

(Department) The Personal Data Protection Authority met in composition Department, at its headquarters, on Wednesday 22-11-2017 at 10:00 a.m., upon the invitation of its President, in order to examine the case referred to in the present history. Georgios Batzalexis, Deputy President, in opposition to the President of the Authority Kon/nou Menoudakos, and the alternate members of the Authority Panagiotis Rontogiannis, Charalambos Tsiliotis and Grigoris Tsolias, were present, as rapporteur. to replace the regular members Antonis Symvonis, Spyros Vlachopoulos and Charalambos Anthopoulos, who, although legally summoned in writing, did not attend due to disability. The meeting was attended, by order of the President, Dimitris Zografopoulos, Lawyer (DN) - Legal auditor, as assistant rapporteur. Irini Papageorgopoulou, an employee of the Administrative Department of the Authority, was also present, by order of the President, as secretary. The Authority took into account the following: Submitted to the Personal Data Protection Authority under no. ... (and under Authority No. C/EIS/4306/07-07-2016) request of the competent department (D/nsi ...) of the Municipality of Thessaloniki, as data controller, in order to forward to the Special Primary School - Kindergarten for the Blind X the requested details of minors with visual disabilities, kept in its records, for the purpose of their enrollment in this school. After examining the details of the case file, after reading the minutes of the meeting of 20-09-2017, after hearing the proposal of 1-3 L. Kifisias, 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@ dpa.gr / www.dpa.gr 1 rapporteur and the assistant rapporteur, who then left, and after a thorough discussion, THE AUTHORITY, THINKS IN ACCORDANCE WITH THE LAW 1. Because the provision of article 2 par. (b) of Law 2472/1997 on the Protection of the individual from the processing of personal data, interpreted in the light of the provisions of the Charter of Fundamental Rights of the European Union, and, in particular, those of article 8, as well as under the light of the provisions of Directive 95/46/EC of the European Parliament and of the Council, of October 24, 1995, on the protection of natural persons against the processing of personal data and on the free movement of such data defines, for the purposes of this law , as sensitive personal data and those concerning the health of their subject. 2. Because, from the combination of the provisions of articles 5 and 7 of Law 2472/1997, interpreted in the light of the aforementioned provisions of the Charter of Fundamental Rights of the European Union, and those of the aforementioned Directive 95/46/EC, it follows that the collection and any further processing of simple and sensitive personal data is permitted, in principle, if the data subject has given his consent. However, the collection and any further processing of both simple and sensitive personal data is permitted, 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 personal data, in accordance with the provisions of article 4 par. 1 item. (a) and (b) of Law 2472/1997, that the fundamental principles of the purpose of the processing and the proportionality (necessity and affordability) of the data in relation to the projected purpose of the processing are also met. Therefore, personal data must be collected in a legitimate and legal manner for specified, clear and legal purposes and be legitimately and legally processed in Kifisias Street 1-3, 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact @dpa.gr / www.dpa.gr 2 in view of these purposes, while any processing of personal data, which is done beyond the intended purpose or is not convenient and necessary for its achievement, is not legal. 4. Because, article 11 par. 3 of Law 2472/1997 expressly states that "if the data is communicated to third parties, the subject is informed of the communication before them". 5. Because article 16 of the Syn/tos stipulates, among other things, that: "2. Education is a basic mission of the State and aims at the moral, intellectual, professional and physical education of Greeks, the development of national and religious consciousness and the development of them into free and responsible citizens". 3. The years of compulsory schooling cannot be less than nine. 4. All Greeks have the right to free education, at all levels, in state schools. The State supports students who excel, as well as those who need help or special protection, depending on their abilities. (...)". 6. Because the EU Charter of Fundamental Rights enshrines, among other things, the right of the individual to human dignity (Article 1), the right to the integrity of the person (Article 3), the right to respect for the individual's private and family life (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), the prohibition of discrimination (article 21) and the inclusion of persons with special needs (Article 26). 7. Because, article 24 of the United Nations Convention on the Rights of Persons with Disabilities (PWD) – which was ratified together with the Optional Protocol to this Convention by the first article of Law 4074/2012 (Government Gazette A, 88) – defines the right to education of the disabled: "1. States Parties recognize the right of persons with disabilities to education. In order to realize this right without discrimination and on the basis of equal opportunities, States Parties shall ensure a system of inclusive education at all levels and lifelong learning aimed at: (a) the full development of human potential and a sense of dignity and self-worth; and the strengthening of respect for human rights, fundamental freedoms and human diversity, (b) the development of the personality, talents and creativity of the disabled, 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact @dpa.gr / www.dpa.gr 3 as well as intellectual and physical abilities, to the maximum extent, (c) facilitating the disabled in order to participate effectively in a free society. 2. To realize this right, States Parties shall ensure that: (a) persons with disabilities are not excluded from the general

education system because of the disability, and that children with disabilities are not excluded from free and compulsory primary education, or secondary education education, because of the disability, (b) persons with disabilities can have access to an inclusive, quality and free primary and secondary education, on an equal basis with others, in the communities in which they live, (c) reasonable accommodation is provided to the needs of per person, (d) PWDs will receive the support needed, within the general education system, to facilitate their effective education, (e) effective individualized support measures are provided in environments that maximize academic and social development, consistent with the purpose of full integration. 3. States Parties shall facilitate persons with disabilities to acquire life skills and social development skills to facilitate their full and equal participation in education and as members of society. Therefore, States Parties shall take appropriate measures, including: (a) facilitating the learning of Braille, alternative texts, auxiliary and alternative methods, means and forms of communication and orientation and motor skills, and facilitating support and guidance from / to individuals / groups related to disability, (b) facilitating the learning of sign language and promoting the linguistic identity of the deaf community, (c) ensuring that the education of individuals and in particular children who are blind, deaf or deaf-blind, provided in the most appropriate languages and methods and means of communication for the individual, and in an environment that maximizes academic and social development. 4. To help ensure the realization of this right, States Parties shall take appropriate measures to recruit teachers, including teachers with disabilities, who are skilled in sign language and/or Braille, and to train professionals and staff working at all levels of education. Such training shall incorporate disability sensitivity and the use of appropriate assistive and alternative methods, media and forms of communication, educational techniques and material to support the 1-3 Kifisias Avenue, 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@dpa.gr / www.dpa.gr 4 PWDs. 5. States Parties shall ensure that persons with disabilities have the opportunity to access general higher education, technical vocational education, adult education and lifelong learning without discrimination and on an equal basis with others. In this regard, States Parties shall ensure the provision of reasonable accommodation to persons with disabilities." 8. Because, with the provisions of Law 3699/2008 on the Special Education and Training of persons with disabilities or with special educational needs (Government Gazette A, 199, 02-10-2008), it is established - according to its introductory report - the mandatory nature of special education and training as an integral part of compulsory and free public education and its minimum duration is determined, in order for the national legislature to comply with the aforementioned provisions of the EU Charter of Fundamental Rights, it is established that the educational process must take place in facilities (school buildings, workshops, educational structures, etc.), which

meet all accessibility conditions (building infrastructure) for people with disabilities, and it is specified that the educational process must provide all possible special facilities (educational staff, special educational material, application of new technologies, research and development of innovative tools, aids, etc.) that are necessary, in order to facilitate the stay, but also the integration of students with disabilities in the general educational process. 9. Because, with articles 59ff. of Law 4488/2017 State pension arrangements and other insurance provisions, strengthening the protection of employees, rights of persons with disabilities and other provisions (Government Gazette A', 137, 13-09-2017), a general framework of regulations is established by implementing provisions of the aforementioned United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention on the Rights of Persons with Disabilities, ratified by the first article of Law 4074/2012, with the aim of removing the obstacles that hinder the full and equal participation of the disabled in the social, economic and political life of the country. 10. Since, in the case at hand, from the information in the file it appears that the competent department (D/nsi...) of the Municipality of Thessaloniki, as data controller, requests the Authority to grant the required by the provisions of article 7 paragraph 2 of Law 2472/1997 permission, in order for the Municipality of Thessaloniki to transmit to the Special Primary School - Kindergarten of the Blind X the requested 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@dpa.gr / www.dpa.gr 5 details of minors with a visual disability, which are kept in its records, for the purpose of their registration at this school, in accordance with the provisions of the relevant provisions of the current legislation, and, in advance, the provisions of Law 3699 /2008 on the Special education and Education of persons with disabilities or with special educational needs, and those of PD 79/2017 on the Organization and operation of kindergartens and elementary schools (Government Gazette A, 109, 01-08-2017), which replaced those of PD 200/1998 on the organization and operation of Kindergartens and PD 201/1998 for the organization and operation of Primary Schools. 11. Because the above requested information from the Special Primary School - Preschool for the Blind X of minors with visual impairments, which are kept in the archives of the Municipality of Thessaloniki, as controller, constitute sensitive personal data of their subjects, as they concern the state of their health, and their processing is governed by the provisions of article 7 of Law 2472/1997, interpreted in accordance with the provisions of the Charter of Fundamental Rights of the European Union, and, in particular, those of article 8, as well as the provisions of article 8 of the aforementioned Directive 95/46/EC. 12. Since, the purpose of processing, which the Special Primary School - Kindergarten for the Blind X puts forward for the transmission by the competent service of the Municipality of Thessaloniki, as controller, of the above requested sensitive data (names and contact

details) of a personal nature of minors with a visual disability, which are kept in its records, consists of their enrollment in this school and the provision of education and training, in accordance with the provisions of the above provisions of articles 16 of the Syn/tos, 1, 3, 14, 21 and 26 of Charter of Fundamental Rights of the EU, 24 of the United Nations Convention 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 Decree 79/2017 on the Organization and Operation of Kindergartens and Primary Schools (which replaced those of Decree 200/1998 on the Organization and Operation of Kindergartens and Primary Schools D 201/1998 on the organization and operation of Primary Schools). 1-3 Kifissias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@dpa.gr / www.dpa.gr 6 13. Because, in the present case, for the fulfillment of the requirements of the aforementioned provisions of Law 3699/2008 on the Special Education and Training of Persons with Disabilities or with Special Educational Needs, of Article 24 of the United Nations Convention on the Rights of Persons with Disabilities (PWD), which was ratified together with the Optional Protocol to this Convention with the first article of Law 4074/2012, and PD 79/2017 on the Organization and operation of kindergartens and primary schools, it is necessary to process sensitive data of persons with disabilities or with special educational needs for the purpose of ensuring special education and education of said persons, as an integral part of compulsory and free public education without discrimination and on an equal basis with others. In order to fulfill this purpose, the aforementioned legislative provisions have provided for the processing of sensitive data of persons with disabilities or with special educational needs, in particular by special education and training units, but the transmission by the local competent public authorities has not been expressly provided for services - such as, in the present case, the Administration of ... of the Municipality of Thessaloniki - of the sensitive personal data of the interested persons with disabilities or with special educational needs, which they keep in their records, in the locally competent school units for special education and training . The provisions of article 1 of KYA C4/F.421/oc. 1143 for the increase of financial aid granted to the blind, etc., which the Special Primary School - Kindergarten for the Blind X invokes for the transfer in question, do not constitute a sufficient legal basis for this transfer, since they merely grant authority to the locally competent agencies of social welfare to check the reasons for non-attendance at school of beneficiaries of blind minors' allowances and to decide to stop the granting of allowances in cases where they consider the reasons for their non-attendance to be insufficient. Subsequently, in the absence of an explicit provision of the law, which provides for the transfer from the locally competent public services - such as those of the Municipality of Thessaloniki - to the locally competent special education and

training units, within the meaning of the above-mentioned provisions, the requested transfer in question of the specific sensitive data (names and contact details) of minors with visual impairments from the competent service of the Municipality of Thessaloniki, as controller, at the Special Primary School - Kindergarten of the Blind X Kifisias Street 1-3, 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@dpa.gr / www.dpa.gr 7 may be based on the written consent of the parents and legal guardians and representatives of the specific minors with a visual disability, in accordance with 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 persons with disabilities or with special educational needs is met in view of the proposed processing purpose for their transmission, in accordance with the provisions of article 4 par. 1 item. (b) of Law 2472/1997. And this, because the specific sensitive data (names and contact details) of minors with visual impairments, which are kept in the archives of the Municipality of Thessaloniki, are necessary and appropriate for the purpose of ensuring the special education and training of the persons in question, as an integral part of compulsory and free public education without discrimination and on an equal basis with others, according to check of the aforementioned provisions of higher formal force of the Syn/tos, of Charter of Fundamental Rights of the EU and the United Nations Convention on the rights of Persons with Disabilities and the provisions of Law 3699/2008, of those articles 59ff. of Law 4488/2017 and those of PD 79/2017.

15. Since, the Municipality of Thessaloniki, as controller, must in accordance with the provisions of article 11 par. 3 of Law 2472/1997, to inform their parents and legal guardians and representatives interested minors with visual disabilities for the transmission of the above their requested sensitive data (names and details communication) of a personal nature in the Special Primary School - Kindergarten Blind X, for the purpose of enrolling them in this school.

The beginning,

FOR THOSE REASONS

1) It provides the Municipality of Thessaloniki, as controller, the permission to forward to the Special Primary School - Kindergarten of the Blind X the above requested sensitive personal data (name and contact details) of minors with visual impairments, which are kept

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in his records, based on the written consent of parents and legal guardians guardians and representatives of these minors as referred to in reasoning of this decision, for the purpose of enrolling them in the school this.

2) The Municipality of Thessaloniki, as controller, is obliged to inform their parents and legal guardians and representatives concerned minors with visual impairments prior to their transmission of the aforementioned sensitive personal data in the Special Primary School - Kindergarten of the Blind X.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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