

Athens, 12-01-2023 Prot. No. 118 DECISION 1/ 2023 (Department) The Personal Data Protection Authority met as a Department at the invitation of its President via teleconference on Wednesday 11-01-2023 and time 10:00, in order to examine the case referred to in the history of the present. The Deputy President of the Authority, Georgios Batzalexis, due to the disability of the President of the Authority, Constantinos Menoudakos, and the alternate members of the Authority, Demosthenes Vougioukas, in place of regular member Konstantinos Lambrinoudakis, who although legally summoned, did not attend due to disability, and Maria Psalla, as well as regular member of the Authority Grigorios Tsolias as Rapporteur. Present without the right to vote were Stefania Plota, specialist legal scientist, as assistant rapporteur, and Irini Papageorgopoulou, employee of the administrative affairs department, as secretary. The Authority took into account the following: With the no. First Authority C/EIS/5267/27-07-2020 complaint, A, complains the company Google Ireland Ltd (hereinafter "complainant" or "Company") for not satisfying the right to erasure. In particular, the complaint states that the company with the name "Google Ireland Ltd" is an operator of an information search engine and the list of results displayed by said engine includes links to third-party websites classified by said operator. Information is posted on these websites, which, as the complainant points out, "grossly offends the personal data concerning us, as well as the right to respect our private and professional life. In particular, in the list of results displayed by the search engine of the 1 above-mentioned organization, based on our names and professional status, the following are displayed (twenty-four (24) links): 1. ... 2. ... 3 ... 4. ... 5. ... 6. ... 7. ... 8. ... 9. ... 10. ... 11. ... 12. ... 13. ... 14. ... 15. ... 16. ... 17. ... 18. ... 19. ... 20. ... 21. ... 22. ... 23. ... 24. ... In view of the above, the complainant submitted on ... a deletion request to the Google email address "removals@google.com" of the regarding disputed links citing as reasons for the deletion, as it follows from the complaint that "1. the above data is related to my capacity as ..., 2. the above data harms my reputation personally and professionally, violates my right to respect for private life. Due to application of article 21.1. and 21.2 GDPR (17.1.c) and Article 2 17.1.a". To this request the company responded as follows, as reported by the complainant: "Google has decided not to cut this content, having balanced the relevant rights and interest related to this content, including the factor of relevance to your business Zoe". The Authority, in the context of examining the case, called the companies Google LLC, as the operator of the Google search engine, and Google Hellas with the no. prot. C/EX/5267-1/22.09.2020 document, to provide their opinions on the complaints, fully justifying their negative response for each link separately. The company Google LLC, in response to the above document, informed the Authority with the no. prot. C/EIS/6812/07-10-2020 document that all the URLs mentioned in the complaint relate

to the activity of ... the complainant's company and for this reason, the complainant lacks a legitimate interest. In the case, however, if it were to be considered that the complainant has a legitimate interest in filing the complaint, the company claims that "Google cannot evaluate the said request on the basis of defamation and in general offenses against honor and reputation [...]" and that any false, inaccurate or defamatory information in question cited by the complainant does not establish, according to the Costeja decision, the right to delete search results, pointing out that defamation is related to a person's reputation, while the right to be forgotten related to his privacy. Also, the company states that "even completely true and legal information may be deleted following the legal exercise of the right to deletion by the person concerned, as long as there is no overriding public interest in accessing the disputed information and the search engine - in its capacity as a provider of caching services within the meaning of Article 13 of Directive 2000/31/EC on electronic commerce (Article 12 of Decree-Law 131/2003) - is not responsible for content published on third-party websites , while, for the most part, the search engine does not have the authority to examine whether the information in question is untrue or defamatory." and "from the content of the complaint, it does not appear that the complainant requested the deletion of the content in question from the administrators of the websites that published this information, although they are the only ones responsible for the accuracy and legality of these publications. Therefore, without a competent judicial or administrative decision on the existence of 3 authority, which can decide on the legal issues related to the possible insult to the honor and reputation of the complainant as well as the offense of defamation, Google is not in a position to evaluate the request deletion on the basis of the alleged defamation." Based on the content of the links, the company concludes that "i) The articles referred to in the description of the activity of the ... company are accurate, given that the complainant does not invoke or prove their inaccuracy, and timely, given that the aforementioned professional activity to date and, therefore, the legitimate interest of the public to have access to the information referred to in these articles is established. Therefore, the deletion of the relevant links (URLs) is not permitted, based on the "Article 29 Working Party Guidelines". ii) Furthermore, the articles referring to the imposition of a fine by the Personal Data Protection Authority (PDPA), pursuant to the decision ..., due to the illegal use of cameras in the workplace, as well as the case before the Council of State for the suspension of the imposition of a fine contain accurate and up-to-date information in accordance with the above rationale. Therefore, there is no legitimate reason to delete them from the list of search results, based on the invoked right to be forgotten." Finally, the company found that the no. 14 URL link leads the users to a web page, the content of which is not available and took the necessary actions to delete it from the list of search results that appear on the basis of the name of the

complainant. After examining the details of the file, the Authority with no. C/EX/1883/21- 07-2022 and C/EIS/1884/21-07-2022 documents, invited the aforementioned companies and the complainant respectively, as legally represented, to attend, via video conference, a hearing before the Department of the Authority on 27-07-2022, in order to discuss the complaint in question. At the above meeting, the submitted request for postponement of the complainant's attorney was discussed, which was accepted by the Department. The Authority with the under no. C/EX/2419/29-09-2022 and C/EX/2418/29-09-2022 documents, again invited the companies and the complainant respectively, as legally represented, to attend, via teleconference, a hearing before the Department of the Authority on 05-10-2022, in order to discuss the complaint in question. At the above meeting, the submitted request for postponement of the attorney 4 of the complainant's lawyer was discussed, which was accepted by the Department. Then, the Authority with nos. C/EX/2701/25-10-2022 and C/EX/2702/25-10-2022 documents, again invited the companies and the complainant to a hearing before the Department of the Authority on 02-11-2022, in order to discuss the complaint in question. At this meeting, the attorneys of Ioannis Filiotis (AMDSA ...), Chariklia Daouti (AMDSA ...) and Evangelia Tsigiotis (AMDSA ...), as well as the attorney of the complainant Grigorios Lazarakos (AMDSA ...) attended this meeting on behalf of the company Google LLC. Both parties, after orally developing their views, received during this meeting a deadline for submitting memoranda, on the one hand to develop the issue concerning the scope of application of the General Data Protection Regulation (GDPR) in this particular case, on the other hand to further support their claims, which they submitted on time. During the above discussion of the case and also with his memorandum of 25-11-2022 after the hearing, the complainant argued on the basis of what was stated during the hearing before the Department of the Authority on the question of application or non-application of the GDPR that since the links in question, the deletion of which he has requested, appear based on his name, regardless of whether the publications to which they refer - mainly refer to the activity of the ... company, of which he is a partner - are matched with the complainant as a natural person and give the possibility of forming a "in more or less, a detailed profile of the data subject" and therefore, in accordance with the CJEU judgment in the Google Spain¹ decision, his connection, as a natural person, with specific publications constitutes processing of personal data within the meaning of the GDPR, which is fully implemented. The use of the first person plural in the complaint in no way negates the fact that the application in question concerns exclusively the complainant personally and no other natural or legal person (such as the ... company or its other partner). The complainant points out that the company, in the opinions it had submitted to the Authority during the pre-trial and repeated during the hearing, did not include the ESPD

Guidelines 5/2019, according to which (according to the complainant's interpretation) the search engine must, from currently received a request 1 2CJEU, case C-131/12, GoogleSpain SL and Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González, decision of May 13, 2014. 5 erasure under Article 17 GDPR, to investigate for which of the six (6) cases of paragraph 1 of Article 17 GDPR the erasure is requested in order to be placed accordingly. Regarding the company's claim that the complainant is a public figure, the latter claims that he does not play a role in the public life of the country only because he is a partner in a ... company, a part of which deals with bad debt enforcement, as well as out-of-court settlement requirements, nor the nature of the cases, which, among other things, the ... company undertakes is such as to justify an increased public interest in information, nor because the Authority in the past imposed a fine on the ... company, of which he is a partner due to illegal establishment closed circuit television. Regarding the company's claim that the disputed links concern the complainant's professional life, the complainant claims that the said links do not contain information about his professional life, but about the action of the ... company, in which he is a partner and not a managing partner, while according to the Code on ..., the partner who is not a manager, is responsible, only towards the other partners and the company and only for the care he shows in his own affairs, pointing out that the ... company is not a personal company, but a civil professional company. In this case, according to the complainant, the links in question do not refer to publications concerning his activity in cases he has handled as ..., but to the activity of the ... company and he notes that also in the well-known decision of Google Spain the links, which the deletion ordered by the CJEU, related to Costeja's professional life. According to the complainant, the company will have to prove that the disputed links refer to publications, which have added value for the public and that this value makes them "absolutely necessary" to protect the freedom of information of Internet users and not he should simply invoke the provision of article 17 par. 3 item. 1 GDPR. Regarding the company's claim that the complainant does not dispute the accuracy of what is mentioned in the publications and, consequently, that their inaccuracy has not been proven, the complainant states that this claim is unfounded, as the right to deletion is allowed to be exercised before the machine search without having previously challenged the untruth/inaccuracy of the content of the original publication, to which the link refers, or having been recognized - in any way harming the 6 data subject - with the sole invocation by the data subject of the claim that this information can cause him harm (Article 17 para. 1 letter c GDPR) or that he wishes to be "forgotten" after a certain period of time has passed (Article 17 paragraph 1 letter a GDPR), just as is the case in case in point. Also, the complainant claims that twelve (12) of the twenty-four (24) links the company should delete for the additional reason that they refer to publications

posted on websites 9 to 14 years ago, resulting in the data contained in them have now become obsolete and out of date (article 17 par. 1 item a' GDPR) and requests the company to delete all 24 links or at least to disconnect them from his name and surname. The company with its memorandum of 25-11-2022 repeated the allegations it had already made before the Authority and further argued that the disputed publications do not include personal data but information concerning the ... company and are therefore not governed by the GDPR, citing the jurisprudence of the CJEU². Otherwise, according to the company, if it is accepted that the GDPR applies, according to the CG of the GDPR 5/2019 "the provider of the search engine can present any compelling and legitimate reasons, including any exception provided by article 17 par. 3 of the GDPR", and the company has already presented them and proves them both with its response to the complainant's deletion request, as well as with no. prot. C/EIS/6812/07-10-2020 her document to the Authority. The Authority, after examining all the elements of the file and what emerged from the hearing before it and the parties' memoranda, after hearing the rapporteur and the clarifications from the assistant rapporteur, who was present without the right to vote, after a thorough discussion, CONSIDERED ACCORDING TO THE LAW 1. Because, from the provisions of Articles 51 and 55 of the General Data Protection Regulation 2016/679 (GDPR) and Article 9 of Law 4624/2019 (Official Gazette A' 137) 2 Decision C-620/19 CJEU, 10-12-2020 7 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. 2. Because article 56 paragraph 2 of the GDPR provides that "by way of derogation from paragraph 1, each supervisory authority is responsible for examining a complaint submitted or for dealing with a possible violation of this regulation, if the subject concerns only an establishment in the relevant state member state or substantially affects data subjects only in the relevant member state". Also, following the application of the GDPR, the Authority, for the examination corresponding to the complaint in question, had initiated the appropriate procedures provided for in the framework of the cooperation mechanism of the GDPR, in order to proceed with this examination, informing the Irish Supervisory Authority accordingly, receiving from the said Authority an answer that the Greek Authority is competent, according to article 56 par. 2 of the GDPR, to examine the said case. Further, Google LLC has informed the EDPB that Google Ireland will be the main establishment of the controller in the EU for cross-border data processing, as specified in Article 4 para. 23 GDPR, while with its document No. C/EIS/10060/14-12-2018 it informed the Authority that, although Google Ireland will be the controller for the user's data collected and processed when users interact with Google services - including data collected through the Google search engine, where users choose to store

activity or search history data in their accounts, Google LLC will continue to be the data controller of the classified content (index) of the Google search engine and to manage the deletion process in the context of the right to be forgotten. Therefore, from the provisions of articles 57 par.1 item. f GDPR and 13 para. 1 item g' of Law 4624/2019 it follows that the Authority has the authority to deal with the complaint of A, for a violation of the right to erasure, and the authority of the Authority is established according to Articles 2 and 3 of Law 4624/2019 to exercise its above authority. 3. Because Article 1 of the GDPR provides that "this regulation establishes rules concerning the protection of natural persons against the processing of personal data". 8 4. Because from recital no. 14 of the GDPR states that "The protection provided by this regulation should apply to natural persons, regardless of nationality or place of residence, in relation to the processing of their personal data. This regulation does not cover the processing of personal data concerning legal entities and in particular companies established as legal entities, including the name, type and contact details of the legal entity". 5. Because the European Commission has expressed the opinion³ that information about sole proprietorships can constitute personal data when it is possible to identify natural persons⁴. 6. Because contrary to the under no. 14 recital of the GDPR, according to the previous Opinion no. 4/2007 of the Data Protection Group of Article 29 on the meaning of the term "personal data" of 20.6.2007 (WP 136) certain data protection rules may in some cases apply indirectly to business or legal information persons, as in case the name of the legal person comes from name of a natural person.

7. Because the European Data Protection Board issued on 07-07-2020 the No. 5/2019 Guidelines on the "criteria governing the right to oblivion, according to the GDPR, in the cases of search engines" (version 2.0).

8. Because according to the jurisprudence of the Court of the European Union the data subject has the right to cease the related to his person information to be linked to his name through the directory results, which results from a search that has been carried out based on the name of a natural person⁵ and in addition said search may results in users being able to acquire through the directory

3 Do the data protection rules apply to data about a company? (europa.eu)

4 "Do the data protection rules apply to data about a company? No, the rules only apply to personal data about individuals, they do not govern data about companies or any other legal entities. However, information in relation to one-person companies may constitute personal data where it allows the identification of a natural person. The rules also apply to all personal data relating to natural persons in the course of a professional activity, such as the employees of a company/organisation, business email addresses like 'forename.surname@company.eu' or employees' business telephone numbers" with reference to the decision of the European Court of Justice Union C-398/15 Manni.

5 C-136/17 sc. 52.

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results, a systematic review of those available online information concerning the person in question and which provide users with possibility to form a more or less detailed profile of him data subject⁶, which concerns the private life of the subject data⁷.

9. Because according to the jurisprudence of the Court of the European Union it belongs to the person, who requests the deletion of links, in case of a claimant of inaccuracy of the classified content to prove the manifest inaccuracy of information contained in said content by providing it evidence, which may reasonably be expected to be able to seek, in the light of the circumstances of the particular case, in order to prove this manifest inaccuracy⁸.

10. Because according to the Authority's jurisprudence, the reasons for submitting a deletion request link to the search engine service provider, such as Google must be documented⁹.

11. Because the links in question concern journalistic articles about their content

which the complainant does not plead or disprove them. Instead,
the complainant argues that they have become out of date and professionally relevant
activity of the ... company, in which he participates as a (non-managing) partner and
which mainly refer to:

- in the activities of ... company, which as its object has the management and
debt collection, mainly on behalf of Banks, and cooperates in the same context
with collection agencies. Some of these articles refer to enforcement
fine to the ... company by the competent audit authorities, in the year
- in journalistic research results, which refer to the conditions
operation of the above ... company, and the working conditions of the employees.
- in an attack by hoodlums at the offices of the ... company in the year
- in an attack reported by a journalist, by security men of the ... company.

6 C-462/20 sc. 50, C-131/12 sc. 36, 37 and C-136/17 sk. 36.

7 C-460/20 sc. 52, 62.

8 C-460/20 sc. 68, 72.

9 APDPH 25/2019 sc. 5.

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- the imposition of a fine by the Authority, pursuant to the decision ..., due to the illegality
use of cameras in the workplaces of the ... company, as well as in
appeal to the Council of State, for the purpose of suspending the enforcement
of said fine.

12. Because similar cases are already pending in the Plenary Session of the Authority
content of complaints against the company for non-satisfaction of the right
deletion by no. 17 GDPR.

13. Because the question of whether or not the GDPR applies in this case, according to
as mentioned above, it is of particular importance, but at the same time it is not more general

importance for all relevant pending complaints no. 8 par. 1 sec. b' of

Regulation of the Authority's Operation (Government Gazette B' 879/25.02.2022).

14. Because the Department of the Authority can refer a case to its Plenary, at responsibilities of which it belongs, among others, according to article 4 par. 1 item i' of the Regulation of Operation of the Authority the examination of cases introduced by the President or are referred by the Department due to the importance or the general their interest.

FOR THOSE REASONS

The Department of the Authority refers the considered case in its entirety due to special reasons importance and more general importance in the Plenary Session of the Authority no. 8 par. 1 ed. b' of the Regulation of Operation of the Authority (Official Gazette B' 879/25.02.2022).

The Deputy President The Secretary

Georgios Batzalexis Irini Papageorgopoulou