

PROCESSING OF PERSONAL DATA IN AN ELECTORAL CONTEXT

In the context of the European Parliament elections in May 2019, the National Supervisory Authority recommends that all entities involved in this process pay close attention to compliance with personal data protection legislation to ensure that personal data is used responsibly and that the rights of individuals are respected.

Thus, we specify that from 25 May 2018, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data shall apply, and repealing Directive 95/46 / EC (General Data Protection Regulation - hereinafter "RGPD").

The General Regulation on Data Protection provides in art. 6 that the processing is lawful only if and to the extent that at least one of the following conditions applies:

- a) the data subject has given his / her consent for the processing of his / her personal data for one or more specific purposes;
- b) the processing is necessary for the performance of a contract to which the data subject is a party or for making arrangements at the request of the data subject before concluding a contract;
- c) the processing is necessary in order to fulfill a legal obligation incumbent on the operator;
- d) the processing is necessary to protect the vital interests of the data subject or of another natural person;
- e) the processing is necessary for the performance of a task which serves a public interest or which results from the exercise of the public authority with which the operator is vested;
- f) the processing is necessary for the legitimate interests pursued by the controller or a third party, unless the interests or fundamental rights and freedoms of the data subject prevail, which require the protection of personal data, especially when the data subject is a child.

In addition, we specify that art. 5 of the RGPD sets out a number of principles that must be observed in data processing. These include the processing of appropriate data, relevant and limited to what is necessary in relation to the purposes for which they are processed ("minimization of data") and the processing of data in a manner that ensures adequate data security, personal protection, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage by appropriate technical or organizational measures ("integrity and confidentiality").

The same above-mentioned legal provisions also provide that "The operator is responsible for compliance with these principles and can demonstrate this compliance ("liability")".

At the same time, according to the provisions of the RGPD, the operators involved in the electoral process have the obligation to respect the rights of the data subjects, especially the right to information regarding the processing of personal data. We mention that the Regulation does not impose a certain way of informing the data subjects, leaving to the operators the choice of efficient ways of performing the information - posting on the site, on the notice board, in writing, etc.

By Regulation (EU, Euratom) no. Regulation (EC) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the status and funding of European political parties and European political foundations The European Authority for European Political Parties and Foundations has been established to and European political foundations.

Regulation (EU, Euratom) 2019/493 of the European Parliament and of the Council of 25 March 2019 amending Regulation (EU, Euratom) No 1605/2002 Regulation (EC) No 1141/2014 on verification of infringements of the rules on the protection of personal data in the context of the European Parliament elections introduces new EU-wide provisions on data protection in the context of the European Parliament elections.

According to art. Article 10a of the above-mentioned European regulatory act regulates the verification procedure for breaches of the rules on the protection of personal data.

On these issues, in the context of the European Parliament and other EU elections scheduled for 2019, the European Data Protection Board adopted Declaration no. 2/2019 on the use of personal data in political campaigns which highlights a number of key issues to be observed when political parties process personal data during electoral activities.

In Romania, the manner of organizing and conducting elections for the European Parliament is regulated by Law no. 33/2007 on the organization and conduct of elections for the European Parliament, as subsequently amended and supplemented, republished.

In view of the above, we emphasize the need to comply with the rules on the protection of personal data, including in the context of electoral activities and political campaigns.

Legal and communication office

ANSPDCP