



RESEARCH

ON THE MOTION „TRANSPARENCY IN THE CD DECISIONS“

Introduction

Dear Network,

During Autumn Agora Catania the motion „Transparency in the CD decisions: CD appointed positions“ was made with the following text:

„Following up the motion in Agora Chisinau about hosting locals for Agorae and interim positions, I would like to submit a motion for better transparency and accountability for the CD appointed positions: The names of the applicants for CD appointed positions as well as their full applications (except for the following data: Date of Birth, Email, Phone number) will be available on request as soon as possible and at the latest 7 days after the decision has been made public, if the applicants agree to share them internally.“

Due to the fact, that the legal admissibility of the motion couldn't be proven during the Agora, the Agora decided to call upon the Juridical Commission to make a research, that would come to a clear conclusion and make a decision, no later than 3 months after the Agora has taken place (27.09.-01.10.2017).

In this document we present you our conclusions, followed by the clarification of the terminology and our reasoning on the matter.

We intended to make this document as clear as possible, but please, in case of doubts, or any need for clarification, do not hesitate to contact us.

Legally yours,

Jesús Monika and Veronika
Juridical Commission of AEGEE-Europe

Conclusion

After carefully reviewing the text of the submitted motion and examining its legal admissibility, according to the law of European Union, and the documents mentioned in the section below, as well as the Data Privacy Policy Statement of AEGEE-Europe, we have come to the following conclusion:

The publishing of the data of an individual requested by this motion (Name and full application) is lawful, but **only upon the expressed consent of the data subject, thus the applicant has to agree on publishing his application to the Network.**

Reasoning

Clarification of the relevant terminology:

- **Personal data** = any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- **Processing** = any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- **Consent of the data subject** = any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of

personal data relating to him or her.

Reasoning according to the laws of European Union:

According to the Charter of Fundamental Human Rights of the European Union, everyone has the right to the protection of personal data, concerning him or her. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law.

April 2016 the European Parliament, European Commission and the European Council, published a directive and regulation to strengthen and unify the data protection in the European Union. This regulation, known as General Data Protection Regulation (GDPR), is to be applied in the laws and actions of all members states by May 2018.

This regulation is specifying the legitimate basis of lawful data processing and it applies in these following situations:

- **the data subject has given consent** to the processing of his or her personal data for one or more specific purposes.
- processing is **necessary for the performance 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.
- processing is necessary for **compliance with a legal obligation** to which the controller is subject.
- processing is necessary in order to **protect the vital interests of the data subject** or of another natural person.
- processing is necessary for the **performance of a task carried out in the public interest** or in the exercise of official authority vested in the controller.
- processing is necessary for the purposes of the **legitimate interests pursued by the controller or by a third party**, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

As you can see, only one of these cases applies to our situation and that is, that the data subject must have given consent to the processing and publishing of his or her personal data in order for this action to be possible.

Reasoning according to the DPPS of AEGEE-Europe:

During Spring Agora Bergamo 2016 the new Data Privacy Policy Statement was accepted, designed in compliance with the regulations of the European Union and stating the following:

AEGEE-Europe undertakes necessary actions to certify the correct application of this statement to the personal data files and the automatic processing of personal data of all data subjects and all AEGEE-Europe's actions, events and activities.

AEGEE-Europe stores and is responsible for the application of adequate security measures relating to the process of storage and automatic data processing.

Data is collected for **specified, explicit and legitimate purposes and is not further processed without the prior data subject's consent** or in a way incompatible with AEGEE purposes.

Personal data undergoing automatic processing shall be:

- 1) **obtained and processed fairly and lawfully;**
- 2) **stored for specified and legitimate purposes** and not used in a way incompatible with those purposes;
- 3) adequate, relevant and not excessive in relation to the purposes for which they are stored;

Certain personal data may be published online in a system open to AEGEE members **only in case the data subject gives its consent.**

We believe all of these documents proved our conclusions and will be an inspiration for your future actions, not only in AEGEE.