

Athens, 05-24-2018

PRINCIPLE OF DATA PROTECTION
OF A PERSONAL CHARACTER

Prot. No.: G/EX/3993/24-05-2018

A P O F A S H 46/2018

The Personal Data Protection Authority met in composition

Plenary meeting at its store on 22-05-2018 following the invitation of its President,

in order to examine emerging issues of applicable law during

transitional period until the publication of the national law. K. were present.

Menoudakos, President, who also acted as rapporteur, A. Symvonis, S.

Vlachopoulos, K. Lamprinoudakis, X. Anthopoulos, regular members, and Em.

Dimogerontakis, substitute member, replacing regular member E.

Martsoukou, who, although summoned only in writing, did not attend due to obstruction.

Present at the meeting, without the right to vote, were E. I. Tsakirdou, F.

Karvela and G. Panagopoulou, specialist scientists, who left after the

discussion and before the conference and decision-making, and the E.

Papageorgopoulou, employee

secretary.

of the Department of Administrative Affairs, as

The Authority considered issues of applicable law during the transitional period until

the publication of the national law, such as the Authority's authority to grant permits

in cases not imposed by the General Regulation on Protection a

Data.

The Authority, after hearing the rapporteur and the expert scientists, the following

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withdrew after discussion and before conference and decision-making, and

after thorough discussion,

SEVENTH ACCORDING TO THE LAW

1. According to recitals 89, 90, 91 and 171 of the GDPR:

"(89) Directive 95/46/E provided for a general notification obligation

processing of personal data to the supervisory authorities. Although the

this obligation implies an administrative and financial burden, it did not contribute to all

cases in improving the protection of personal data.

Therefore,

general

liabilities

notification

such

kind of

without

variations, should be removed and replaced with

effective processes and mechanisms that focus on them

the types of processing operations that may result in high

risk to the rights and freedoms of natural persons because of it

their nature, scope, context and purposes. These things

Our processing operations may include, for example, the use of

of new technologies or of a new type and when it has not been carried out previously

data protection impact assessment by the controller

processing or when they become necessary due to the time that has passed since

initial processing a.'

"(90) In these cases, the controller, before the

processing, should carry out an impact assessment regarding it data protection, in order to assess the particular possibility and severity of the high risk, taking into account the nature, extent, context and the purposes of the processing and the sources of the risk. The one in question impact assessment should include, i.e., the measures envisaged, guarantees and mechanisms that mitigate this risk, ensure it protection of personal data and demonstrate compliance for this regulation."

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"(91) This should apply in particular to large-scale processing operations which aim to process a significant amount of personal data at a regional, national or supranational level, which they could influence large number of data subjects and those who are likely to have as high risk result, for example due to their sensitivity, when according to the existing levels of technological knowledge a new one is used technologically on a wide scale, as well as for other processing operations such as result in a high risk to their rights and freedoms data subjects, i.e. when these actions make it difficult to exercise them rights of data subjects. It should also be carried out data protection impact assessment when the data of a personal nature are subject to processing in view of decision-making relationship with specific natural persons after systematic and extensive assessment of personal aspects concerning natural persons and based on preparation of profiles based on said data or after processing specific categories of personal data, biometric data

or data concerning criminal convictions and offenses or related measures security. A data protection impact assessment is required also for monitoring publicly accessible spaces on a large scale, n as when using opto-electronic devices or for any others works whenever the competent supervisory authority considers that the processing may have resulting in a high risk for the rights and freedoms of their subjects of data, namely because it prevents data subjects from exercising any rights or to use a service or contract or because they are systematically in large kl maca. The processing of personal data does not should be considered to be of a large scale if the processing concerns data personal data of patients or clients of a private doctor, another professional field of health or lawyer. In these cases, its impact assessment data protection should not be mandatory."

"(171) Directive 95/46/EC should be repealed by this Regulation.

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Processing that is already in progress on the date of its application of this regulation you must comply with this regulation within two years from the entry into force of this regulation. When processing is based on consent under Directive 95/46/EC, no new consent is required subject of the data, if the way in which the consent has been given is yes in accordance with the terms of this regulation, in this case the person in charge processing to continue processing after its implementation date of this regulation. Commission decisions and supervisory approvals principles issued under Directive 95/46/E remain in force until modifying, replacing or abolishing them."

According to article 9 par. 4 of the GDPR "Member States may maintain or to impose further conditions, including restrictions, with respect to it processing of genetic data, biometric data or data that concern health."

Besides, with article 7 of Law 2472/1997, the issuance of a license by the Authority is foreseen for the processing of sensitive personal data according to this law as well and for the creation and operation of a relevant archive.

2. The General Data Protection Regulation, which is implemented from 25.05.2018, abolished the general obligation to disclose our processing of personal data to the supervisory authorities provided for by Guide a 95/46/EC. The authorization is provided to the member states, in the framework of the more specialized ones of national regulations that are allowed to be introduced for the implementation of the GDPR, to maintain or impose further conditions, including limitations, only regarding the processing of genetic data, biometric data or data concerning health a.

It follows from the above provisions of the GDPR that it is provided to the national legislature the power to enact or maintain already provided for further conditions for the processing of data that are limitedly mentioned in par. 4 of the article 9 thereof, these conditions may also include the obligation to receive

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permission from the Authority for the processing of these data. The fluency, however, this, both for the establishment of new and for the maintenance of existing conditions, must exercise within the framework of the system introduced by the GDPR, in accordance with the no licensing is provided for the above processing a. Following these, and since the national law has not been issued, the one according to the above will

could foresee, among other things, the issuance of a license as a condition thereof processing the categories of data referred to in article 9 par. 4 of the GDPR, the provisions of article 7 of Law 2472/1997, as far as they provide for the license of Authority no longer apply from 25.05.2018 as opposed to the GDPR, which has direct application, given, indeed, that the categories of data, such as refers to this article of the national law, they are not the same as those mentioned in article 9 par. 4 of the GDPR. Therefore, the Authority no longer has jurisdiction granting licenses for the processing and for the logging and operation of documents based on Article 7 of Law 2472/1997.

This also applies to the applications that are pending with the Authority on above date, the acceptance of which would, after all, be useless, since the authorization from the Authority was not a condition of our processing.

FOR THOSE REASONS

The Authority unanimously decides that

1. It no longer has the authority to grant the licenses of article 7 of the law. 2472/1997.
2. Any pending applications will not be considered and will be placed on file.

The president

The Secretary

Constantinos Menoudakos

Irini Papageorgopoulou

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