

DECISION 30/2022 (Department) Athens, 07-05-2022 Prot. No.: 1724 The Personal Data Protection Authority met as a Department via video conference on 05-11-2022 at 10:00 a.m., following the invitation of its President , in order to examine the case referred to in the present history. Georgios Batzalexis, Deputy President, due to the disability of the President of the Authority, Constantinos Menoudakos, and the alternate members Demosthenes Vougioukas and Maria Psalla attended as rapporteurs in place of regular members Constantinos Lambrinoudakis and Grigorios Tsolia who did not attend due to disability, although they were legally invited in writing. The meeting was attended, by order of the President, by George Roussopoulos, expert scientist - auditor as assistant rapporteur and Irini Papageorgopoulou, employee of the Authority's administrative affairs department, as secretary. The Authority took into account the following: 2 complaints were submitted to the Authority regarding the promotion of products and services of the company Global Greece MEPE1 by e-mails. Specifically:

a) With document No. C/EIS/92/08-01-2019, as supplemented by document No. C/EIS/93/08-01-2019, A filed a complaint in Principle 1 No. GEMH 043340806000 stating that on ..2019, he received from the complained company an advertising message for the promotion of its seminars. The complainant stated that he was not related to the company being complained about. same The Authority informed the company about the complaint with its document No. C/EX/92-1/01-02-2019, while the company provided its views with No. C/ EIS/1009/07-02-2019 e-mail message of its legal representative. It hereby states that the complainant's email address has been included in the company's newsletter recipient list in a legal manner. In particular, the legal representative is a "friend" on the social networking application LinkedIn since ..2016 with the complainant. To become "friends" the process defined by this professional social network was followed and therefore both accepted access to their interests and contact information for professional networking purposes. The complainant maintains that both she and the complainant approach businesses offering additional support services and are interested in being informed about developments in the market and the services offered. The two natural persons are still connected and in fact the memorandum states that the complainant can also be questioned in this regard. Furthermore, in all of Global Greece MEPE's communications to the complainant since 2016 (which are reported to have been several) the subject matter was strictly professional. There was clearly an option to be removed from the recipient list but a removal request was never received, and if that had happened his address would have been removed immediately. After the complaint, he proceeded to permanently delete the address and it is stated that nothing will ever be sent to her again, and apologies for any inconvenience. The Authority informed the complainant of this response (by two e-mails), without receiving a reply. Greek public b) With his

document No. C/EIS/2874/28-04-2021, B submitted a complaint to the Authority stating that on ..2021, he received an advertising message at the address for the promotion of mail clientele... 2 (directories of potential customers from international business databases). The complainant states that the message had the option to object, which he exercised. The Authority informed the company about the complaint with its document No. C/EXE/1181/06-05-2021, while the company provided its views with No. C/EIS/3065 /10-05-2021 e-mail message of its legal representative. In it it states that they actually sent the particular email to the address ... , which is not an individual but a corporate one. According to the response, this corporate address had "apparently" been used by another person of the Dalnave company for professional communication with Global Greece, stating in particular that "probably previously Mr. C". The complainant considers that in this particular case there is no issue of personal data, nor is it possible to identify the specific person who receives this communication. Finally, it states that the possibility of deletion was given and indeed the deletion took place on the same day as the complaint. Global Greece MEPE was invited to a hearing with the Authority's document No. C/EXE/691/15-03-2022. During the meeting, the legal representative of the company, Charalambos Filardalis, was present, who repeated the arguments he had already presented with the aforementioned documents, while declaring that he would not file a memorandum. The Authority, after examining the elements of the file, after hearing the rapporteur and the clarifications from the assistant rapporteur, who was present without the right to vote and left after the discussion of the case and before the conference and decision-making, following a thorough discussion , CONSIDERED ACCORDING TO THE LAW 1. The issue of making unsolicited communications by any means of electronic communication, without human intervention, for the purposes of direct commercial promotion of products or services and for any kind of 3 advertising purposes, is regulated by article 11 of the law. 3471/2006 on the protection of personal data in the field of electronic communications, which incorporated Directive 2002/58/EC into the national legal order. According to this article, such communication is permitted only if the subscriber expressly consents in advance. Exceptionally, according to article 11 par. 3 of Law 3471/2006, e-mail contact details obtained legally, in the context of the sale of products or services or other transaction, may be used for the direct promotion of similar products or services of the supplier or to serve similar purposes, even when the recipient of the message has not given his consent in advance, provided that he is provided in a clear and distinct manner with the possibility to object, in an easy way and free of charge, to the collection and using his electronic data and this during the collection of contact data, as well as in every message, in case the user had not initially objected to this use. Based on article 11 par. 4 of Law 3471/2006, the message must, among other things, include a valid

address to which the recipient of the message can request the termination of the communication. Finally, with par. 7 of the same article, it is defined that the above regulations also apply to subscribers who are legal entities. 2. Article 4 para. 11 of Regulation (EU) 2016/679 (General Data Protection Regulation - GDPR) defines as consent of the data subject any indication of will, free, specific, fully informed and indisputable, by which the data subject declares that he agrees, by statement or by a clear positive action, to be the subject of processing of the personal data concerning him. Furthermore, as follows from Article 7 para. 1 of the GDPR when the processing is based on consent, the controller must be able to prove that the data subject has consented to the processing of the personal data. Related is the obligation of the controller to be able to prove his compliance with the principles governing the processing of personal data (principle of accountability - article 5 par. 2 GDPR). In the context of Law 3471/2006, the concept of consent 4 comes from the GDPR (see article 2 of this law), while this concept applies regardless of the form of the person, as is made clear by article 2 paragraph f) of Directive 2002/58/EC where it is defined as ""consent", of the user or subscriber, the consent of the data subject, within the meaning of [Regulation (EU) 2016/679]." 2 3. In the cases of the complaints under consideration, the sending of the messages can only be legal under the conditions of paragraphs 1 and 3 of article 11 of Law 3471/2006. In both of these cases, the complained-about company is not able to prove that there was consent of the recipients, nor to prove a previous contact, which meets the criteria of article 11 par. 3 of Law 3471/2006. Specifically, in the first case with the existence of professional contact between the complainant and the legal representative of the company through professional social media, it is not documented that the complainant provided the contact information to the representative of the complained. These data may be available within the members of the network, but only for purposes directly related to it and not for purposes of promoting services, for which the complainant was neither informed nor had the possibility to object. In the second case, it is indifferent that the shipment has been made to an email address that corresponds to a legal one person, as the conditions for sending the message are the same and therefore there should be consent of the legal entity. Therefore, at two examining cases of complaint, there is a violation of article 11 of the law. 3471/2006.

4. The Authority also takes into account that for a similar issue it has already issued for the same company the decision 95/2013 after joint examination of eight complaints.

Therefore it follows that the complained company was aware of the applied institutional framework, at least to the extent that this concerns the physical faces.

5. Based on the above, the Authority unanimously judges that according to Article 11 of Law.

2 Pursuant to Article 94(2) of the GDPR, all references to Directive 95/46

which are included in the Directive for the protection of private life in the field of

electronic communications have been replaced by references to Regulation (EU) 2016/679

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3471/2006 the conditions for enforcement against the person in charge are met

processing, based on the one hand, article 13 of Law 3471/2006, in combination with the

article 21 par. 1 item b' of Law 2472/1997 and with Article 84 of Law 4624/2019, and

on the other hand, taking into account the above elements, of the administrative sanction, which

refers to the operative part of the present, which is considered effective,

proportionate and dissuasive.

FOR THOSE REASONS

The Authority imposes, on "GLOBAL GREECE SOLE INDIVIDUAL LIMITED COMPANY

RESPONSIBLE" with distinctive title "Global Greece MEPE" the effective, proportionate

and dissuasive administrative fine appropriate to the particular

case according to its special circumstances, amounting to three thousand

Euros (3,000.00) Euros, for the aforementioned violations of Article 11

of Law 3471/2006, based on Articles 21 of Law 2472/1997 and 13 par. 1 and 4 of Law

3471/2006.

The Deputy President

George Batzalexis

The Secretary

Irini Papageorgopoulou

