial or ethnic origin, political opinions, religious or philosophical beliefs or membership in a trade union is prohibited, as well as the processing of genetic data, biometric data for the purpose of indisputable identification of a person, data concerning the health or data concerning a natural person's sex life or sexual orientation.

2. Paragraph 1 shall not apply in the following cases:

- a) the data subject has provided express consent to the processing of such personal data for one or more specific purposes, unless Union or Member State law provides that the prohibition referred to in paragraph 1 cannot be removed by the data subject,
- b) the processing is necessary for the performance of the obligations and the exercise of specific rights of the controller or the data subject in the field of labor law and social security and social law protection, if permitted by Union or Member State law or by a collective agreement in accordance with national law providing appropriate guarantees for the fundamental rights and interests of the data subject,
- c) the processing is necessary to protect the vital interests of the subject of data or other physical of the person, if the data subject is physically or legally unable to consent,
- d) the processing is carried out, with appropriate guarantees, in the context of the legitimate activities of an institution, organization or other non-profit body with a political, philosophical, religious or trade union objective and under the condition that the processing concerns exclusively the members or former members of the organization or persons who have regular communication with it in relation to its purposes and that the personal data are not shared outside the specific organization without the consent of the data subjects,
- e) the processing concerns personal data that has been manifestly made public by the data subject,
- f) the processing is necessary for the establishment, exercise or support of 10 legal claims or when the courts act in their jurisdictional capacity,
- g) the processing is necessary for reasons of substantial public interest, based on law of the Union or a Member State, which is proportionate to the intended objective, respects the essence of the right to data protection and provides for appropriate and specific measures to safeguard the fundamental rights and interests of the data subject,
- h) the processing is necessary for the purposes of preventive or occupational medicine, assessment of the employee's ability to work, medical diagnosis, provision of health or social care or treatment or management of health and social systems and services based on Union law or the law of a Member State or pursuant to a contract with a professional in the field health and subject to the conditions and guarantees referred to in paragraph 3,
- i) the processing is necessary for reasons of public interest in the field of public health, such as protection against serious cross-border threats to health or ensuring high standards of quality and safety her healthcare and medicines or medical devices, based on Union law or the law of a Member State, which provides for appropriate and specific measures to

protect the rights and freedoms of the data subject, in particular professional confidentiality, or j) the processing is necessary for archiving purposes in the public interest, for the purposes of scientific or historical research or for statistical purposes in accordance with Article 89(1) based on Union or Member State law, which are proportionate to the objective pursued, respect the essence of right to data protection and provide for appropriate and specific measures to safeguard the fundamental rights and interests of the data subject". Accordingly, Article 22 of Law 4624/2019 provides: "1. By way of derogation from Article 9(1) of the GDPR, the processing of special categories of personal data within the meaning of Article 9(1) of the GDPR by public and private bodies is permitted, as long as it is necessary: a) for the exercise of rights deriving from the right to social insurance and social protection and for the fulfillment of related obligations b) for reasons of preventive medicine, for the assessment of the employee's ability to work, for medical diagnosis, for the provision of health or social care or for the management of health or social care systems and services of care or by virtue of a contract with a healthcare professional or other person bound by professional confidentiality or under the supervision of 11; or c) for reasons of public interest in the field of public health, such as serious cross-border threats to health or to ensure of high quality and safety standards of health care Ms of medicines or medical technology products, in addition to the measures referred to in the second paragraph of paragraph 3, the provisions ensuring professional confidentiality provided for by law or code of ethics must be observed in particular. 2. By way of derogation from Article 9(1) of the GDPR, the processing of special categories of personal data within the meaning of Article 9(1) of the GDPR by public bodies is permitted, as long as it is: a) absolutely necessary for reasons of essential public interest; b) necessary for the preventing a significant threat to national security or public safety; or c) is necessary to take humanitarian measures, and in these cases the interest in the processing is greater than the interest of the data subject³. In the cases of the previous paragraphs, all the appropriate and specific measures to safeguard his interests subject of the personal data. Taking into account the state of the technology, the costs of implementation and the nature, extent, context and purposes of the processing, as well as the risks posed, depending on their severity, to the rights and freedoms of natural persons by this processing, in these measures may include in particular: a) technical and organizational measures to ensure that the processing is GDPR compliant; b) measures to ensure that it is possible to verify afterwards and determine whether and by whom they have been entered, modified or removed the personal data; c) measures to strengthen the awareness of the personnel involved in the processing; d) access restrictions by the controllers and processors; e) the pseudonymization of the personal data; f) the encryption of the data of a personal nature; g) measures to ensure the competence, confidentiality,

integrity, international reliability and resilience of processing systems and services related to the processing of personal data, including the ability to quickly restore availability and access in the event of a physical or technical incident; h) procedures for regularly testing, assessing and evaluating the effectiveness of techniques and organizational measures to ensure the security of processing; i) special rules for ensuring compliance with this law and the GDPR in case of transmission or processing for other purposes; j) the definition of DPO." 12 11. Since, article 88 of the GDPR regarding the processing carried out in the context of employment provides: "1. Member States, through legislation or through collective agreements, may establish special rules in order to ensure the protection of rights and freedoms against the processing of personal data of employees in the context of employment, in particular for the purposes of recruitment, performance of the contract employment, including the performance of obligations provided for by law or collective agreements, management, planning and organization of work, equality and diversity in the workplace, health and safety at work, protection of the property of employers and customers and for purposes of exercise and enjoyment, on an individual or collective basis, rights and benefits related to employment and for purposes of termination of the employment relationship. 2. These rules include appropriate and specific measures to safeguard the human dignity, legal interests and fundamental rights of the person to whom the data refer, with particular emphasis on the transparency of the processing, the transmission of personal data within a group of companies, or group of companies carrying out a common economic activity and the monitoring systems in the workplace. 3. Each Member State shall notify the Commission of the provisions it adopts under paragraph 1 by 25 May 2018 and, without delay, of any subsequent amendment to them." With reference to the provision in article 27 par. 6 of law 4624/2019, which stipulates that "6. Paragraphs 1 to 5 also apply when personal data, including special categories of employee personal data, are processed without being stored or intended to be stored in a filing system", it is pointed out that the Authority has judged that the scope of the GDPR is defined in a binding manner by the aforementioned provision of article 2 par.1 thereof and it is not possible to extend it with provisions of national legislation⁵. 12. Because Article 85 of the GDPR provides: "Member States shall by law reconcile the right to the protection of personal data under this regulation with the right to freedom of expression and information, including processing for journalistic purposes and for purposes 5 See p. 16 et seq. of the Authority's Opinion 1/2020, available on the Authority's website. 13 university, artistic or literary expression. 4.5.2016 L 119/83 Official Journal of the European Union EN 2. For processing carried out for journalistic purposes or for purposes of academic, artistic or literary expression, Member States shall provide for exceptions or derogations from chapter II (principles), chapter III (rights of the data subject), chapter IV (controller

and processor), chapter V (transmission of personal data to third countries or international organizations), chapter VI (independent supervisory authorities), chapter VII (cooperation and coherence) and chapter IX (special cases of data processing), as long as these are necessary to reconcile the right to the protection of personal data with the freedom of expression and information". the right to freedom Accordingly, Article 28 of Law 4624/2019 provides: "1. To the extent that it is necessary to reconcile the right to the protection of personal data with that of expression and information, including processing for journalistic purposes and for purposes of academic, artistic or literary expression, the processing of personal data is permitted when: a) the subject of of data has provided his express consent, b) concerns personal data that has been clearly made public by the subject himself, c) the right to freedom of expression and the right to information takes precedence over the right to protect the subject's personal data, in particular for matters of general interest or when it concerns personal data of public figures and d) when it is limited to the measure necessary to ensure freedom of expression and the right to information, in particular when it concerns special categories of Personal Data, as well as criminal prosecutions, convictions and the related security measures, taking into account the subject's right to his private and family life"⁶. FOR THESE REASONS, the Authority issues the following Guidelines: ⁶ See p. 19 of Opinion 1/2020, available on the Authority's website. ¹⁴ 1. Information about the state of health of a natural person, including the provision of health care services to him, constitutes health-related personal data, i.e. a special category of personal data, which is subject to a stricter protection regime. Such information is, for example, the status of a named or identifiable data subject as sick or not, his stay at home due to illness, the detection of signs of illness, possibly also through his clinical picture (cough, runny nose, temperature higher than normal, etc.) .etc.). Information of interest in this case, such as whether a data subject has recently traveled to a foreign country with widespread spread of the coronavirus, or whether a relative or associate is sick or infected with the coronavirus, does not concern the health of the particular subject and therefore does not constitute data special category personal data, but may under conditions constitute simple personal data. 2. The legislation for the protection of personal data applies in accordance with articles 2 par. 1 of Regulation 679/2016 (hereinafter GDPR) and 2 of Law 4624/2019 to the fully or partially automated processing of personal data, as well as to non-automated processing of such data included or to be included in a filing system. So e.g. verbal information that the data subject is sick with the coronavirus or that his body temperature has been measured as higher than normal constitutes personal data, but the relevant legislation does not apply if the above information has not been included in a filing system in case of non-compliance automated (manual) processing or have not been included in automated processing. It

is pointed out that the scope of the GDPR is determined in a binding manner by the provision of article 2 paragraph 1 thereof and it is not possible to expand it with provisions of national legislation. 3. To the extent that the processing of personal data is carried out by the competent public authorities in order to take the necessary measures on a case-by-case basis, in accordance with the relevant legislation, for the purpose of avoiding the risk of the appearance or spread of the coronavirus that may have serious effects on public health applied under the above under no. 1 and 2 conditions of 15 GDPR. In these cases, the legal bases defined in articles 6 par. 1 sec. apply in particular. c' (the processing is necessary for compliance with a legal obligation of the controller), d' (the processing is necessary to safeguard a vital interest of the data subject or another natural person) and e' (the processing is necessary for the fulfillment of a duty performed in the public interest or against the exercise of public authority assigned to the controller) and 9 par. 2 sec. b' (the processing is necessary for the performance of the obligations and the exercise of specific rights of the controller or the data subject in the field of labor law and social security and social protection law), e' (the processing concerns personal data that which have been expressly made public by the data subject), h' (the processing is necessary for the purposes of preventive or occupational medicine, assessment of the employee's ability to work, medical diagnosis, provision of health or social care or treatment or management of health and social systems and services) and i' (the processing is necessary for reasons of public interest in the field of public health, such as protection against serious cross-border threats to health or ensuring high standards of quality and safety of healthcare and medicines or medical devices), Law 4624/20 19 according to the no. 01/2020 Opinion of the Authority, in conjunction with any more specific legislation on personal data, including the regulations of the relevant laws and the implementing ministerial decisions. protection 4. The right to the protection of personal data is not an absolute right. It must be assessed in relation to its function in society and weighed in relation to other fundamental rights, in accordance with the principle of proportionality (ref. s. 4 GDPR). From the total of the above under no. 1-3 considerations shows that the application of the legal framework for the protection of personal data does not constitute an obstacle to taking the necessary measures to deal with the coronavirus. On the contrary, the legal bases for the necessary processing are provided, with the proviso that the basic principles are respected and the relevant substantive and procedural 16 guarantees and conditions of lawful processing are ensured. It is pointed out that the processing of personal health data in the context of taking measures against the coronavirus is carried out by the competent public authorities as necessary for reasons of public interest in the field of public health, which also includes the protection against serious cross-border threats to health according to article 9 par. 2 sec. GDPR (see Art. 46 and 52

GDPR). Therefore, the competent public authorities are the data controllers who process simple personal data and health (special category) data for the protection of public health. 5. With regard to the private sector, especially labor relations, it follows from the written provisions (especially from those of articles 42, 45 and 49 of Law 3850/2010) that on the one hand, the employer is obliged to ensure the health and safety of the employees taking the necessary relevant protective measures to avoid the occurrence of a serious, immediate and unavoidable risk of them, guaranteeing a safe and healthy working environment with the assistance of the employees, on the one hand, the employees are similarly obliged to apply the health and safety rules of themselves and other people affected by their acts or omissions, including their obligation to immediately report to the employer and/or occupational health officer all situations which may reasonably be considered to present an immediate and serious risk to safety and health. To the extent that the legislation for the protection of personal data is applied in accordance with the above under no. 1-2 paragraphs, employers are authorized to process data for the protection of the health of employees and themselves in compliance with the principles of article 5 GDPR, in accordance with the legal bases of the aforementioned provisions of articles 6 par. 1, in particular, sec. c', d' and e', 9 par. 2, in particular, sec. b', e' and i' GDPR and always under the instructions of the competent authorities for the implementation of the measures⁷ imposed by the legislation to the extent that they constitute processing of personal data. 6. The Authority has received questions from employers regarding their processing of personal data of employees, suppliers, visitors, etc. in their offices and facilities to ensure health 7 For the prescribed criminal sanctions for the violation of the obligation to comply with the relevant measures, see No. 2433 from 12-3-2020 under no. 4 Circular of the Prosecutor of the Supreme Court. 17 of the employees in accordance with the provisions of Law 3850/2010 as stated above, such as e.g. if it is allowed to take the temperature of those arriving or to submit a completed questionnaire regarding the state of health of employees or their relatives, recent history of travel to a foreign country with an increased risk of transmission of the coronavirus, etc. or informing other employees about the event or the identity details of an already ill employee. The Authority reminds that the data controller carries out the necessary and in accordance with Articles 5 and 6 GDPR personal data processing operations to achieve the intended purposes without preliminarily excluding any processing operation as prohibited, especially in this time-critical and unprecedented situation and if the conditions included in no. 1-2 thoughts of the present. It goes without saying that this processing takes place within the framework of the principle of accountability. Particular attention must be paid to the evaluation of the possibility of collecting only the necessary information that is exclusively related to the intended purpose (principles of the limitation of processing in

combination with the principle of proportionality), respecting the principle of secure processing (in particular the confidentiality of information) through taking the necessary technical and organizational security measures. It is pointed out that the collection and general processing of personal data that are burdensome and constitute a limitation of individual rights, such as e.g. the temperature measurement at the entrance to the workplace must take place, in compliance with the legal conditions, since every available appropriate measure will be previously excluded, which will be chosen by the controller, provided that the legislation on personal data is applied. On the contrary, a systematic, permanent and generalized collection of personal data that leads to the creation and continuous renewal of employee health profiles, could hardly be characterized as being in line with the principle of proportionality. 7. The processing of personal data of deceased persons does not in principle fall within the protective scope of the personal data protection rules (ref. 27 GDPR). Given, however, that the disclosure of the identification data of those who died from the coronavirus may lead to the indirect identification of living natural persons who had contact with or were familiar with the deceased to whom the relevant rules apply, the processing must be carried out in accordance with the general processing principles of article 5 par. 1 in conjunction with article 6 GDPR. 8. The voluntary disclosure of the state of health by patients already suffering from the corona virus provides, in accordance with article 9 par. 2 sec. e' GDPR legal basis for processing the specific health data provided that the principles of article 5 GDPR are observed in combination with any more specific provisions of the national legislation. 9. The disclosure by the data controllers to third parties of information on the health status of the data subjects when this constitutes processing of personal data, in accordance with the conditions referred to in no. 1-2 points hereof, even if in principle it is carried out within the framework of Articles 5, 6 and 9 GDPR, it is not permissible if it creates a climate of prejudice and stigmatization, and in addition it may act as a deterrent to the observance of the measures announced by the competent public authorities ultimately counteracting their effectiveness. 10. Finally, before any processing of personal data for journalistic purposes⁸, in particular with regard to the health status of the subjects in relation to the coronavirus, in addition to the aforementioned (in particular the considerations under no. 9 hereof), the necessity of disclosure should primarily be assessed identification data of the subject (e.g. name, photo and other identification data), given that the competent authorities (National Public Health Organization [EODY] and General Secretariat of Civil Protection process personal data of citizens of epidemiological association, without the determination personal identity information (see no. 19 par. 2 PNP Official Gazette A'55/11-3-2020) or after pseudonymization and receiving the necessary technical and organizational

security measures (see article five PNP Official Gazette A'64/14-3-2020).

The Authority reserves the right to issue more specific instructions, if necessary, based on the evolution of factual and legal data.

[G.G.P.P.)

8 Relatedly see the under no. 01/2020 Opinion of the Authority on the provisions of Law 4624/2019.

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The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou