

GREEK REPUBLIC PERSONAL DATA PROTECTION AUTHORITY Athens, 12-06-2020 Prot. No.: G/EX/4080/12-06-2020 A
P O F A S I NO. 17/2020 (Department) The Personnel Data Protection Authority Character met as a Department composition
at its headquarters on 26-02-2020 at the invitation of its President, in order to examine the case referred to in the present
history. Charalambos Anthopoulos appeared as chairman, obstructing the President of the Authority Constantinos Menoudakis
and the Deputy President Georgios Batzalexis, the substitute members Evangelos Papakonstantinou and Emmanuel
Dimogerontakis, as rapporteur, in place of the regular members Konstantinos Lambrinoudakis and Eleni Martsoukos
respectively, who, and were legally summoned in writing, they did not attend due to disability, and Grigoris Tsolias, as a
rapporteur with the right to vote. Konstantinos Limniotis and Georgia Panagopoulou, expert scientists and auditors, attended
the meeting as assistant rapporteurs and Irini Papageorgopoulou, an employee of the Authority's administrative affairs
department, as secretary. The Authority took into account the following: Submitted to the Authority under no. prot.
C/EIS/9430/27-11-2018 which concerns the sending of unsolicited communication via a short SMS text message by A
(hereinafter "complainant"). In the above complaint, the complainant states that without having any previous relationship with
the complainant, he received an SMS for the promotion of 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210
6475628, contact@dpa.gr / www .dpa.gr of the complainant's candidacy in the upcoming European elections. The Authority, in
the context of examination of the complaint, sent the complainant the no. prot. C/EX/44/04-01-2019 document in which he
requested his opinions on the accused, taking into account the guidelines issued by the Authority for political communication.
The complainant did not respond to the complaints. Then the Authority called with no. prot. C/EX/7894/15-11-2019 document
the complainant in a hearing in order to discuss the complaint as well as the general practice followed by the candidate for
communication of a political nature by electronic means. At the meeting of 04-12-2019, the complainant and his lawyer
Konstantinos Christodoulou with AMDSA were present and presented their views orally. The complainant, after receiving a
deadline, submitted to the Authority, within the stipulated deadline, the no. prot. C/EIS/8558/09-12-2019 memorandum. In the
memorandum he states that the specific sending of messages was done by his associates on a list of recipients who are in the
file he keeps with his political friends due to his long presence in politics, and who are with their consent in this file. Find the
complainant's phone number in this file. The number was associated with another natural person, whom the complainant
knows personally, and whose consent he had for its inclusion in the file in question. The complainant learned from this person
that his telephone number had changed, a fact which the complainant had not been informed of to update his record. The

Authority, after examining the elements of the file, the hearing and after hearing the rapporteur and the assistant rapporteurs, who withdrew after the discussion of the case and before the conference and decision-making, after a thorough discussion,

THOUGHT IN ACCORDANCE WITH THE LAW 1. According to art. 4 pc. 7 of the General Regulation (EU) 2016/679 for the protection 2 of natural persons against the processing of personal data and for the free movement of such data (hereinafter, Regulation), which is in force since May 25, 2018, as responsible processor 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 of personal data in 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 media without human intervention and in accordance with the Authority's guidelines regarding the processing of personal data for the purpose of political communication, taking into account both article 11 of Law 3471/2006, and the Directive 1/2010 of the Authority for political communication as well as the General Regulation (EU) 2016/679 for the protection of natural persons against the processing of personal data which has been in force since May 25, 2018, the following apply: The policy communication¹ is of interest from the point of view of the protection of personal 1 See definition in article 1 par. 2 of Directive 1/2010 of the Authority 3 data, carried out in any period of time, pre-electoral or not, by political parties, MPs, MEPs, factions and holders of electors positions in local government or candidates in parliamentary elections, European Parliament elections and local government elections infection. These persons become data controllers, in accordance with Regulation (EU) 2016/679, article 4, item 7) as long as they define 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. It is also pointed out that short text messages (SMS) are also e-mails according to the definitions of Law 3471/2006 and Directive 2002/58/EC. 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, 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 2 As defined in Article 5 para. 2 GDPR 4 contact information for the purpose of political communication when such information was obtained in the context of a professional relationship, 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 right to object in an easy and clear way, and this in every political communication message. The identity of the sender or the person for his benefit must be clearly and clearly stated in every communication

to whom the message is sent, as well as a valid address to which the recipient of the message may request termination of the communication.

6. In this particular case, the complainant, as controller, carried out political communication by sending short text messages (SMS). The legality of the shipment is ensured if the above has been observed in the above Thoughts 4, 5. From the responses of the data controller they arise The following:

7. The controller provided evidence showing that there had been previous similar contact/communication and the required was secured

prior consent for the previous owner of the phone number. THE

controller did not provide relevant information about other persons to whom sent political communication messages.

8. The data controller did not provide the Authority with information regarding the exact number of recipients of these messages.

9. The controller did not provide the data subject with the possibility to exercises the right to object in an easy and clear way, to every SMS message political communication. Also, there was no easy way to search for his details controller in order to be able to exercise against him in this regard rights (including the right to object), since the Authority with difficulty finding the information in order to address the relevant documents.

10. The data controller was aware of the applicable legal framework for the communication of a political nature and the guidelines of the Authority they had published already at the beginning of April 2019.

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11. The controller did not cooperate with the Authority, since he did not respond to documents for clarification, but filed a memorandum after the Authority meeting.

12. No administrative sanction has been imposed by the Authority on the person in charge in the past processing,

Taking into account the above, the Authority considers that, taking into account the article

13 of Law 3471/2006, the conditions for enforcement against him according to Article 21 par. 1 item b' of Law 2472/1997 on administrative sanction, referred to in its operative part present, which is considered proportional to the gravity of the violation.

FOR THOSE REASONS

The Personal Data Protection Authority:

Enforces, based on articles 19 par. 1 item. f and 21 of Law 2472/1997 and 13 par. 1

and 4 of Law 3471/2006, in A the effective, proportionate and dissuasive administrative monetary fine that is appropriate in the specific case according to the special ones circumstances thereof, in the amount of one thousand (1,000) euros, for the above established violations of Article 11 of Law 3471/2006.

The member of the Authority

The Secretary

Charalambos Anthopoulos

Irini Papageorgopoulou