

(Department) The Personal Data Protection Authority met in composition Department at its headquarters on 19-02-2020 upon the invitation of its President, in order to examine the case referred to in the present history. Georgios Batzalexis, Deputy President, acting in place of the President of the Authority Constantinos Menoudakos, the regular member of the Authority Charalambos Anthopoulos and the alternate members Evangelos Papakonstantinou and Emmanuel Dimogerontakis, as rapporteur, in place of the regular members Constantinos Lambrinoudakis and Eleni Martsoukos, respectively, were present. , although they were legally summoned in writing, they did not attend due to disability. George Roussopoulos, expert scientist-auditor as assistant rapporteur and Irini Papageorgopoulou, employee of the Authority's administrative affairs department, attended the meeting as secretary. The Authority took into account the following: A's complaint No.

C/EIS/6133/11-09-2019 was submitted to the Authority, which concerns the receipt of unsolicited political communication (4 SMS messages) to promote the candidacy of B for the parliamentary elections of 07-07-2019. In particular, according to the complaint, the complainant received four 1 SMS messages on the following days and times: a), b), c), d) to promote the complainant's candidacy, with sender details the letter B". After receiving the first message, on ..., the complainant sent a message to a specific email address info@ ending in a domain name with the complainant's last name, with which, through eight questions, he exercised the right of access (Article 15 GDPR) and the right to erasure (Article 17 GDPR). The complainant also makes explicit reference to the 30-day deadline provided by the GDPR to respond to his requests. On the same day, the complainant contacted the complainant, also by phone. According to what he reports, he did not receive an answer about the origin of his data, beyond the report that the complainant had them stored on her mobile phone device. She also urged him to forward his request to a different email address (an email account with the complainant's gmail.com details) to process it. Despite these communications, the complainant received another message the next day. He filed a complaint with the Authority on 10/9/2019 after a period of more than one month provided for in the GDPR for the satisfaction of rights, and after he had not received a response to his requests. The complainant shall attach a copy of his requests to the complaint. The Authority, in the context of examining the complaint in question, sent the complainant the letter No. C/EX/6133-1/07-10-2019 in which he requested her opinions on the complainants, taking into account the guidelines lines issued by the Authority for Political Communication. The complainant responded to the Authority with her document No. C/EIS/6959/14-10-2019 and in which she states the following: 1) In the year ... she was of her Region. Through a mutual

acquaintance (... the complainant) he had contact and two phone calls with the complainant, while a face-to-face meeting was also held. 2) The complainant's number was disclosed to her by him and there was no restriction on its use, while he was clearly aware of her political activity. Therefore, this documents a previous contact of a political nature and therefore a legal acquisition of the data. 2 3) Regarding the practice she followed by sending the SMS, she states that she notified friends, whose details were stored on her device, about her candidacy. The complainant received four (4) messages. 4) The complainant's initial email was not answered because the email address info@... has a problem, which is why during the phone call she urged him to use her other address. He tried to contact him by phone to apologize for the inconvenience and to inform him of the source of the data, but was unsuccessful. It should be noted that, after the Authority's document, the complainant responded in detail to the complainant's request from ..., who informed the Authority (see cases No. prot. C/EIS/8090/22-11-2019 and C/ IS/8127/25-11-2019 documents). In summary, with this response the complainant informs the complainant about what he stated to the Authority. Despite this answer, the complainant stated that he does not remember whether he has met her or not, while he is neither able to confirm that the meeting took place nor that it did not take place. Then, the Authority, with no. prot. C/EX/7598/05-11-2019 her document, invited the complainant to a hearing during the meeting of the Authority's department on 04-12-2019. After the complaint No. C/EIS/8170/26-11-2019 request for postponement, which was supplemented by her document No. C/EIS/8300/29-11-2019, the Authority with no. prot. C/EX/8465/04-12-2019 its document, invited the complainant again to a hearing during the meeting of her department on 11-12-2019, during which the above-mentioned complaint was discussed as well as the general practice followed for communication of a political nature by electronic means. This meeting was attended by Spyridon Kalapodakis with ... and the complainant who presented their views orally, while after the complainant was given a deadline, she filed the no. prot. C/EIS/48/07-01-2020 memorandum. In said memorandum, in addition to the original document, the following are mentioned: 1) The previous contact, which took place in 2013, in the context of her duties as ... is proven. As evidence, he cites copies of 3 items of phone calls and SMS messages in relation to this meeting. Therefore, it considers that the information has been lawfully obtained in the context of a previous similar communication, communication that was of a political nature, the complainant was informed of its use for the purposes of political communication and did not object. 2) Tried, after the election, to contact him to provide the necessary explanations, but it was not possible. Finally, he provided the necessary explanations, adequately answering all his questions, on 3) The sending of the SMS message to ... resulted from the failure of her

partner, despite her express instruction to isolate the number of the complainant from a large list of recipient friends. 4) The fact that there was no problem from another recipient demonstrates that the SMS were sent to friends and associates. The Authority, after examining the elements of the file, the hearing process and after hearing the rapporteur and the assistant rapporteur, who withdrew after the discussion of the case and before the conference and decision-making, and after a thorough discussion, CONSIDERED THE LAW 1. According to art. 4 pc. 7 of the General Regulation (EU) 2016/679 for the protection of natural persons against the processing of personal data and for the free movement of such data (hereinafter, the Regulation), which is in force since May 25, 2018, as controller is defined as "the natural or legal person, public authority, agency or other entity that, alone or jointly with others, determines the purposes and manner of processing personal data". 2. 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 advertising purposes, is regulated in article 11 of Law 3471/2006 on the protection personal data in the field of electronic communications. According to this article, such communication is permitted only if the subscriber expressly consents in advance. Exceptionally, according to art. 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 to directly promote 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 use of his electronic data and that during the collection of the contact details, as well as in each message, in case the user had not initially objected to this use. 3. Especially for political communication through electronic means without human intervention and in accordance with the Authority's guidelines regarding the processing of personal data for the purpose of political communication¹, taking into account both article 11 of Law 3471/2006, as well as Directive 1/2010 of the Authority for Political Communication and General Regulation (EU) 2016/679 for the protection of natural persons against the processing of personal data character which has been in force since May 25, 2018, the following apply: Political communication¹ is of interest from the point of view of personal data protection, carried out in any period of time, pre-election or not, by political parties, MPs, MEPs, factions and owners elected positions in local government or candidates in parliamentary elections, European Parliament elections and local government elections. These persons become data controllers, in accordance with Regulation (EU) 2016/679, article 4, item 7) if they define the

1 See definition in article 1 par. 2 of Directive 1/2010 of the Authority 5 the purpose and method of

processing. For example, when MPs or candidate MPs receive data from political parties and process it for their personal political communication, they also become data controllers. In this capacity and based on the principle of accountability² they must be able to demonstrate compliance with their obligations and processing rules. 4. When political communication is carried out using electronic means of communication, without human intervention, through public communication networks, as is the case of electronic messages (e-mail), the communication requires, according to article 11 par. 1 law 3471 /2006, as applicable, the prior consent of the data subject, subject to paragraph 3 of the same article, as applicable. 5. Political communication using electronic means is permitted without human intervention and without the consent of the data subject only if the following conditions are cumulatively met: (a) The contact information has been legally obtained in the context of previous, similar contact with the data subjects; and the subject during the collection of the data was informed about its use for the purpose of political communication, he was given the opportunity to object to this use but did not express it. The previous contact need not be purely political in nature, e.g. it is legal to send messages when the email data was collected in the context of a previous invitation to participate in an event or action, regardless of its political nature. On the contrary, it is not considered to constitute a similar contact and it is not legal to use electronic contact information for the purpose of political communication when such information was obtained in the context of a professional relationship, such as for example the use of the client file by a candidate for parliament. (b) The controller must provide the data subject with the possibility to exercise the 2 As defined in article 5 par. 2 GDPR 6 right of objection in an easy and clear way, and this in every message of political communication. Each communication is required to clearly and clearly state the identity of the sender or the person for whose benefit the message is sent, as well as a valid address to which the recipient of the message can request the termination of the communication. 6. In article 12 paragraph 3 of the GDPR it is defined that "The data controller shall provide the data subject with information on the action taken upon request pursuant to articles 15 to 22 without delay and in any case within one month of receipt of the request. This deadline may be extended by a further two months if necessary, taking into account the complexity of the request and the number of requests. The data controller shall inform the data subject of said extension within one month of receipt of the request, as well as of the reasons for the delay...". 7. In article 21 paragraph 1 of the GDPR it is defined that "The data subject has the right to object, at any time and for reasons related to his particular situation, to the processing of personal data concerning him, which is based on article 6 paragraph 1 letter e) or f), including profiling under those provisions. The controller no longer processes the personal data, unless the controller demonstrates compelling and legitimate reasons for the

processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or support of legal claims claims....' 8. In this particular case, the complainant, based on the above, carried out, as a data controller, political communication by sending an SMS message. Therefore, the legality of the sending is ensured only if the above Considerations 4, 5 have been observed. From the responses of the data controller the following emerges: 7 9. The data controller had not obtained prior consents from the person to whom he sent a policy message communication. Also, the contact details of the recipient of the message had not come into their possession in the context of a previous similar contact with them. On the contrary, his personal information was obtained in the context of the duties of the controller in a self-governing body, to which he was elected. The data was obtained for the purpose related to the self-administrative tasks of the data controller, as shown by the data submitted. The controller's argument that this is a similar communication, which was of a political nature, is not accepted as a meeting in the context of the duties for which a politician has been elected is not a contact related to the promotion of his political views. 10. The controller did not specify to the Authority the exact number of messages that were sent. 11. The controller did not provide the data subject with the possibility to exercise the right to object in an easy and clear way, within the SMS. The complainant exercised the right of access and the right to object. The data controller responded by telephone, stating that he would accommodate the complainant's request, without ultimately responding. Furthermore, the day after exercising the right to object, a new political communication message was sent. The response to the rights of access and objection was made, in writing, with a delay, after the intervention of the Authority, although it must be taken into account that the response of the controller was complete, while information had already been provided by phone. 12. The data controller cooperated with the Authority by responding immediately to the documents for clarifications, providing sufficient information and showing a willingness to cooperate. 13. The controller was fully aware of the applicable legal framework for 8 political communication of a political nature and the Authority's guidelines which had been published and sent to political parties as early as the beginning of April 2019. 14. No previous administrative sanction has been imposed on controller from the Authority. Based on the above, the Authority unanimously judges that, in accordance with Article 11 of Law 3471/2006, the conditions for enforcement against the data controller are met, based on Article 13 of Law 3471/2006 in conjunction with Article 21 par. 1 pc. b' of Law 2472/1997 and with Article 84 of Law 4624/2019, of the administrative sanction, referred to in point no. 1 of the operative part of the present, which is considered proportional to the gravity of the violation. Also, it judges unanimously that, according to article 12 par. 3 of the GDPR the appropriate and

proportional corrective measure of the violation, based on article 58 par. 2 sec. b' of the GDPR, is the one referred to in point no. 2 of the operative part of this document. FOR THESE REASONS, the Personal Data Protection Authority: 1) Imposes, on B, the effective, proportional and dissuasive administrative fine appropriate to the specific case according to its special circumstances, amounting to two thousand euros (2,000.00) euros, for the above found violation of article 11 of Law 3471/2006. 2) Imposes a reprimand on B for the above found violation of article 12 par. 3 of the GDPR. The Deputy President
The Secretary George Batzalexis Irini Papageorgopoulou9