

Athens, 24-12-2019

Prot. No.: G/EX/50-2/24-12-2019

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 46/2019

(Department)

The Personal Data Protection Authority met in composition

Department at her store on Wednesday 18.12.2019 upon his invitation

Its President, in order to examine the case mentioned in its history

present. Georgios Batzalexis, Deputy President of Koliomenos, was present

of the President of the Authority Constantinos Menoudakos and the alternate members,

Grigorios Tsolias, Evangelos Papakonstantinou and Emmanuel Dimogerontakis as

rapporteur in place of regular members Charalambos Anthopoulos,

Constantinou Lambrinoudakis and Eleni Martsoukou respectively, who, although

were legally summoned in writing but did not attend due to disability. At the meeting

were also present, by order of the President, E. Maragou, specialist scientist -

auditor as assistant lecturer and E. Papageorgopoulou, an employee of the Department

of administrative affairs of the Authority, as secretary.

The Authority took into account the following:

A, a citizen of Armenia

(gen...), me

the with protocol no

A/EIS/50/25.06.2019 her appeal, as supplemented by the application no.

A/EIS/65/11.09.2019 document to the Authority, requested its deletion from the System

Information Schengen (hereafter S.P.S.) and the National List of Unwanted Persons

Foreigners (hereinafter, E.K.A.N.A.).

With its document No. A/EX/50-1/31.10.2019, the Authority invited the Directorate of Foreigners of Attica of the Ministry of Citizen Protection to the inform about the existence of an entry in the above lists.

The Directorate of Foreigners with reference no. ... from ... (the Authority's reference no A/EIS/84/4.12.2018), her document informed the Authority about the details of registration of the foreigner in question by attaching the relevant documents.

As can be seen from the above document from the Directorate of Aliens to the Authority, the applicant A was registered with the E.K.ANA.A. and in S.P.S. on ... until ..., by virtue of the no. ... decision to return to the country of its competent officer Directorate of Aliens of Attica "for reasons of public order and security and in particular because the ... in order to gain entry into the country through the International Airport of Athens, possessed and presented the above passport, on which it was affixed to page -08- the no ... fake consular Schengen entry visa the forgery of which consists in the falsification of the expiry date in terms of the month and the year".

Subsequently, on ... the applicant testified before the Directorate of Aliens Attica deletion request from E.K.AN.A. and the SPS. With the first number ... by ... decision of the Director of the Directorate of Aliens of Attica, it was decided rejection of said request "because the duration time has not expired registration. Also, until today the said foreigner has not filed evidence for the removal of the reasons for registration, which are still Apply...".

On ... the competent agency checked the administrative registration measure and with the decision of its competent officer with reference no Directorate of Foreigners of Attica, it was decided "to maintain the registration in the National List of Unwanted Aliens and in the Schengen Information System until

its expiration, i.e. onsince the reasons for which it had are still valid

registered".

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The Authority, after examining the aforementioned data, heard the rapporteur

and the clarifications from the assistant rapporteur and after a thorough discussion,

CONSIDERED ACCORDING TO THE LAW

1.

Because, the art. 24 of Regulation 1987/2006 in accordance with

provisions of the previous article 96 SESS regulates the registration conditions

third country nationals in the Schengen Information System (SIS II). Also in the article

29 par. 2 and 4 provides that to maintain the registration in SIS II for

a longer period of time, timely existence within the three-year period is deemed necessary

specially reasoned decision of the organ deciding the registration, which to

justifies the need to maintain it beyond three years. The competent body

decides after a recorded overall and individual assessment the

need to maintain it otherwise, the registration is automatically deleted (par. 5

Regulation). Moreover, from the provisions of articles 41, 43, 44 of the aforementioned Regulation

in conjunction with the provision of article 10 par. 4 of Law 4624/2019, it is concluded that the

Authority is competent to examine, following the subject's appeal, the legality

of its entry in the list of S.P.S. (SIS II), according to the above

provisions issued by the Authority responsible for the registration, of the decision on the

the need to maintain it beyond the time mentioned in the above provisions and

if the above conditions of the registration and the

of its maintenance, to order the deletion.

2. Because, article 1 and article 3 of KYA4000/4/32-la'/17.10.2012, as

this was replaced and applies with article 1 par. 2 of KYA4000/4/32-n

/31.03.2017, provide respectively the conditions for registration of foreigners in

I DID. and the ex officio review of each registration every three years.

In addition, according to art. 6 of the above KYA, for compliance with the E.K.A.N.A.A. and

the processing of the corresponding personal data apply the

relevant provisions of Law 2472/1997 and in particular of Art. 4 and 13 thereof, while the article

83 of Law 4624/2019 stipulates that "where in provisions of the existing legislation

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reference to Law 2472/1997 is understood as a reference to the relevant provisions of the GDPR and present".

3. Because, from the combined interpretation of the above and article 76 par. 1

item a' of Law 3386/2005 it follows that "serious criminal acts" are understood not

only those that carry a penalty of imprisonment of at least one year

but also those expressly listed in the provision of article 76 par. 1 item. a' of

above law. In particular, "serious criminal acts" are also understood as

crimes of forgery and use of forged documents (Authority Gazette no.

3/2012).

4. Because, for the legality of registration both in case of conviction and

and in the event of the existence of nuanced indications of the commission of a "serious crime

deed", from the above mentioned, the body responsible for the registration will

must take into account and take into account all the circumstances in its decision

execution of the criminal act and to deliver a specially reasoned judgment on it

"threat" constituted by the presence of a foreigner on national territory (see

previous thought).

5. In the case under consideration, from the information in the file and the

clarifications from the Directorate of Aliens of Attica, it emerged that the applicant A registered with E.K.A.N.A. and in S.P.S. for reasons of public order and of security on ... until ..., on the basis of Decision No. ... of the competent authority officer of the Directorate of Aliens of Attica.

From the registration of the foreigner in question in E.K.A.N.A. and in S.P.S. three years have passed and the ... by ... decision of the competent officer has been issued of the Directorate of Aliens of Attica, by which it was reviewed, according to defined in paragraph 3 par.1 of art. 3 of no. K.Y.A. 4000/4/32-Ia and the registration of the above in the S.P.S. was maintained. and to E.K.A.N.A. until ..., since the original reasons for registration were deemed to still apply.

Consequently, in accordance with the aforementioned provisions, its registration applicant in the S.P.S. and E.K.A.N.A. it is legal, as it was registered in the above lists for reasons of public order and security, before

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and after three years from the initial registration, it was decided to maintain it of its registration both in the S.P.S and in the E.K.A.N.A.

Consequently, her appeal must be dismissed as unfounded.

For those reasons

The Authority rejects A's appeal for the deletion of her data from the S.P.S. and E.K.A.N.A.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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