

## **Law 2472/1997**

### **on the Protection of Individuals with regard to the Processing of Personal Data**

(as amended)

#### **CHAPTER A**

#### **GENERAL PROVISIONS**

##### **Article 1**

##### **Object**

The object of this law is to establish the terms and conditions under which the processing of personal data is to be carried out so as to protect the fundamental rights and freedoms of natural persons and in particular their right to privacy.

##### **Article 2**

##### **Definitions**

For the purposes of this law:

- a) "Personal data" shall mean any information relating to the data subject. Personal data are not considered to be the consolidated data of a statistical nature whence data subjects may no longer be identified.
- b) "Sensitive data" shall mean the data referring to racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health, social welfare and sexual life, criminal charges or convictions as well as membership to societies dealing with the aforementioned areas.

In particular, in cases of criminal charges or convictions, it is possible to allow their publication by the Public Prosecutor's Office for the offences referred to in item b, paragraph 2 of Article 3 following an order by the competent Public Prosecutor of the Court of First Instance or the chief Public Prosecutor if the case is pending before the Court of Appeal. The publication of criminal charges or convictions aims at the protection of the community, of minors and of vulnerable or disadvantaged groups, as well as at the facilitation of the punishment of those offences by the State.<sup>1</sup>

- c) "Data Subject" shall mean any natural person to whom such data refer and whose identity is known or may be found, i.e., his/her identity may be determined directly or indirectly, in particular by reference to an identity card number or to one or more factors specific to his/her physical, physiological, mental, economic, cultural, political or social identity.
- d) "Processing of personal data" ("processing") shall mean any operation or set of operations which is performed upon personal data by Public Administration or by a public law entity or private law entity or an association or a natural person, whether or not by automatic means, such as collection, recording, organisation, preservation or storage, alteration, retrieval, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, interconnection, blocking (locking), erasure or destruction.

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<sup>1</sup> Case (b) of article 2, as was replaced by article 18 par. 1 of Law 3471/2006 (Official Gazette 133A/2006) and amended pursuant to article 8 par. 3 of Law 3625/2007 (Official Gazette 290A/2007) and then replaced as above by article 79 of Law 4139/2013 (Official Gazette 74A/2013).

- e) "Personal Data File" ("File") shall mean any structured set of personal data which are accessible on the basis of specific criteria.<sup>2</sup>
- f) "Interconnection" shall mean a means of processing consisting in the possibility of co-relating the data from a file to the data from a file or files kept by another Controller or Controllers or with data from a file or files kept by the same Controller for another purpose.
- g) "Controller" shall mean any person who determines the purposes and means of the processing of personal data, such as any natural or legal person, public authority or agency or any other organisation. Where the purposes and means of processing are determined by national or Community laws or regulations, the Controller or the specific criteria for his/her nomination shall be designated by national or Community law.
- h) "Processor" shall mean any person who processes personal data on behalf of a Controller, such as any natural or legal person, public authority or agency or any other organisation.
- i) "Third party" shall mean any natural or legal person, public authority or agency or any other body other than the data subject, the Controller and the persons authorised to process the data, provided that they act under the direct supervision or on behalf of the Controller.
- j) "Recipient" shall mean any natural or legal person, public authority or agency or any other organisation to whom data are disclosed or transmitted, whether a third party or not.
- k) "The Data Subject's Consent" shall mean any freely given, explicit and specific indication of will, whereby the data subject expressly and fully cognisant signifies his/her informed agreement to personal data relating to him being processed. Such information shall include at least information as to the purpose of processing, the data or data categories being processed, the recipient or categories of recipients of personal data as well as the name, trade name and address of the Controller and his/her representative, if any. Such consent may be revoked at any time without retroactive effect.
- l) "Authority" shall mean the Authority for the Protection of Personal Data, which is established pursuant to Chapter D of this law.

### **Article 3**

#### **Scope**

1. The provisions of this law shall apply to the processing, in whole or in part, by automatic means as well as to the processing by non-automatic means, of personal data which form part of a file or are intended to form part of a file.
2. The provisions of this law shall not apply to the processing of personal data, which is carried out:
  - a) by a natural person in the course of a purely personal or household activity.
  - b) by judicial-public prosecution authorities and authorities which act under their supervision in the framework of attributing justice or for their proper operation needs with the aim of verifying crimes which are punished as felonies or misdemeanours with intent, and especially with the aim of verifying crimes against life, against sexual freedom, crimes involving the economic exploitation of sexual life, crimes against personal freedom, against property, against the right to property, violations of legislation regarding drugs, plotting against public order, as well as crimes against minors.

With regard to the above, the current essential and procedural penal provisions shall apply. In cases where

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<sup>2</sup> Point (e) was amended as above pursuant to article 18 par. 2 of Law 3471/2006 (Official Gazette 133A/2006).

citizens exercise their right to assemble, in accordance with Article 11 of the Constitution, the simple operation of sound or image recording devices or other technical means is allowed with a view to recording, subject to the conditions mentioned below. The recording of sound or image using special technical devices with a view to verifying the perpetration of crimes mentioned above shall only be allowed following an order by a Public Prosecutor representative and provided a serious danger to the public order and security is imminent. The aim of such a recording shall solely be to use the data to verify the perpetration of crimes as evidence in front of any public investigative authority, prosecution authority or court of law. The processing of data which are not necessary for the verification of crimes shall be prohibited, while the recordings shall be destroyed following an order by the Public Prosecutor.<sup>3</sup>

- c) by a public authority using special technical devices for the recording of sound or image in public areas with the aim of safeguarding the security of the state, national defense, public security, the protection of persons and property, the management of traffic for which they are competent. The material collected through the above mentioned devices (as long as it does not fall under point b of the present article) is stored for a period of seven (7) days, after which it is destroyed by the order of the public prosecution authority. Any breach of the above provisions shall be punished by imprisonment for a period of at least one year, a stricter punishment is provided for it in some other law.<sup>4</sup>

3. The present law shall apply to any processing of personal data, provided that such processing is carried out:

- a) by a Controller or a Processor established in Greek Territory or in a place where Greek law applies by virtue of public international law.
- b) by a Controller who is not established in the territory of a member-state of the European Union or of a member of the European Economic Area (EEA) but in a third country and who, for the purposes of processing personal data, makes use of equipment, automated or otherwise, situated on the Greek territory, unless such equipment is used only for purposes of transit through such territory. In this case, the Controller must designate in writing, by a statement addressed to the Authority, a representative established in the Greek territory, who will substitute the Controller to all the Controller's rights and duties, without prejudice to any liability the latter may be subject to. The same shall also apply when the Controller is subject to extritoriality, immunity or any other reason inhibiting criminal prosecution.<sup>5</sup>

## **CHAPTER B**

### **PROCESSING OF PERSONAL DATA**

#### **Article 4**

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<sup>3</sup> Point (b) of article 3 par. 2 was added by virtue of article eighth par.1 of Law 3625/2007 (Official Gazette 290A/2007).

ATTENTION: The three last passages of this point shall be abolished pursuant to article 14 par. 6 of Law 3917/2011 (Official Gazette 22A/2011), as this was amended by article 71 of Law 3994/2011 (Official Gazette 165A/2011), as soon as the presidential decree provided for in article 14 par. 4 of Law 3917/2011 enters into force.

<sup>4</sup> Point (c) of par. 2 of article 3, as this was added by article 12 par. 1 of Law 3783/2009 (Official Gazette 136A/2009), shall be abolished by article 14 par. 6 of Law 3917/2011 (Official Gazette 22A/2011), as this was amended by article 71 of Law 3994/2011 (Official Gazette 165A/2011), as soon as the presidential decree provided for in article 14 par. 4 of Law 3917/2011 enters into force.

<sup>5</sup> Former point (c) of par. 3 of the present article was renumbered and is now point (b) after the abolition of former point (b) pursuant to article 19 par. 1 of Law 3471/2006 (Official Gazette 133A/2006). Furthermore, the first passage under new point (b) (former point c) was amended as above pursuant to article 19 par. 2 of the same Law.

## **Characteristics of personal data**

1. Personal data, in order to be lawfully processed, must be:

- a) collected fairly and lawfully for specific, explicit and legitimate purposes and fairly and lawfully processed in view of such purposes.
- b) adequate, relevant and not excessive in relation to the purposes for which they are processed at any given time.
- c) accurate and, where necessary, kept up to date.
- d) kept in a form which permits identification of data subjects for no longer than the period required, according to the Authority, for the purposes for which such data were collected or processed. Once this period of time is lapsed, the Authority may, by means of a reasoned decision, allow the maintenance of personal data for historical, scientific or statistical purposes, provided that it considers that the rights of the data subjects or even third parties are not violated in any given case.<sup>6</sup>

2. It shall be for the Controller to ensure compliance with the provisions of the previous paragraph. Personal data, which have been collected or are being processed in breach of the previous paragraph, shall be destroyed, such destruction being the Controller's responsibility. The Authority, once such a breach is established, either *ex officio* or upon submission of a relevant complaint, shall order any such collection or processing ceased and the destruction of the personal data already collected or processed.<sup>7</sup>

## **Article 5**

### **Conditions of processing**

1) Processing of personal data will be permitted only when the data subject has given his/her consent.

2) Exceptionally, data may be processed even without such consent, only if:

- a) processing is necessary for the execution of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.
- b) processing is necessary for the compliance with a legal obligation to which the Controller is subject.
- c) processing is necessary in order to protect the vital interests of the data subject, if s/he is physically or legally incapable of giving his/her consent.
- d) processing is necessary for the performance of a task carried out in the public interest or a project carried out in the exercise of public function by a public authority or assigned by it to the Controller or a third party to whom such data are communicated.
- e) processing is absolutely necessary for the purposes of a legitimate interest pursued by the Controller or a third party or third parties to whom the data are communicated and on condition that such a legitimate interest evidently prevails over the rights and interests of the persons to whom the data refer and that their fundamental freedoms are not affected.

3. The Authority may issue special data processing rules for the more usual categories of data processing and files, which do not evidently affect the rights and freedoms of the persons to whom such data refer. These categories will be specified

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<sup>6</sup> Former last passage of point (d) was abolished by article 20 par. 1 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>7</sup> The first passage was replaced as above by article 20 par. 2 of Law 3471/2006 (Official Gazette 133A/2006).

by regulations enacted by the Authority and ratified by Presidential Decrees, issued upon a proposal by the Minister of Justice.

## **Article 6**

### **Notification**

1. The Controller must notify the Authority in writing about the establishment and operation of a file or the commencement of data processing.
2. In the course of the aforementioned notification, the Controller must necessarily declare the following:
  - a) his/her name, trade name or distinctive title, as well as his/her address.<sup>8</sup>
  - b) the address where the file or the main hardware supporting the data processing are established.
  - c) the description of the purpose of the processing of personal data included or about to be included in the file.
  - d) the category of personal data that are being processed or about to be processed or included or about to be included in the file.
  - e) the time period during which s/he intends to carry out data processing or preserve the file.
  - f) the recipients or the categories of recipients to whom such personal data are or may be communicated.
  - g) any transfer and the purpose of such transfer of personal data to third countries.
  - h) the basic characteristics of the system and the safety measures taken for the protection of the file or data processing.<sup>9</sup>
3. The data referred to in the preceding paragraph will be registered with the Files and Data Processing Register kept by the Authority.
4. Any modification of the data referred to in paragraph 2 must be communicated in writing and without any undue delay by the Controller to the Authority.

## **Article 7**

### **Processing of sensitive data**

1. The collection and processing of sensitive data is prohibited.
2. Exceptionally, the collection and processing of sensitive data, as well as the establishment and operation of the relevant file, will be permitted by the Authority<sup>10</sup>, when one or more of the following conditions occur:
  - a) The data subject has given his/her written consent, unless such consent has been extracted in a manner contrary to the law or *bonos mores* or if law provides that any consent given may not lift the relevant prohibition.
  - b) Processing is necessary to protect the vital interests of the data subject or the interests provided for by the law of a third party, if s/he is physically or legally incapable of giving his/her consent<sup>11</sup>.
  - c) Processing relates to data made public by the data subject or is necessary for the recognition, exercise or defence

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<sup>8</sup> Point (a) was replaced as above according to par. 1 of article 8 of Law 2819/2000 (Official Gazette 84A/2000) whilst former second passage of point (a) was abolished pursuant to article 21 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>9</sup> Former point (i) was abolished according to par. 2 of article 8 of Law 2819/2000 (Official Gazette 84A/2000).

<sup>10</sup> For permit fees see DPA's Regulatory Act No. 121/2001 (Official Gazette 1345B/2001).

<sup>11</sup> Point (b) was amended as above pursuant to article 22 par. 1 of Law 3471/2006 (Official Gazette 133A/2006).

of rights in a court of justice or before a disciplinary body.<sup>12</sup>

- d) Processing relates to health matters and is carried out by a health professional subject to the obligation of professional secrecy or relevant codes of conduct, provided that such processing is necessary for the purposes of preventive medicine, medical diagnosis, the provision of care or treatment or the management of health-care services.
- e) Processing is carried out by a Public Authority and is necessary for the purposes of aa) national security, bb) criminal or correctional policy and pertains to the detection of offences, criminal convictions or security measures, cc) protection of public health or dd) the exercise of public control on fiscal or social services.<sup>13</sup>
- f) Processing is carried out exclusively for research and scientific purposes provided that anonymity is maintained and all necessary measures for the protection of the persons involved are taken.
- g) Processing concerns data pertaining to public figures, provided that such data are in connection with the holding of public office or the management of third parties' interests, and is carried out solely for journalistic purposes. The Authority may grant a permit only if such processing is absolutely necessary in order to ensure the right to information on matters of public interest, as well as within the framework of literary expression and provided that the right to protection of private and family life is not violated in any way whatsoever.

3. The Authority shall grant a permit for the collection and processing of sensitive data, as well as a permit for the establishment and operation of the relevant file, upon request of the Controller. Should the Authority ascertain that processing of sensitive data is carried out, the notification of the existence of such a file pursuant to article 6 of this law is considered to be a request for a permit. The Authority may impose terms and conditions for a more effective protection of the data subjects' or third parties' right to privacy.<sup>14</sup>

4. The permit will be issued for a specific period of time, depending on the purpose of the data processing. It may be renewed upon request of the Controller.

5. The permit shall necessarily contain the following:

- a) The full name or trade name or distinctive title, as well as the address, of the Controller and his/her representative, if any.
- b) The address of the place where the file is established.
- c) The categories of personal data which are allowed to be included in the file.
- d) The time period for which the permit is granted.
- e) The terms and conditions, if any, imposed by the Authority for the establishment and operation of the file.
- f) The obligation to disclose the recipient or recipients as soon as they are identified.

6. A copy of the permit shall be registered with the Permits Register kept by the Authority.

7. Any change in the data referred to in paragraph 5 shall be communicated without undue delay to the Authority. Any change other than a change of address of the Controller or his/her representative shall entail the issuance of a new permit, provided that the terms and conditions stipulated by law are fulfilled.

#### **Article 7a<sup>15</sup>**

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<sup>12</sup> Point (c), which had been replaced with par. 3 of article 8 of Law 2819/2000 (Official Gazette 84A/2000), was replaced as above with par. 1 of article 34 of Law 2915/2001 (Official Gazette 109A/2001).

<sup>13</sup> Point (e) was replaced as above with par. 2 of article 34 of Law 2915/2001 (Official Gazette 109A/2001). Sub-point (cc) was replaced as above and point (dd) was added with par. 4 of article 26 of Law 3156/2003 (Official Gazette 157A/2003).

<sup>14</sup> Par. 3 was amended pursuant to par. 2 of article 22 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>15</sup> Article 7a was added pursuant to article 8 paragraph 4 of Law 2819/2000 (Official Gazette 84A/2000).

### **Exemption from the obligation to notify and receive a permit**

1. The Controller is exempted from the obligation of notification, according to article 6, and the obligation to receive a permit, according to article 7 of the present Law in the following cases:
- a. When the processing is carried out exclusively for purposes relating directly to an employment or project relationship or to the provision of services to the public sector and is necessary for the fulfilment of an obligation imposed by law or for the accomplishment of obligations arising from the aforementioned relationships, and upon prior announcement to the data subject.<sup>16</sup>
  - b. When the processing involves clients' or suppliers' personal data, provided that such data are neither transferred nor disclosed to third parties. In order that this provision may be applied courts of justice and public authorities are not considered to be third parties, provided that such a transfer or disclosure is imposed by law or a judicial decision. Insurance companies, for all types of insurance, pharmaceutical companies, companies whose main activities involve trading of data, credit and financial institutions, such as banks and institutions issuing credit cards are not exempted from the obligation of notification.
  - c. When the processing is carried out by societies, enterprises, associations and political parties and relates to personal data of their members or companies, provided that the latter have given their consent and that such data are neither transferred nor disclosed to third parties. Members and partners are not considered to be third parties, provided that said transfer is carried out among said members and partners for the purposes of the aforementioned legal entities or associations. Courts of justice and public authorities are not considered to be third parties, provided that such a transfer is imposed by law or a judicial decision.
  - d. When the processing involves medical data and is carried out by doctors or other persons rendering medical services, provided that the Controller is bound by medical confidentiality or other obligation of professional secrecy, provided for in Law or code of practice, and data are neither transferred nor disclosed to third parties.<sup>17</sup> In order for this provision to be applied, courts of justice and public authorities are not considered to be third parties, provided that such a transfer or disclosure is imposed by law or judicial decision. Legal entities or organisations rendering health care services, such as clinics, hospitals, medical centres, recovery and detoxication centres, insurance funds and insurance companies, as well as Controllers processing personal data within the framework of programmes of telemedicine or provision of health care services via Internet.
  - e. When the processing is carried out by lawyers, notaries, land registrars and bailiffs or companies formed by the aforementioned and involves the provision of legal services to their clients, provided that the Controller and the members of the companies are bound by an obligation of confidentiality imposed by Law and that data are neither transferred nor disclosed to third parties, except for those cases where this is necessary and is directly related to the fulfilment of a client's mandate.<sup>18</sup>
  - f. When the processing is carried out by judicial authorities or services, with the exception of the authorities referred to under passage b of paragraph 2 of article 3, in the framework of attributing justice or for their proper operation needs. The same applies for the Inspectors-Controllers Body for Public Administration (I.C.B.P.A) for the fulfilment

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<sup>16</sup> Point (a) was replaced as above according to article 34 paragraph 3 of Law 2915/2001(Official Gazette109A/2001).

<sup>17</sup> The first passage of point (d) was replaced as above according to paragraph 1 of article 23 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>18</sup> Point (e) was amended as above pursuant to paragraph 2 of article 23 of Law 3471/2006 (Official Gazette 133A/2006).

of its obligations imposed by the law.<sup>19</sup>

2. In every case of paragraph 1 of the present article, the Controller is subject to all obligations specified by the present law and is obliged to conform with any special processing rules issued by the Authority pursuant to article 5 paragraph 3 of the present law.

3. The deadlines referred to in paragraphs 1, 2 and 3 of article 24 of Law 2472/1997 are prolonged until January 21<sup>st</sup> 2001.

## **Article 8**

### **Interconnection of files**

1. Interconnection of files is permitted only according to the terms and conditions set out in this article.

2. Every interconnection will be communicated to the Authority by means of a declaration jointly submitted by the Controllers or the Controller who interconnects two or more files serving different purposes.

3. If at least one of the files about to be interconnected contains sensitive data or if the interconnection results to the disclosure of sensitive data or if for the implementation of the interconnection a uniform code number is to be used, such an interconnection will be permitted only following a prior permit by the Authority (interconnection permit).

4. The interconnection permit referred to in the preceding paragraph may be granted upon a prior hearing of the Controllers of such files and shall necessarily include the following:

- a. The purpose for which the interconnection is deemed necessary.
- b. The categories of personal data to which the interconnection refers.
- c. The time period for which the interconnection is permitted.
- d. The terms and conditions, if any, for the more effective protection of the rights and freedoms and, in particular, of the right to privacy of the data subjects or third parties.

5. The interconnection permit may be renewed upon request of the Controllers.

6. The declarations referred to in paragraph 2 of this article, as well as any copies of the interconnection permits, shall be registered with the Interconnections Register kept by the Authority.

## **Article 9**

### **Transboundary flow of personal data**

1. The transfer of personal data is permitted:

- a) for member-states of the European Union,
- b) for a non-member of the European Union following a permit granted by the Authority if it deems that the country in question guarantees an adequate level of protection. For this purpose it shall particularly take into account the nature of the data, the purpose and the duration of the processing, the relevant general and specific rules of law, the codes of conduct, the security measures for the protection of personal data, as well as the protection level in the countries of origin, transit and final destination of the data. A permit by the Authority is not required if the European Commission has

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<sup>19</sup> The last passage of case (f), which was added by article 10 of Law 3090/2002 (Official Gazette 329A/2002) and was supplemented as above pursuant to paragraph 2 of article 8 of Law 3625/2007 (Official Gazette 290A/2007) was added by subparagraph (F) 11 point 2 of paragraph (F) of article 1 of Law 4152/2013 (Official Gazette 107A/2013).



decided, on the basis of the process of article 31, paragraph 2 of Directive 95/46/EC of the Parliament and the Council of 24 October 1995, that the country in question guarantees an adequate level of protection, in the sense of article 25 of the aforementioned Directive<sup>20</sup>.

2. The transfer of personal data to a state non member of the European Union which does not ensure an adequate level of protection is exceptionally allowed only following a permit granted by the Authority, provided that one or more of the following conditions occur:

- a. The data subject has consented to such transfer, unless such consent has been extracted in a manner contrary to the law or *bonos mores*.
- b. The transfer is necessary:
  - i) in order to protect the vital interests of the data subject, provided s/he is physically or legally incapable of giving his/her consent, or
  - ii) for the conclusion and performance of a contract between the data subject and the Controller or between the Controller and a third party in the interest of the data subject, if s/he is incapable of giving his/her consent, or
  - iii) for the implementation of precontractual measures taken in response to the data subject's request.<sup>21</sup>
- c) The transfer is necessary in order to address an exceptional need and safeguard a superior public interest, especially for the performance of a co-operation agreement with the public authorities of the other country, provided that the Controller provides adequate safeguards with respect to the protection of privacy and fundamental liberties and the exercise of the corresponding rights.
- d) The transfer is necessary for the establishment, exercise or defence of a right in court.
- e) The transfer is made from a public register which by law is intended to provide information to the public and which is accessible by the public or by any person who can demonstrate legitimate interest, provided that the conditions set out by law for access to such register are in each particular case fulfilled.
- f) The Controller shall provide adequate safeguards with respect to the protection of the data subjects' personal data and the exercise of their rights, when the safeguards arise from conventional clauses which are in accordance with the regulations of the present law. A permit is not required if the European Commission has decided, on the basis of article 26, paragraph 4 of Directive 95/46/EC, that certain conventional clauses offer adequate safeguards for the protection of personal data.<sup>22</sup>

3. In the cases referred to in the preceding paragraphs, the Authority shall inform the European Commission and the respective Authorities of the other member-states a) when it considers that a specific state does not ensure an adequate protection level and b) for the permits granted pursuant to paragraph 2, point f.<sup>23</sup>

## **Article 10**

### **Confidentiality and security of processing**

1. The processing of personal data shall be confidential. It shall be carried out solely and exclusively by persons acting

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<sup>20</sup> Paragraph 1 was replaced as above pursuant to article 24 par. 1 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>21</sup> Case (ii) of point (b) was replaced as above pursuant to article 24 paragraph 2 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>22</sup> Point (f) was added as above pursuant to article 24 par. 3 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>23</sup> Paragraph 3 was replaced as above pursuant to article 24 paragraph 4 of Law 3471/2006 (Official Gazette 133A/2006).

under the authority of the Controller or the Processor and upon his/her instructions.

2. In order to carry out data processing the Controller must choose persons with corresponding professional qualifications providing sufficient guarantees in respect of technical expertise and personal integrity to ensure such confidentiality.

3. The Controller must implement appropriate organisational and technical measures to secure data and protect them against accidental or unlawful destruction, accidental loss, alteration, unauthorised disclosure or access as well as any other form of unlawful processing. Such measures must ensure a level of security appropriate to the risks presented by processing and the nature of the data subject to processing. Without prejudice to other provisions, the Authority shall offer instructions and issue regulations in accordance with article 19 paragraph 1 k involving the level of security of data and of the computer and information infrastructure, the security measures that are required for each category and processing of data as well as the use of privacy-enhancing technologies.<sup>24</sup>

4. If the data processing is carried out on behalf of the Controller, by a person not dependent upon him, the relevant assignment must necessarily be in writing. Such assignment must necessarily provide that the Processor carries out such data processing only on instructions from the Controller and that all other obligations arising from this article shall *mutatis mutandis* be borne by him.

## **CHAPTER C**

### **THE DATA SUBJECT'S RIGHTS**

#### **Article 11**

#### **Right to information**

1. The Controller must, during the stage of collection of personal data, inform<sup>25</sup> the data subject in an appropriate and express manner of the following data:

- a) his/her identity and the identity of his/her representative, if any,
- b) the purpose of data processing,
- c) the recipients or the categories of recipients of such data,
- d) the existence of a right to access.

2. If the Controller, in order to collect personal data, requests the data subject's assistance, s/he must inform him specifically and in writing of the data referred to in paragraph 1 of this article as well as of his/her rights according to articles 11-13 of this law. By means of such notification the Controller shall also inform the data subject whether s/he is obliged to assist in the collection of data, on the basis of which provisions, as well as of any sanctions resulting from his/her failure to co-operate.

3. If the data are to be disclosed to third parties, the data subject will be kept informed of such disclosure before it is effected.

4. By virtue of a decision by the Authority, the obligation to inform, pursuant to paragraphs 1 and 3, may be lifted in whole or in part, provided that data processing is carried out for reasons of national security or for the detection of particularly serious crimes. In a state of emergency said obligation may be lifted by way of a provisional, immediately enforceable judgement by the President, who shall convene as soon as possible the Board in order that a final judgement

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<sup>24</sup> Passage (3) of paragraph 3 was amended as above pursuant to article 25 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>25</sup> For the Controller's obligation to inform the data subject, see the DPA's Regulatory Act No 1/1999 (Official Gazette 555B/1999).

on the matter may be issued.<sup>26</sup>

5. Without prejudice to the rights arising from paragraphs 12 and 13, the right to inform does not exist when such collection is carried out solely for journalistic purposes and refers to public figures.

6. Specifically, data files processed by the Ministry of Finance or the Ministry of Labour and Social Security concerning non-satisfaction of payment of taxes, duties and social security contributions, and in case these files are to be published for reasons of public interest and include data for over a thousand (1.000) of natural persons, data subjects may, according to par. 3, be informed by public announcements, through the media and the internet, by which data subjects shall be invited to fulfil their obligations within a deadline set in said invitation but not before the lapse of eight (8) days from the aforementioned public announcement.<sup>27</sup>

## **Article 12**

### **Right to access**

1. Everyone is entitled to know whether personal data relating to him are being processed or have been processed. As to this the Controller must answer in writing.

2. The data subject shall be entitled to request and obtain from the Controller, without undue delay and in an intelligible and express manner, the following information:

- a) All the personal data relating to him as well as their source.
- b) The purposes of data processing, the recipient or the categories of recipients.
- c) Any developments as to such processing for the period since s/he was last notified or advised.
- d) The logic involved in the automated data processing.
- e) The correction, deletion or locking of data, the processing of which is not in accordance with the provisions of the present law, especially due to the incomplete or inaccurate nature of data and
- f) The notification to third parties, to whom the data have been announced, of any correction, deletion or locking which is carried out in accordance with case (e), taken that the notification is not impossible or does not demand disproportionate efforts.<sup>28</sup>

3. The right referred to in the preceding paragraph and the rights arising from article 13 are exercised by means of a relevant application to the Controller and the simultaneous payment of an amount of money, the amount of which, the method of payment as well as any other relevant matter will be regulated by a decision of the Authority.<sup>29</sup> This amount will be returned to the applicant if his/her request to rectify or delete data is considered valid by the processor or the Authority, in case of an appeal before it. The Controller must in this case provide the applicant without undue delay, free of charge and in an intelligible form, a copy of the rectified part of the data relating to him.

4. Should the Controller not reply within a period of fifteen (15) days or should his/her answer be unsatisfactory, the data subject shall be entitled to appeal before the Authority. In the event the Controller refuses to satisfy the request of the party concerned, s/he must notify the Authority as to his/her response and inform the party concerned as to his/her right of appeal before it.

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<sup>26</sup> Paragraph 4 was replaced as above pursuant to article 34 par. 4 of Law 2915/2001 (Official Gazette 109A/2001).

<sup>27</sup> Paragraph 6 was added as above pursuant to article 39 par. 8 of Law 4024/2011 (Official Gazette 226A/2011).

<sup>28</sup> Points (e) and (f) have been added as above pursuant to article 26 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>29</sup> As far as the amount to be paid by the data subject in order to exercise the right of access and the right to object see the DPA's Regulatory Act No 122/2001 (Official Gazette 1345B/2001).

5. By virtue of a decision by the Authority, upon application by the Controller, the obligation to inform, pursuant to paragraphs 1 and 2 of the present article, may be lifted in whole or in part, provided that the processing of personal data is carried out on national security grounds or for the detection of particularly serious crimes. In this case the President of the Authority or his/her substitute carries out all necessary acts and has free access to the files.

6. Data pertaining to health matters will be communicated to the data subject by means of a medical doctor.

### **Article 13**

#### **Right to object**

1. The data subject shall be entitled to object at any time to the processing of data relating to him. Such objections shall be addressed in writing to the Controller and must contain a request for a specific action, such as correction, temporary non-use, locking, non-transfer or deletion. The Controller must reply in writing to such objection within an exclusive deadline of fifteen (15) days. His/her response must advise the data subject as to the actions s/he carried out or, alternatively, as to the grounds for not acceding to his/her request. In case the objection is rejected, the relevant response must also be communicated to the Authority.

2. If the Controller does not respond within the specified time limit or his/her reply is unsatisfactory, then the data subject has the right to appeal before the Authority and request that his/her objections are examined. Should the Authority consider that such objections are reasonable and furthermore there is a risk of serious damage being caused to the data subject as a result of the processing, it may order the immediate suspension of the processing until a final decision on the objections is issued.

3. Any person shall be entitled to declare to the Authority that s/he does not wish data relating to him to be submitted to processing in order to promote the sale of goods or long distance services. The Authority shall keep a register for the identification of such persons. The Controllers of the relevant files must consult the said register prior to any processing and delete from their files the persons referred therein.

### **Article 14**

#### **Right to provisional judicial protection**

1. Everyone is entitled to request from the competent court the immediate suspension or non-application of an act or decision affecting him, issued by an administrative authority or public law entity or private law entity or association or natural person solely on automated processing of data intended to evaluate his/her personality and especially his/her effectiveness at work, creditworthiness, reliability and general conduct.

2. The right referred to in this article may also be satisfied even when the other substantive conditions for provisional judicial protection, as stipulated from time to time, do not occur.

## **CHAPTER D**

### **PERSONAL DATA PROTECTION AUTHORITY**

### **Article 15**

## **Establishment - Task - Legal Nature**

1. A Personal Data Protection Authority (hereinafter: the Authority) is hereby created with the task to supervise the implementation of this law and all other regulations pertaining to the protection of individuals from the processing of personal data as well as to the exercise of the duties assigned to it each time.
2. The Authority constitutes an independent public authority and will be assisted by its own Secretariat. The Authority shall not be subject to any administrative control. In the course of their duties the members of the Authority shall enjoy personal and functional independence. The Authority reports to the Minister of Justice and its seat is in Athens.
3. All necessary appropriations for the operation of the Authority shall be entered in a special code which shall be integrated in the annual Budget of the Ministry of Justice. The authorizing officer for the expenditure is the President or his substitute.<sup>30</sup>

### **Article 16**

#### **Composition of the Authority**

1. The Authority shall be composed of a judge of a rank corresponding at least to that of a Conseiller d'Etat as President and six members as follows:
  - a) A University, full or associate, professor specialised in law.
  - b) A full or associate University professor or professor in the higher technical education specialised in information technology.<sup>31</sup>
  - c) A University, full or associate, professor.
  - (d, e, f) Three persons of high standing and experience in the field of the protection of personal data.

The judge-President and the professors-members may be on active service or not.

It is allowed for the members of the Data Protection Authority to exercise duties as members of a University faculty on a full or part-time basis.<sup>32</sup>

*(2. The President of the Authority shall be employed on a full and exclusive time basis and will be appointed by a Presidential Decree issued upon proposal of the Cabinet following a report by the Minister of Justice. If a judge on active service is selected for the position of the President, then a decision of the competent Supreme Judicial Council is also required. The same procedure is to be followed for the selection and appointment of the President's substitute.*

*3. The members of the Authority will be appointed by means of the following procedure: the Minister of Justice submits to the Speaker of the Parliament a proposal for the appointment of the six ordinary members of the Authority and an equal number of substitutes. The proposal shall include a double number of candidates. The Speaker will then forward the proposal to the Committee on Institutions and Transparency, which renders an opinion. The ordinary members of the Authority and their substitutes are selected by the Conference of the Presidents of the Parliament. The persons selected are then appointed by virtue of a presidential decree issued following a proposal by the Minister of Justice and published in the Official Gazette).*<sup>33</sup>

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<sup>30</sup> Paragraphs 2 and 3 of the present article were replaced as above pursuant to article 13 par. 15 of Law 2703/1999 (Official Gazette 72A/1999).

<sup>31</sup> Point (b) was replaced as above pursuant to article 15 par. 1 of Law 3917/2011 (Official Gazette 22A/2011).

<sup>32</sup> The present passage was added pursuant to article 14 of Law 3068/2002 (Official Gazette 274A/2002).

<sup>33</sup> Paragraphs 2 and 3 were abolished pursuant to article 5 par. 9 of Law 3051/2002 (Official Gazette 220A/2002).

4. The President and members of the Authority will be appointed for a specific term of office. Their term of office will be of four years and may be renewed only once. None may serve for a total period exceeding eight (8) years. Half of the Authority's six members will be renewed every two years. In the first application of these presents the term of office of the six (6) members of the Authority shall be of four years. After the second composition of the Authority, a draw will take place among the six ordinary members so as to decide which three of them will serve for a four-year period and which for a two-year period.<sup>34</sup>

5. The President and members of the Authority shall be appointed with an equal number of substitutes who must have the same status and qualifications. Especially, the substitutes for the professors who are ordinary members may not have the same status but must hold a doctorate and have adequate experience in the field of data protection.<sup>35</sup> The substitutes for the President and the members will participate in the meetings of the Authority only if the corresponding ordinary member is provisionally absent or unable to participate. By means of a decision the President of the Authority may delegate special duties to the substitutes. "Therefore the latter shall participate in the meeting and shall have the right to vote even if the ordinary member is present".<sup>36</sup> The term of office of each substitute will equal the term of office of the corresponding ordinary member.

## **Article 17**

### **Impediments - Incompatibilities of the members of the Authority**

1. No one may be appointed as a member of the Authority:

- a) If s/he is a Minister, Assistant Minister, Secretary-General to a Ministry or to an independent Secretariat General or a Member of Parliament.
- b) If s/he is a governor, manager, administrator, member of the Board of Directors or a person performing managerial duties, in general, in an enterprise producing, manufacturing, selling or trading in materials being used in information technology or telecommunications or rendering services in connection to information technology, telecommunications or personal data processing, as well as persons bound by a work contract to such an enterprise.

2. Membership of the Authority is automatically forfeit for anyone who, following his/her appointment:

- a) acquires one of the positions impeding membership of the Authority by virtue of the preceding paragraph.
- b) performs any acts or undertakes any tasks or projects or acquires any other position which, at the Authority's discretion, is incompatible with his/her duties as a member of the Authority.

3. Evidence on the incompatibility, pursuant to the preceding paragraph, is taken by the Authority without the participation of the member, whose position may be incompatible. The Authority shall decide having previously heard the said member. The procedure may be initiated either by the President of the Authority or by the Minister of Justice.

4. The loss of the qualifications on the basis of which a member of the Authority was appointed, pursuant to article 16 paragraph 1 of this law, shall entail his/her automatic forfeiture, if due to an irrevocable disciplinary or criminal

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<sup>34</sup> The last passage of paragraph 4 was amended as above pursuant to article 11 par. 3 of Law 2623/1998 (Official Gazette 139A/1998).

<sup>35</sup> The second passage in par. 5 was added pursuant to article 15 par. 2 of Law 3917/2011 (Official Gazette 22A/2011).

<sup>36</sup> The passage between inverted commas was added pursuant to article 47 par. 1 of Law 2721/1999 (Official Gazette 112A/ 1999).

conviction.

## Article 18

### Duties and rights of the members of the Authority

1. When exercising their duties the members of the Authority are subject to their conscience and the law. They have a duty of confidentiality. As witnesses or expert witnesses they may testify only on facts exclusively and solely pertaining to the observance of the provisions of this law by Controllers. The duty of confidentiality continues to exist even after the members of the Authority are in any way retired.

2. The monthly wages of the President of the Authority correspond to those of the President of the Legal Council of the State and the monthly wages of the members of the Authority equal to forty per cent (40%) of those of the President notwithstanding any other provision. The substitutes of the President and the members of the Authority will be paid 1/3 of the monthly wages paid to the President and the ordinary members of the Authority provided that the President certifies that they have rendered services during the month other than participating in the Authority's meetings. The remuneration of the President, the members of the Authority and the Secretary for each session in which they participate shall be stipulated by a joint decision by the Ministers of Justice and Finance. The provisions applicable from time to time regarding travel expenses of persons travelling upon official instructions in the exercise of their duties shall also apply for travel by the members of the Authority and employees of the Secretariat of the Authority. The President of the Authority shall issue the relevant travel mandates. The aforementioned provisions shall come into force on the date of the commencement of the operations of the Authority.<sup>37</sup>

3. For any breach of their duties arising from this law the members of the Authority are held disciplinarily liable. The disciplinary procedure will be initiated before the Disciplinary Council by the Minister of Justice with regard to the President and the members of the Authority and by the President of the Authority with regard to its members. The Disciplinary Council consists of a Vice-President of the Conseil d'Etat as Chairman, an *Areios Pagos* (Supreme Court) judge, a Councillor of the Court of Auditors and two University law professors. An employee of the Authority shall perform the duties of the Secretary to the Council. The Chairman, the members and the Secretary of the Council will be appointed along with an equal number of substitutes. For those members of the Council who are judges a decision of the competent Supreme Judicial Council is also required. The Council is established by virtue of a decision by the Minister of Justice with a three-year term of office. The Council is in session when at least four of its members are present, among which necessarily the President or his/her substitute, and decides by the absolute majority vote of those present. In case of split vote, the Chairman's vote shall prevail. In case of more than two opinions, those of the lesser dissent, must accede to one of the two prevailing ones. The Disciplinary Council shall decide at first and last instance whether the defendant is released of all charges or discharged from the service. The compensation payable to the President, the members and the Secretary of the Council is specified by a joint decision of the Ministers of Finance and Justice, notwithstanding any other provision.

4. A member of the Authority who, in breach of this law, discloses in any way whatsoever personal data accessible to him in the course of his/her duties or allows such data to become known to a third party shall be punished by imprisonment for a period of at least two (2) years and a fine amounting between two million Drachmas (GRD

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<sup>37</sup> Paragraph 2 was replaced as above pursuant to article 11 par. 4 of Law 2623/1998 (Official Gazette 139A/1998).

2,000,000) and ten million Drachmas (GRD 10,000,000). If, however, s/he has committed the act with the purpose of gaining unlawful benefit on his/her behalf or on behalf of another or for the purpose of causing harm to another person, then s/he will be punished by confinement in a penitentiary. If the act referred to in the first section of this paragraph has been committed as a result of negligence, then the perpetrator will be punished by imprisonment for a period of at least three (3) months and a fine.

## **Article 19**

### **Competence, operation and decisions of the Authority**

1. The Authority shall mainly have the following powers:

- a. It shall issue instructions for the purpose of a uniform application of the rules pertaining to the protection of individuals against the processing of personal data.
- b. It shall call on and assist trade unions and other associations of legal and natural persons keeping personal data files in the preparation of codes of conduct for the more effective protection of the right to privacy and in general the rights and fundamental liberties of all natural persons active in their field.
- c. It shall address recommendations and instructions to Controllers or to their representatives, if any, and shall publicise them, at its discretion.
- d. It shall grant the permits provided for in this law and shall stipulate the amount of the relevant fees.
- e. It shall denounce any breach of the provisions of this law to the competent administrative and judicial authorities.
- f. It shall impose the administrative sanctions stipulated in article 21 of this law.
- g. It shall assign to one or more of its members the conduct of administrative examinations.
- h. It shall proceed *ex officio* or following a complaint to administrative reviews, in the framework of which the technological infrastructure and other means, automated or not, supporting the processing of data are reviewed. It shall have, to that effect, the right of access to personal data and the right to collect any kind of information for the purposes of such review, notwithstanding any kind of confidentiality. Exceptionally, the Authority shall not have access to identity data relating to associates and contained in files kept for reasons of national security or for the detection of particularly serious crimes. Such review is carried out by one or more members of the Authority or an employee of the Secretariat, duly authorised to that effect by the President of the Authority. In the course of reviewing files kept for reasons of national security the President of the Authority shall be present in person.<sup>38</sup>
- i. It shall deliver opinions with respect to any rules relating to the processing and protection of personal data.
- j. It shall issue regulations pertaining to special, technical and detailed matters to which the present law refers.
- k. It shall communicate to the Parliament any breach of the rules relating to the protection of individuals from the processing of personal data.
- l. It shall draw up every year a report on the performance of its duties over the previous calendar year. The report shall also point out any legislative changes required in the area of the protection of individuals from the processing of personal data. The report will be submitted by the President of the Authority to the Speaker

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<sup>38</sup> Point (h) was replaced as above pursuant to article 27 of Law 3471/2006 (Official Gazette 133A/2006).



of the Parliament and to the Prime Minister and it will be published in the Official Gazette, care of the Authority, who may also decide to publicise the report in any other way.

- m. It shall examine the complaints of data subjects relating to the implementation of the law and the protection of the applicants' rights when such rights are affected by the processing of data relating to them. It shall also examine applications by the Controller requesting checks on the lawfulness of such processing. The Authority can file applications or complaints which are deemed broadly vague, unfounded or are submitted misappropriately or anonymously. The Authority shall notify the data subjects and the applicants of its actions. The Authority shall examine petitions, complaints and questions by priority on the basis of their importance and general interest of the issue.<sup>39</sup>
- n. It shall co-operate with the respective authorities of other member states of the European Union and the Council of Europe on matters relevant to the exercise of its powers.
- o. It carries out an independent review of the national section of the Schengen Information System, pursuant to article 114, paragraph 1 of the Convention Implementing the Schengen Agreement (Law 2514/1997, Official Gazette 140 A), it exercises the duties of the national supervisory authority as laid down in article 23 of the EUROPOL Convention (Law 2605/1998, Official Gazette 88 A) and the duties of the national supervisory authority as laid down in article 17 of the Convention for the use of Information Technology for customs purposes (Law 2706/1999, Official Gazette 77 A), as well as the duties that arise from any international agreement.<sup>40</sup>

2. The Authority shall hold regular sessions upon an invitation by its President. It shall hold extraordinary sessions upon an invitation by the President or an application by at least two of its members. The Authority will decide by the majority vote of at least four of its members. In case of split vote, the President's vote or that of his/her substitute shall prevail.

3. The Authority shall adopt its rules of procedure, thus regulating more specifically the allocation of duties among its members, the prior hearing of interested parties, matters relating to the disciplinary procedure, and the methods of carrying out the reviews stipulated in paragraph 1 case (h) of the present article.

“The Authority may also hold meetings in sections, comprised of at least three regular or substitute members presided by the President of the Authority or his/her substitute. The rules of procedure of the Authority further regulate the composition, the terms of operation of the sections and the allocation of duties between the plenum and the sections. Any decisions of the sections may be amended or revoked by the plenum”.<sup>41</sup>

4. The Authority shall keep the following registries:

- a. the Files and Processing Register, which contains the files and processing communicated to the Authority.
- b. the Permits Register, which contains the permits issued by the Authority for the establishment and operation of files containing sensitive data.
- c. the Interconnections Register, which contains the declarations and permits issued by the Authority for the interconnection of data.
- d. the Register of Persons, who do not want to be included in files for the purposes of promoting the sale or goods or long distance services.
- e. the Transfer Permits Register, which contains the permits for the transfer of personal data.

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<sup>39</sup> Point (m) was replaced as above pursuant to article 28 of Law 3471/2006 (Official Gazette 133A/2006). The last passage thereof was added pursuant to article 15 par. 3 of Law 3917/2011 (Official Gazette 22A/2011).

<sup>40</sup> Point (o) was added pursuant to article 29 of Law 3471/2006 (Official Gazette 133A/2006).

<sup>41</sup> The passages between inverted commas were added pursuant to article 34 par. 5 of Law 2915/2001 (Official Gazette 109A/2001).

- f. the Secret Files Register, which contains, following a decision of the Authority upon application by the competent Controller, files kept by the Ministry of National Defence, the Ministry of Public Order and the National Intelligence Service for reasons of national security or for the detection of particularly serious crimes. The Secret Files Register also contains all interconnections with at least one file of this category.
5. Everyone shall have access to the registries under a), b), c), d) and e) of the previous paragraph. Following an application by the party concerned and a decision by the Authority access may also be permitted, in whole or in part, to the Secret Files Register. Following an application by the Controller or his/her representative and by virtue of a decision of the Authority access to the Transfer Permits Register may be prohibited, in whole or in part, if it may jeopardise the privacy of a third party, national security, the detection of particularly serious crimes and the performance of obligations of the state arising out of international treaties.
6. The President will represent the Authority before all other authorities as well as before committees and groups, in sessions and conferences of institutions of the European Union and of any other international organisation and institution created by an international convention or in which representatives of similar authorities of other countries participate. The President may delegate the representation of the Authority to one of its members, a substitute or even an employee of the Auditors branch of the Secretariat.
7. The President bears responsibility for the operation of the Authority as well as for the operation of the Secretariat. The President may authorise a member of the Authority or the person in charge of the Secretariat or the person in charge of a department of the Secretariat to sign "by order of the President" documents, payment warrants or other acts. The President shall be the Administrative Head of the personnel of the Secretariat. S/he shall exercise disciplinary power over them and may impose disciplinary sanctions, at most a fine equal to half the monthly wages of the defendant.
- 7a. In the event that the protection of an individual with regard to the processing of personal data calls for immediate decision-making, the President may, upon request of the party concerned, issue a provisional order for immediate suspension of the processing or the file operation, in whole or in part. Said order shall apply until the Authority issues a final judgement. The Authority shall be equally responsible when dealing with the matter.<sup>42</sup>
8. The regulations issued by the Authority shall be published in the Official Gazette. All other decisions of the Authority shall come into force as of the date of their issuance or as of the date they were notified to their recipients.
9. Remedies against the decisions of the Authority may also be filed by the State. Such remedy shall be initiated by the competent Minister as the case may be.
- In every trial relating to a decision issued by the Authority, the party to the legal proceedings shall be the latter represented by the President. The appearer in court shall be either a member of the Legal Council of the State or a member of the Authority, regular or substitute, or an auditor, who is attorney-at-law and acts by order of the President, without remuneration.<sup>43</sup>
10. All public authorities shall render assistance to the Authority.

## **Article 20**

### **The Secretariat of the Authority**

1. The Authority shall be assisted by a Secretariat. The Secretariat operates at the Directorate level. The status of its

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<sup>42</sup> Paragraph 7a was added pursuant to article 34 par. 6 of Law 2915/2001 (Official Gazette 109A/2001).

<sup>43</sup> The two last passages were added pursuant to article 34 par. 7 of Law 2915/2001 (Official Gazette 109A/2001).

employees will be governed by the provisions applicable from time to time on administrative civil servants.

2. The organisation of the Secretariat, its division into departments and services and the competence thereof, the number of personnel by branch and speciality as well as any other necessary detail are stipulated by a presidential decree issued upon a proposal by the Ministers of the Interior, Public Administration and Decentralisation, Finance and Justice following a report by the Authority delivered within two months from its establishment. The same decree provides for the establishment, as an administrative unit within the Secretariat, of a Department of Auditors, whose method of employment and status shall also be determined, notwithstanding any other provisions in force from time to time. The person in charge of the Secretariat shall necessarily come from the Auditors branch. The number of positions of the Secretariat of all categories shall not exceed thirty (30).<sup>44</sup>

Lawyers may also be employed in the Auditors Department of the Authority's Secretariat. However, without relinquishing their capacity as lawyers, they may not practice law during their term of office.<sup>45</sup>

3. Vacancies in the Secretariat Section will be filled according to the provisions applicable from time to time on civil servants. The employees of the Auditors branch in particular shall be employed by the Secretariat, upon selection or by an examination procedure following a relevant advertisement.

4. Matters pertaining to the employment status of the personnel of the Secretariat shall be subject to a Service Council established by a decision of the President of the Authority and comprising two of its members, one employee appointed by it and two elected representatives of the employees. In all other matters the provisions applicable from time to time to the Service Councils for civil servants and the personnel of legal entities of public law shall apply.

5. Ordinary employees of the Authority's Secretariat will be subject, as to their secondary social security, to the Assistance Fund for Employees Supervised by the Ministry of Justice. Those coming from other agencies may continue to be covered by the social security funds of their previous position. The employees of the Secretariat shall be necessarily registered with the Lawyers' Pension Fund under the same terms and conditions applicable on salaried lawyers covered by it. The provisions of this paragraph shall also apply to employees transferred to the Secretariat of the Authority from legal entities of private law.

6. For the first time the positions of the persons in charge of service units of the Secretariat, with the exception of the Auditors Department, shall be filled following an advertisement by the Authority either by a transfer of civil servants or employees of legal entities of public law of grade A or equivalent thereof or by appointment. The appointment procedure shall take place only for those positions not filled by transfer. The selection of those to be transferred or appointed is carried out by the Authority. Those selected are appointed by a decision of the Minister of Justice and those transferred by a decision of the same and the competent Minister. For such transfer to be effected it is not necessary to have an opinion by the competent Service Council of the department of origin. The person in charge of the Secretariat is selected by the Authority among the employees of the Auditors Department, notwithstanding any other provision.

7. For the first time the remaining positions of the Secretariat shall be filled under the terms and conditions and according to the procedure stipulated in the preceding paragraph. Candidates with a proven experience in information technology shall be preferred. Regarding the employees of the Auditors Department the provisions of paragraph 3 of this article apply.

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<sup>44</sup> With regard to the number of posts of the DPA's Secretariat, see ministerial decision no. 3994/30.11.2004 (Official Gazette 1803B/2004) according to which 20 more posts are created and ministerial decision no. 2/63286/0021/06.10.2010 (Official Gazette 1666B/2010) according to which 25 more statutory posts are created.

<sup>45</sup> The last passage of paragraph 2 was added pursuant to article 11 par. 5 of Law 2623/1998 (Official Gazette 139A/1998).

8. Regarding persons transferred from legal entities of public or private law prior service time shall be deemed as actual service time entailing all lawful consequences.

9. The provisions of paragraph 4 of article 18 shall also apply regarding the employees of the Secretariat.

10. In addition to the monthly wages, and other benefits paid to the ordinary employees of the Ministry of Justice, an extra pay may be granted to the personnel of the Secretariat of the Authority, depending on each category, upon a joint decision of the Ministers of Finance and Justice.<sup>46</sup>

11. Notwithstanding the legislation in force, the temporary transfer of up to ten employees of university degree from public agencies, legal entities of public law, local government agencies and legal entities of the broader public sector is allowed with the aim for them to acquire expertise in data protection issues. The employees shall be selected by a joint decision of the Authority and their original employer and shall be temporarily transferred by a decision of the Minister of Justice, Transparency and Human Rights and the competent Minister depending on the case. The transfer shall be of two years; the transferred employees shall be paid from their original employer and shall receive the salary and bonuses of their classified post which shall not correlate with the actual exercise of their duties. Upon expiration of the transfer period, they shall return *ipso jure* to their original post.<sup>47</sup>

## **CHAPTER E**

### **SANCTIONS**

#### **Article 21<sup>48</sup>**

##### **Administrative Sanctions**

1. The Authority may impose on the Controllers or on their representatives, if any, the following administrative sanctions for breach of their duties arising from this law as well as from any other regulation on the protection of individuals from the processing of personal data:

- a) a warning with an order for the violation to cease within a specified time limit.
- b) a fine amounting between three hundred thousand Drachmas (GRD 300,000) and fifty million Drachmas (GRD 50,000,000).
- c) a temporary revocation of the permit.
- d) a definitive revocation of the permit.
- e) the destruction of the file or a ban of the processing and the destruction, return or locking of the relevant data.<sup>49</sup>

2. The administrative sanctions referred to in the preceding paragraph under b, c, d and e shall only be imposed following a hearing of the Controller or his representative. Such sanctions shall be commensurate to the gravity of the violation impeached. The administrative sanctions under c, d, and e shall be imposed in case of a particularly serious or repeated violation. A fine may be imposed in conjunction with the sanctions provided for under c, d and e. If the sanction of file destruction is imposed, then the Controller is responsible for such destruction taking place upon payment of a fine in case

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<sup>46</sup> Paragraph 10 was added pursuant to article 13 par. 3 of Law 2703/1999 (Official Gazette 72A/1999).

<sup>47</sup> Paragraph 11 was added pursuant to article 15 par. 4 of Law 3917/2011 (Official Gazette 22A/2011).

<sup>48</sup> **NOTE:** See article 8 of Law 3144/2003 (Official Gazette 111A/2003) concerning the protection of employees' personal data and infliction of sanctions by the HDP.

<sup>49</sup> Point (e) was replaced as above pursuant to article 30 of Law 3471/2006 (Official Gazette 133A/2006).

of non-compliance.

3. The fines referred to in paragraph 1 may be readjusted by a decision of the Minister of Justice following a proposal by the Authority.

4. Any acts of the Authority imposing a fine shall constitute an enforceable instrument and will be served to the Controller or his/her representative, if any. The collection of fines will be effected pursuant to the provisions of the Public Revenues Collection Code.

## **Article 22<sup>50</sup>**

### **Penal Sanctions**

1. Anyone who fails to notify the Authority, according to the provisions of article 6 of this law, of the establishment or the operation of a file or any change in the terms and conditions regarding the granting of the permit referred to in paragraph 3 of article 7 of this law, will be punished by imprisonment for up to three (3) years and a fine amounting between one million Drachmas (GRD 1,000,000) and five million Drachmas (GRD 5,000,000).

2. Anyone who, in breach of article 7 of this law, keeps a file without permit or in breach of the terms and conditions referred to in the Authority's permit, will be punished by imprisonment for a period of at least one (1) year and a fine amounting between one million Drachmas (GRD 1,000,000) and five million Drachmas (GRD 5,000,000).

3. Anyone who, in breach of article 8 of this law, proceeds to the interconnection of files without notifying the Authority accordingly will be punished by imprisonment for up to three (3) years and a fine amounting between one million Drachmas (GRD 1,000,000) and five million Drachmas (GRD 5,000,000). Anyone who proceeds to the interconnection of files without the Authority's permit, wherever such permit is required, or in breach of the terms of the permit granted to him, will be punished by imprisonment for a period of at least one (1) year and a fine amounting between one million Drachmas (GRD 1,000,000) and five million Drachmas (GRD 5,000,000).

4. Anyone who unlawfully interferes in any way whatsoever with a personal data file or takes notice of such data or extracts, alters, affects in a harmful manner, destroys, processes, transfers, discloses, makes accessible to unauthorised persons or permits such persons to take notice of such data or anyone who exploits such data in any way whatsoever, will be punished by imprisonment and a fine and, regarding sensitive data, by imprisonment for a period of at least one (1) year and a fine amounting between one million Drachmas (GRD 1,000,000) and ten million Drachmas (GRD 10,000,000), unless otherwise subject to more serious sanctions.

5. Any Controller who does not comply with decisions issued by the Authority in the exercise of the right of access, pursuant to paragraph 4 of article 12, in the exercise of the right to object, pursuant to paragraph 2 of article 13, as well as with acts imposing the administrative sanctions provided under c, d and e of paragraph 1 of article 21 shall be punished by imprisonment for a period of at least two (2) years and a fine amounting between one million Drachmas (GRD 1,000,000) and five million Drachmas (GRD 5,000,000). By the sanctions referred to in the preceding sentence shall also be punished any Controller who transfers personal data in breach of article 9 as well as the person who does not comply with the court decision referred to in article 14 of this law.

6. If the perpetrator of the acts referred to in paragraphs 1-5 of this article purported to gain unlawful benefit on his/her behalf or on behalf of another person or to cause harm to a third party, then s/he shall be punished with confinement in a

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<sup>50</sup> **NOTE:** See article 8 of Law 3144/2003 (Official Gazette 111A/2003) concerning the protection of employees' personal data and infliction of sanctions by the HDP.

penitentiary for a period of up to ten (10) years and a fine amounting between two million Drachmas (GRD 2,000,000) and ten million Drachmas (GRD 10,000,000).

7. If the acts referred to in paragraphs 1-5 of this Article have jeopardised the free operation of democratic governance or national security, then the sanction imposed shall be confinement in a penitentiary and a fine amounting between five million Drachmas (GRD 5,000,000) and ten million Drachmas (GRD 10,000,000).

8. If the acts referred to in paragraphs 1-5 of this Article were committed as a result of negligence, then imprisonment for a period of at least three (3) months and a fine shall be imposed.

9. For the purposes of the present article, if the Controller is not a natural person, then liable shall be the representative of the legal entity or the head of the public authority or agency or organisation, provided s/he also carries out in effect administrative or managerial duties.

10. Regarding the offences of the present article, the President and the members of the Authority as well as the employees of the Secretariat's Auditors Department who are especially authorised to that effect shall be deemed as special investigating officers having all the powers invested to them by the Code of Criminal Procedure. They shall be entitled to carry out a preliminary investigation, even without an order by the Public Prosecutor, in case of an act caught *in flagrante delicto*, a misdemeanour, or if there is risk in any delay.

11. Regarding the offences referred to in paragraph 5 of this article as well as in any other case where an administrative review has been previously carried out by the Authority, the President of the same shall notify the competent Public Prosecutor in writing as to any eventuality that became the object of an investigation by the Authority and shall forward to him all the relevant records and evidence.

12. The preliminary investigation for the offences referred to in this article shall be completed within a period of maximum two (2) months since charges were brought and, provided that there is reasonable cause to remand the defendant to trial, the court date shall be set at a date no later than three (3) months since the preliminary investigation was completed or, if remand was effected by means of an order of the Judicial Council, within two (2) months since the date such order became irrevocable. In the event the case is sent to trial by direct summons, no appeal will be permitted against the writ of summons.

13. No continuation is allowed with regard to the offences referred to in this article, except for extremely important reasons and only once. In this case, the court is adjourned for a specific day within no more than two (2) months and the case shall, exceptionally, be heard first.

14. The felonies, provided for in this law, shall be subject to the jurisdiction of the Court of Appeal.

### **Article 23<sup>51</sup>**

#### **Civil Liability**

1. Any natural person or legal entity of private law, who in breach of this law, causes material damage shall be liable for damages in full. If the same causes non pecuniary damage, s/he shall be liable for compensation. Liability subsists even when said person or entity should have known that such damage could be brought about.

2. The compensation payable according to article 932 of the Civil Code for non pecuniary damage caused in breach of this law is hereby set at the amount of at least two million Drachmas (GRD 2,000,000), unless the plaintiff claims a lesser

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<sup>51</sup> **NOTE:** See article 8 of Law 3144/2003 (Official Gazette 111A/2003) concerning the protection of employees' personal data and civil liability.

amount or the said breach was due to negligence. Such compensation shall be awarded irrespective of the claim for damages.

3. The claims referred to in the present Article shall be litigated according to articles 664-676 of the Code of Civil Procedure, notwithstanding whether the Authority has issued a relevant decision or whether criminal charges have been brought or suspended or postponed on any grounds whatsoever. The decision of the Court shall be issued within a period of two (2) months since the first hearing in court.

## **CHAPTER F**

### **FINAL - TRANSITIONAL PROVISIONS**

#### **Article 24**

##### **Responsibilities of the Controller**

1. The Controllers of files operating on the date this law enters into force must submit to the Authority the notification of operation referred to in article 6 within six (6) months from the date the Authority commenced operations.
2. The same obligation applies to Controllers of sensitive data files operating on the date this law enters into force, in order to have the permit referred to in paragraph 3 of article 7 issued.
3. Regarding files operating and processing carried out on the date this law enters into force, Controllers must inform the data subjects, according to paragraph 1 of article 11, within six (6) months from the date the Authority commenced operations. In the event such information pertains to a large number of data subjects, it may also be carried out through the press. In this case the relevant details shall be determined by the Authority. The provisions of paragraph 4 of article 11 shall also apply in this instance.
4. Regarding wholly non-automated files the deadlines referred to in the preceding paragraphs will extend to one (1) year.
5. The provisions of articles 11, 12, 13 and 19 paragraph 1 of this law shall not apply on criminal records and the official records kept by the competent judicial authorities in order to meet the operational needs of criminal justice and in the context thereof.<sup>52</sup>

#### **Article 25**

##### **Commencement of the operation of the Authority**

1. Within a period of sixty (60) days since this law enters into force, the President of the Authority and his/her substitute shall be appointed. Within the same time limit the Minister of Justice shall submit to the Speaker of Parliament a proposal for the appointment of the four ordinary members of the Authority and an equal number of substitutes.
2. The time of commencement of the operation of the Authority shall be determined by a decision of the Minister of

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<sup>52</sup> **NOTE:** Article 11 of Law 2623/1998 (Official Gazette 139A/1998), as amended by article 47 par. 2 of Law 2721/1999 (Official Gazette 112A/1999) stipulates the following: “Deadlines provided for in article 24 paragraphs 1, 2, 3 and 4 of Law 2472/1997 as amended by article 11 par. 2 of Law 2623/1998 expire in December 31<sup>st</sup> 1999”. Article 8 par. 5 of Law 2819/2000 (Official Gazette 84A/2000) stipulates that deadlines provided for in article 24 paragraphs 1, 2 and 3 of Law 2472/1997 are extended to January 21<sup>st</sup> 2001.

Justice issued no later than four (4) months since the Authority was established. For the period between the appointment of its members and the recruitment of its Secretariat, according to article 20 paragraphs 6 and 7 of the present Law, the Authority shall be served by personnel temporarily seconded to it by means of its own decision, notwithstanding any other provision.<sup>53</sup>

3. Until such time as the Authority operates according to the preceding paragraph, the administrative control of its expenses shall be effected by the Department of Finance of the Central Service of the Ministry of Justice at the expense of the budget of the Ministry of Justice.

4. The decision of the Minister of Justice, pursuant to paragraph 2 of this article, whereby the date of commencement of the operations of the Authority is determined shall be published in the Official Gazette and in at least four (4) daily political newspapers of broad circulation published in Athens and Thessaloniki and in at least two (2) daily financial newspapers.

[Ministerial Decision No 130406/21-10-1997 (Official Gazette B/967 set the 10-11-1997 as the date for the commencement of the operation of the DPA]

### **Article 26**

#### **Entry into force**

1. The provisions of Articles 15, 16, 17, 18 and 20 of this law shall enter into force on the date the present law is published in the Official Gazette.

2. The remaining provisions shall enter into force on the date of the commencement of the operations of the Authority, pursuant to the preceding article.

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<sup>53</sup> Ministerial Decision no. 130406/21.10.1997 (Official Gazette 967B/1997) lays down the date of November 10<sup>th</sup> 1997 as the starting date of the HDPAs' operation.