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GDPR Case Study – PWC vs HDP
CS2390

In 2019, the Hellenic Data Protection Agency (HDP) found that PricewaterhouseCoopers Business Solutions (PWC) had been in violation of article 6.1 of the GDPR. The HDP fined them 150,000 euros for processing employee data on an improper basis. In this case PWC is the controller and the processor and their employees are the data subjects. PWC processed the employee data (data subject) on the legal basis of consent. However, consent can only be used as a basis for processing if no other legal bases apply, because withdrawal of consent means processing the data would be unlawful. Furthermore, consent between employer and employee is not “freely given” because of the power imbalance. PWC then proceeded to tell the employees that their data was being processed under the basis of consent, even though it was processed under a different basis. In the end, the HDP charged PWC with failing to process the data in a transparent manner and violating the principle of accountability by trying to transfer accountability over the employees by making them sign a waiver. PWC did not comment on the matter or share very much about what happened internally. The HDP gave PWC three months to correct their violations.

This violation is a grey area in many ways, and the 150,000 euro fine is a very small drop in PWC’s 42 billion dollar annual revenue, but it is a very important violation to call out. This violation seems like it could have been prevented by a better understanding of the complex rules in the

GDPR, as it is very possible this was a misunderstanding. But even if it was a misunderstanding, PWC still has an obligation to be thoroughly transparent about all data processing and they clearly failed that and I think that this fine, although small, is an important precedent for showing companies who analyze employee personal data that they must be clear about why they are processing this personal data.

The HDP states in their report that consent is not a proper basis because of the power dynamic. This is a commonly accepted principle in most contexts of consent, so it is fitting that it be applied in the context of data processing. This specification is a keystone in preventing companies from exploiting their employees’ data. Jobs in which employers are often analyzing employee data are often very high performing and difficult jobs to be hired for. And so it is more likely that applicants and employees would bend to employers and give consent.

Although the specific infractions that PWC committed are very complex, the learning points for PWC and other entities in their position are straightforward. When the data controller is an employer or in any case where the data controller is a position of power over the data subject, that controller must be thoroughly transparent and exercise extreme caution around obtaining consent and finding a basis for data processing. This case will definitely set a precedent for how employers treat their employees’ data and empower more employees to take control of their data and privacy from their employer and understand their position as a data subject under their data controller employer.

Sources: [https://www.dpa.gr/pls/portal/docs/PAGE/APDPX/ENGLISH_INDEX/DECISIONS/SUMMARY%20OF%20DECISION%2026_2019%20\(EN\).PDF](https://www.dpa.gr/pls/portal/docs/PAGE/APDPX/ENGLISH_INDEX/DECISIONS/SUMMARY%20OF%20DECISION%2026_2019%20(EN).PDF)

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