

Athens, 23-12-2022

Prot. No.: 3411

Decision of the President of the Authority no. 6/2022

(Individual body – Temporary order)

The President of the Authority as a one-person body according to articles 17 par. 1 of n.

4624/2019 (Government Gazette A' 137), within the framework of the powers provided for in the articles,

4 par. 3 para. a' and 10 par. 4 of the Regulation of Operation of the Authority (Official Gazette

B'879/25.02.2022) and the powers provided for in article 15 par. 4 para. c'

and 8 of Law 4624/2019 in conjunction with Article 58 par. 2 f of the Regulation (EU)

2016/679 (GDPR), considered the case mentioned below in its history

of this decision.

The Authority took into account the following:

1. Because the Authority examines reports/complaints concerning attempts

installation of spyware on terminal devices without

consent of users and the related processing of personal data

character, while at the same time considering ex officio installation activities

such software and the associated processing of personal data

character. In the context of the said case, following the no. prot.

C/EXE/3378/21-12-2022 inspection order, an on-site inspection was carried out in

company KAPA TEL ELECTRONIC INFORMATION COMPANY ANONYMOUS AND

1-3 Kifisias Ave., 11523 Athens

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of TELECOMMUNICATIONS, during which every information concerning the

sending or transmitting short text messages (SMS) for the purpose of

misleading recipients.

2. Because in the context of the above audit it was found that two misleading SMS were sent to the number "... a) on ... and time ..., with the sender appearing number ..." and b) on ... and time ..., with the sender number "...", the which came from the network of the company "APIFON SA" and included in their content refer to the websites "... and "..., respectively. Further, from various public reports<sup>1</sup> it appears that there are several domain names which are associated with attempts to install spyware on terminal devices without users' consent. The control as to these domain names is under development.

3. Because when sending SMS, data is generated and processed which refer to natural persons, such as in particular the final recipient who is the natural person user of the terminal device receiving the SMS. The this data is personal data, within the meaning of article 4 par. 7 of the GDPR. In the case of sending SMS via internet services, a message can reach the final recipient through several intermediate "hubs", which belong to different companies. Usually, in each intermediate node is kept data in relation to the shipment or the transmission of SMS for various purposes, such as for the billing of services or for security and anti-fraud purposes, which may include various information, such as in relation to the time of shipment, the sender (senderID), the recipient, the previous node and the content of SMS.

4. Because a company that operates a shipping or forwarding hub of SMS messages, as long as it keeps personal data, constitutes the

<sup>1</sup> See especially Meta's public report (<https://about.fb.com/news/2021/12/taking-action-against-surveillance-for-hire/>)

controller who determines the purpose and means of compliance

given these.

5. Because the time period of keeping the data in relation to the shipment or

SMS transmission, taking into account the principle of its time limitation

storage period (article 5 par. 1 sub. e GDPR) cannot be on

indefinitely, it follows that a company which manages a dispatch hub or

transmission of SMS messages must, based on its internal procedures, to

delete data, which may however be necessary for

investigation of the case considered by the Authority.

6. Because the Authority has based on article 15 par. 4 para. c' and 8 of Law 4624/19 in

in combination with article 58 par. 2 GDPR the authority to issue

ex officio temporary order for immediate total or partial, temporary restriction

of processing.

7. Because the deletion or destruction of personal data constitutes

form of processing based on article 4 para. 2 of the GDPR.

8. Because in order for the Authority to exercise its audit powers and to

ensure the protection of the rights of the affected subjects of

data, it is deemed necessary to maintain and not delete the data

of a personal nature related to the case investigated by the Authority.

9. Because the Authority has, based on article 58 paragraph 1 of the GDPR, the authority to give

instruct the controller or processor to provide

any information required for the performance of its duties and,

moreover, based on article 15 paragraph 4 subsection d of Law 4624/2019 it has the authority to

instruct and enforce the delivery to it of documents, systems

archiving, equipment or means of processing personnel data

character.

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FOR THOSE REASONS

THE BEGINNING

Orders the company "APIFON S.A."

a) as suspends the processing of the destruction of personnel data

nature, which are observed in relation to shipping or transmission services

SMS messages, until a new decision is issued by the Authority.

b) as it provides without delay to the Authority any personal data that is kept in

company and is related to sending or transmitting SMS containing any of

the forty-four (44) domain names listed in its appendix

present, as well as any relevant information.

The president

Konstantinos Menudakos

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