

GREEK REPUBLIC PERSONAL DATA PROTECTION AUTHORITY Athens, 10-06-2020 Prot. No.: G/EX/4002/10-06-2020 A
P O F A S I NO. 11/2020 (Department) The Personnel Data Protection Authority Haraktira met as a Department composition at
its headquarters on 29-01-2020 at the invitation of its President, in order to examine the case referred to in the present history.
Georgios Batzalexis, Deputy President, in the absence of the President of the Authority Constantinos Menoudakos, and the
alternate members Grigorios Tsolias and Emmanuel Dimogerontakis, as rapporteur, in place of the regular members
Charalambos Anthopoulos and Eleni Martsoukos respectively, who, although legally summoned in writing, were present
attended due to disability. They did not attend due to disability, although regular member Konstantinos Lambrinoudakis and his
deputy Evangelos Papakonstantinou were legally summoned in writing. 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: The following were
submitted to the Authority: a) with no. prot. C/EIS/4504/26-06-2019 and b) with no. prot. C/EIS/4712/03-07-2019 complaints,
which concern the receipt of unsolicited political communication by A (hereinafter "complainant") to promote his candidacy in
the parliamentary elections. 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@dpa.gr /
www.dpa.gr In the above first complaint, the complainant states that he received a short text message (SMS) from denounced,
of a political nature with the aim of promoting his candidacy without having any previous relationship with the denounced. In
the above second complaint, the complainant states that she received a short text message (SMS) and an e-mail (email) from
the complainant, of a political nature, with the aim of promoting his candidacy, without having any previous relationship with the
complainant. Although she requested through the relevant link to be removed from the recipient list of e-mails (emails), she
received a new e-mail from the complainant. The Authority, in the context of examining the complaints in question, sent the
complainant the no. prot. C/EX/4504-1/11-07-2019, C/EX/4712-1/26-07-2019 documents with which he requested his opinions
on the complainants in the first and second complaints respectively, setting taking into account the guidelines issued by the
Authority for political communication. The complainant responded regarding the first relevant complaint with no. prot.
C/EIS/5599/09-08-2019 memorandum and regarding the second related complaint with no. prot. G/EIS/5600/09-08-2019
memorandum. In the pleadings it is stated that the contact details of the complainants are posted on the website of ... and are
also included in the printed catalogues. Then the Authority called with no. first C/Eξ/6200/12-09-2019 document the
complainant in a hearing in order to discuss the above a'-b' complaints as well as the general practice followed by the

candidate for the communication of a political nature by electronic means. The meeting of 09-25-2019 was attended by A, Emmanuel Laskaridis with AMDSA ..., Gaitana Asimina with AMDSA ... and B. who presented their opinions orally. The complainant, after receiving a deadline, filed within the stipulated deadline the no. prot. C/EIS/6829/09-10-2019 memorandum. In the memorandum he states that he carried out a mass sending of SMS messages and emails with recipient citizens of his electoral district using data published on the internet by Each email provided the option to be deleted. Regarding the current legal framework for 2 political communication, he states that he is aware of it and raises some concerns about its application in the matter of political communication. 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 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 of personal data 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 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 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: political communication¹ is of

interest from the point of view of the protection of personal data, carried out in any period of time, pre-election or not, by political parties, MPs, MEPs, factions and holders of 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) 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 is permitted using electronic media without human intervention and without the consent of the data subject only if

1 See definition in article 1 par. 2 of Directive 1/2010 of the Authority

2 As defined in article 5 par. 2 of the GDPR

4 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 at the time of data collection was informed of its use for the purpose of political communication, was given the possibility to object to this use but did not. The previous contact does not have to be purely political in nature, e.g. is it legal to send messages when the electronic mail were collected in the context of a previous invitation to participate in any event or action, regardless of its political character. On the contrary, no it is considered similar contact and it is not legal to use electronics contact information for the purpose of the communication policy when the information these were acquired in the context of a professional relationship, such as for example the use of the customer file by a candidate for parliament.

(b) The data controller must provide the data subject with possibility to exercise the right to object in an easy and clear way, and this in any policy communication message. In every communication it is required to be mentioned

clearly and clearly the identity of the sender or the person for his benefit 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) and email messages (Email). Its legitimacy delivery is ensured if the above considerations 4, 5 have been observed.

From the controller's responses, the following emerges:

7. The controller did not provide evidence that it had ensure the required prior consent of the recipients of SMS messages and emails, or that there had been a previous similar one contact/communication. Instead, the politician's messages were sent content to recipients whose addresses were published on Internet.

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8. 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. Further, even in the case of messages e-mails in which there was allegedly such a possibility, h satisfaction of the right to object was not always effective, since in case of the second complaint, there was an exercise of the right without it, but, ultimately, to be satisfied (after another message was also sent).

9. The data controller, also due to his professional status, had knowledge of it of the applicable legal framework for political communication of a political nature and Authority guidelines that had been published and sent to politicians

parties as early as the beginning of April 2019.

10. The controller cooperated with the Authority by responding without delay in the documents for clarification, providing the information requested and at meeting of the Authority and in the memorandum he filed.

11. 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 three thousand euros (3,000.00), for the above established violations of Article 11 of Law 3471/2006.

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The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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