

Athens, 09-05-2018

Prot. No.: G/EX/3526/09-05-2018

PRINCIPLE FOR DATA PRIVACY

FOR OPIC CHARACTER

A P O F A S H 38/2018

(Department)

The Personal Data Protection Authority met in

composition of the Department, at its headquarters, on Wednesday 22-11-2017 at 10:00 a.m., after

invitation of its President, in order to examine the case which

refers to the history of the present. George Batzalexis was present,

Deputy President, obstructing the President of the Council Authority

Menoudakou, and the substitute members of the Panagiotis Rontogiannis Authority,

Charalambos Tsiliotis, as rapporteur, and Grigoris Tsolias, as replacement,

respectively, of the regular members Antonis Imboni, Pyros Vlachopoulos and

Charalambou Anthopoulos, who, although legally summoned in writing, did not

attended due to obstruction. the meeting was attended, by order of the President, o

Dimitris Zografopoulos, Lawyer (D.N.) – Legal auditor, as assistant

rapporteur. He also attended, with

mandate

of the President, and Irene

Papageorgopoulou, employee of the Administrative Department of the Authority, as

secretary.

The Authority took into account the following:

Submitted to the Personal Data Protection Authority under

No. first ... (and under no. first. Authority G/EI /5447/07-09-2016) application of the competent

service (Department of Social Protection) of Municipality X, as responsible

processing, in order to transmit to the Special Primary school –

Kindergarten for the Blind Ψ the requested details of minors with vision disability, kept in its records, for the purpose of registering them in this school.

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After examining the evidence of the case file, after they were read the minutes of the meeting of 27-09-2017, after hearing his proposal rapporteur and the assistant rapporteur, who then left, and after thorough discussion,

The beginning,

THOUGHT ACCORDING TO THE LAW

1. Because the provision of article 2 par. (b) of Law 2472/1997 on Protection of the individual from the processing of personal data, interpreted in the light of the provisions of the Charter of Fundamental Rights of European Union, and, in particular, those of article 8, as well as in the light of the provisions of Directive 95/46/EC of the European Parliament and Council, of 24 October 1995, for the protection of natural persons against our processing of personal data and for the free circulation of these data defines, for the purposes of this law, as sensitive personal data and those concerning his health their subject.

2. Because, from the combination of the provisions of articles 5 and 7 of L. 2472/1997, interpreted in the light of the above provisions of the Charter of Fundamental Rights of the European Union, and

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of the aforementioned Directive 95/46/EC, it follows that the collection and any further processing of simple and sensitive personal data is allowed, in principle, if the data subject has given his consent.

However, the collection and any further processing of both simple and of sensitive personal data is allowed, exceptionally, and without the consent or despite the refusal of their subject, in the cases limited by law.

3. Because, for the legality of processing either simple or sensitive of personal data must, in accordance with the provisions of article 4 par. 1 item (a) and (b) of Law 2472/1997, to be fulfilled additionally and the fundamental principles of purpose of processing and proportionality (necessity and affordability) of the data always in relation to him intended purpose of the processing. therefore, personnel data

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nature must be collected in a legitimate and legal manner for specified, clear and legitimate purposes and that there is legitimate and legal processing in in view of these purposes, while any processing of personal data, which becomes beyond the intended purpose or is not suitable and necessary for it achieving it, is not legal.

4. Because, article 11 par. 3 of Law 2472/1997 expressly states that "if the data are announced to them, the subject is informed of the announcement before them".

5. Because, article 16 of the law stipulates, among other things, that: "2. Child a

was a basic mission of the State and aims at the moral, spiritual, professional and physical education of the Greeks, the development of the national and of religious consciousness and their development into free and responsible citizens".

3. The years of compulsory education cannot be less than nine. 4. All the Greeks have the right to free education, at all levels, in state schools educational institutions. The State supports students who excel, as well those in need of assistance or special protection, depending on abilities their. (...)".

6. Because the Charter of Fundamental Rights of the EU enshrines, among others, the individual's right to human dignity (Article 1), the right to the integrity of the person (Article 3), the right to respect for private and family life of the individual (article 7) and the right to the protection of personal data (Article 8), the right to education and access to professional and continuous training (Article 14), prohibition of discrimination (Article 21) and the inclusion of people with disabilities needs (Article 26).

7. Because Article 24 of the United Nations Convention on the Rights of of Persons with Disabilities (PWD) – which was sanctioned together with the Optional Protocol to this convention with the first article of Law 4074/2012 (Official Gazette A, 88) - stipulates for the right to education of the disabled: "1. States Parties recognize the right of the disabled to education. In order to do justice that without discrimination and on the basis of your opportunities, the States Parties shall ensure one inclusive education system at all levels and continuous learning that aimed at: (a) the full development of human potential and well-being dignity and self-esteem, and the related respect for the rights of

of man, fundamental freedoms and human diversity a, (b) the development of the personality, talents and creativity of people with disabilities, as also of the mental and physical faculties, to the greatest extent, (c) in the facilitation of PWDs in order to participate effectively in a free public a. 2. For the exercise of this right, the States Parties shall ensure that: (a) PWDs are not excluded from mainstream education system due to disability, and that children with disabilities are not excluded from it free and compulsory primary education, or secondary education, because of the disability, (b) PWDs can have access to an integrated, quality and free primary education and secondary education, in basis with others, in the communities in which they live, (c) reasonable is provided adaptation to the needs of the individual, (d) PWDs will receive the support that required, within the general education system, to facilitate it efficient train them, (e) effective personalized measures support are provided in environments that maximize academic and social development, in line with the goal of full inclusion. 3. The States Parties facilitate PWDs to acquire skills both in terms of how to carry out their lives, in terms of their social development to facilitate it their full and meaningful participation in education and as members of society. Therefore, the States Parties shall take appropriate measures, including: (a) facilitating of Braille learning, alternative texts, auxiliary and alternative methods, means and forms of communication and orientation and movement

skills, and facilitating support and guidance from / to individuals / disability-related groups, (b) facilitating the learning of semantics language and the promotion of the linguistic identity of the deaf community, (c) ensuring that the education of individuals and specifically of children who are blind, deaf or deaf-blind, is provided in the most appropriate languages and methods and through communication for the individual, and in an environment that maximized the academic and social development. 4. To help ensure compliance of this right, States Parties shall take appropriate measures to recruit teachers, including teachers with disabilities, who are specialized in sign language and / or Braille, and for training of professionals and staff who work at all levels of education. Such training inculcates sensitivity to issues

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disabled and the use of appropriate auxiliary and alternative methods, means and forms of communication, educational techniques and material to support them

Disabled. 5. States Parties shall ensure that persons with disabilities have the opportunity to have access to general tertiary education, technical vocational education, in adult education and lifelong learning without discrimination and based on the others. In this regard, States Parties shall ensure the provision of reasonable of adaptation to the disabled".

8. Because, with the provisions of Law 3699/2008 on Special Education and Education of persons with disabilities or with special educational needs (Government Gazette A, 199, 02-10-2008), establishes – according to its introductory report – the mandatory character of special education and training as an integral part of it compulsory and free public education and the minimum is specified

its duration, for compliance of the national legislator with the aforementioned provisions of the Charter of Fundamental Rights of the EU, it is established that the educational process must take place in facilities (school buildings, laboratories, educational structures, etc.), which meet all the conditions accessibility (building infrastructure) for people with disabilities, and it is defined that the educational process must provide all possible special facilities (educational staff, special educational material, new application technologies, research and development of innovative tools, aids, etc.) which are necessary in order to facilitate their stay, but also their integration students with disabilities in the general educational process.

9. Because, with articles 59ff. of Law 4488/2017 Pension regulations Public and other insurance provisions, in connection with their protection workers, rights of persons with disabilities and other provisions (Government Gazette A, 137, 13-09-2017), a general regulatory framework is established pursuant to the provisions of of the aforementioned United Nations Convention on the Rights of Individuals with Disabilities and the Optional Protocol to the convention on rights of Persons with Disabilities, ratified by the first article of Law 4074/2012, with in order to remove the obstacles that hinder full and equal participation of the disabled in the social, economic and political life of the country.

10. Because, in the present case, it appears from the information in the file that the competent service (Department of Social Protection) of Municipality X, as controller, requests the Authority to grant the required by

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the provisions of article 7 par. 2 of Law 2472/1997 permit, in this case Municipality X to forward to the Special Primary School - Kindergarten for the Blind P the requested

details of minors with a visual disability, kept in its records, for the purpose of their registration at this school, in accordance with the provisions of the relevant provisions of the applicable legislation, and, in advance, the provisions of Law. 3699/2008 on the Special education and training of persons with disabilities or with special educational needs, and those of PD 79/2017 for the Organization and function a kindergartens and primary schools (Official Gazette A, 109, 01-08-2017), where they replaced those of PD 200/1998 for the organization and operation of Kindergarten teachers and the Decree 201/1998 on the organization and operation of Primary Schools Schools. it is also related under no. prot. G/EI /7528/19-10-2017 his document Special Primary School - Kindergarten for the Blind Ps.

11. Since, the above requested by the Special Primary School – Kindergarten for the Blind Ψ details of minors with visual impairment, which are kept in the records of Municipality X, as controller, they recommend sensitive personal data of their subjects, provided concern their state of health, and their processing is governed by provisions of article 7 of Law 2472/1997, interpreted in accordance with the included in the provisions of its Charter of Fundamental Rights European Union, and, in particular, in those of article 8, as well as in provisions of article 8 of the aforementioned Directive 95/46/EC.

12. Because, the purpose of processing, which is promoted by the Special Primary school – Kindergarten for the Blind Ψ for transmission by its competent service Municipality X, as controller, of the above requested sensitive data personal data (names and contact details). of minors with a visual disability, kept in its records, is recommended in enrolling in that school and providing education and training,



in accordance with the provisions of the above provisions of articles 16 of the law, 1, 3, 14, 21 and 26 of the Charter of Fundamental Rights of the EU, 24 of the convention of the United Nations on the Rights of Persons with Disabilities, as well as those of Law 3699/2008 on the special education and training of persons with disabilities or with special educational needs, and those of PD 79/2017 for the Organization and kindergarten and primary school operators (which replaced those of 1-3 Kifis St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, [contact@dpa.gr](mailto:contact@dpa.gr) / [www.dpa.gr](http://www.dpa.gr)

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Decree 200/1998 on the organization and operation of Kindergarten teachers and Decree 201/1998 for the organization and operation of Primary Schools).

13. Because, in the present case, for the fulfillment of the checks of the aforementioned provisions of Law 3699/2008 on Special Education and Training persons with disabilities or with special educational needs, of article 24 of the convention of the United Nations on the Rights of Persons with Disabilities (PWD), which ratified together with the Optional Protocol to this convention by art first of Law 4074/2012, and of FD 79/2017 on the Organization and operation kindergartens and primary schools, it is necessary to process sensitive data of persons with disabilities or with special educational needs for the purpose ensuring the special education and training of the persons in question, as integral part of compulsory and free public education without discrimination and on an equal basis with others. To fulfill this purpose it has unless the aforementioned legislative provisions provide for the processing sensitive data of persons with disabilities or with special educational needs especially from the school units of special education and training, but it does not have explicit provide for the transmission by the locally competent public services – such as, in the present case, the Directorate of Social Protection of the Municipality of X - of

of sensitive personal data of the persons concerned with disability or with special educational needs, which they keep in their files, in the v competent school units for special education and training. Its provisions of article 1 of KYA C4/F.421/oc. 1143 for the increase in financial aid which granted to the blind, etc., which are invoked by the Special Municipal College – Kindergarten for the Blind Ψ for the transmission in question, they are not sufficient legitimizing basis for this transmission, since they simply confer power to the local social welfare services to control them reasons for non-attendance at school of beneficiaries of blind minors' allowances and to decide on the suspension of allowances in cases where consider the reasons for their non-attendance to be insufficient. subsequently, in absence of an express provision of the law, which provides for the transmission by the local authorities public services – such as those of Municipality X – to the local authorities school units of special education and training, in the sense of of the above-mentioned provisions, the requested transmission of the particulars in question sensitive data (names and contact details) of minors

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of visually impaired persons from the competent service of Municipality X, as responsible processing, at the Special Primary School - Kindergarten for the Blind Ψ may be based on the written consent of parents and legal guardians and representatives of the specific minors with a visual disability, in accordance with defined in the provisions of articles 2 par. 1 item (k') and 7 par. 2 item. (a') of Law 2472/1997.

14. Since, further to the above requested processing, the principle of proportionality (necessity and affordability) of the above

requested personal data of the specific individuals with disability or with special educational needs in view of the projected for the transmission of the purpose of processing, in accordance with the provisions thereof article 4 par. 1 item (b) of Law 2472/1997. And this, because the specific sensitive data (name and contact details) of minors with a visual disability, which are kept in the archives of Municipality X, is also necessary suitable for the purpose of ensuring the special education and training of the due to individuals, as an integral part of the compulsory and free public education without discrimination and on an equal basis with others, at their behest of the aforementioned provisions of higher formal force of the Charter of Fundamental Rights of the EU and the United Nations Convention on rights of Persons with Disabilities and the provisions of Law 3699/2008, those of articles 59 et seq. of Law 4488/2017 and those of Presidential Decree 79/2017.

15. Since, Municipality X, as a data controller, must in accordance with defined in the provision of article 11 par. 3 of Law 2472/1997, to inform the parents and the legal guardians and representatives of the minors concerned with a visual disability for the transmission of the above requested sensitive data the (names and contact details) of a personal nature to Special Primary School - Kindergarten for the Blind Ψ, for the purpose of their registration in this school.

The beginning,

FOR THOSE REASONS

1) Gives Municipality X, as controller, the permission to transfer to Special Primary School - Kindergarten for the Blind Yes the above requested sensitive

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personal data (name and contact details) of  
of minors with a visual disability, kept in its records, on its basis  
written consent of parents and legal guardians and representatives of  
of these minors as mentioned in the reasoning of this decision, for the  
purpose of their enrollment in this school.

2) Municipality X, as controller, is obliged to inform them  
parents and the legal guardians and representatives of the minors concerned  
with a visual disability before the transmission of the aforementioned sensitive  
given their personal nature at the Special Primary School –  
Kindergarten for the Blind Ps.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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