

Personal Data Protection Agency (hereinafter: the Agency) pursuant to Article 57 (1) (b) and (d) of 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 free movement of such data and repealing Directive 95/46 / EC (hereinafter: the General Data Protection Regulation) OJ EU L119, provides the following guidelines and recommendations:

These recommendations and guidelines of the Agency follow the recommendations of the European Data Protection Board contained in document Declaration 2/2019 on the use of personal data during the political campaigns of 13 March 2019.

The Agency emphasizes the key requirements that political parties and other participants in the election campaign should comply with in order for the processing of personal data of respondents or voters to meet the requirements of the legislative framework on data protection.

It is also advisable to point out that on 20 May 2020 the State Electoral Commission adopted on the basis of Article 56 item 3 of the Act on Elections of Representatives to the Croatian Parliament (OG 66/15 - consolidated text, 104/15 - Decision and Decision of the Constitutional of the Court of the Republic of Croatia, No. UI-1397/2015 of 24 September 2015, 48/18 and 98/19) Mandatory instructions Z IV on the protection of personal data, which stipulate, inter alia, that the procedure for processing personal data of persons participating in the process of electing representatives to the Croatian Parliament, apply the provisions of the regulations governing the protection of personal data in an appropriate manner.

The principles of personal data processing, in accordance with Article 5 of the General Data Protection Regulation, require that personal data must be processed lawfully, fairly and transparently with regard to the respondent (principle of legality, fairness and transparency); collected for special, explicit and legitimate purposes and may not be further processed in a way that is not in accordance with those purposes (purpose limitation principle); appropriate, relevant and limited to what is necessary for the purposes for which they are processed (data reduction principle); accurate and, where appropriate, up-to-date (principle of accuracy); kept in a form that allows the identification of respondents only for as long as necessary for the purposes for which personal data are processed (storage restriction principle); and processed in a way that ensures adequate security of personal data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage through the application of appropriate technical or organizational measures (principle of integrity and confidentiality).

The political party, candidate or any other participant in the election campaign, as the head of processing, is responsible for compliance with the principles of the General Data Protection Regulation set out here and must be able to prove it (principle of

reliability).

The Agency primarily emphasizes that any collection and processing of personal data in accordance with the General Data Protection Regulation requires the existence of a legal basis for the lawfulness of the processing referred to in Article 6 (1) of the General Data Protection Regulation.

Article 6 (1) of the General Data Protection Regulation stipulates that processing is lawful only if and to the extent that at least one of the following is met:

- (a) the respondent has consented to the processing of his or her personal data for one or more specific purposes;
- (b) processing is necessary for the performance of the contract to which the respondent is a party or to take action at the request of the respondent prior to the conclusion of the contract;
- (c) processing is necessary to comply with the legal obligations of the controller;
- (d) processing is necessary in order to protect the vital interests of the respondent or another natural person;
- (e) processing is necessary for the performance of a task in the public interest or in the exercise of the official authority of the controller;
- (f) processing is necessary for the legitimate interests of the controller or a third party, except where those interests outweigh the interests or fundamental rights and freedoms of the respondent requiring the protection of personal data, in particular if the respondent is a child.

If the legal basis for the processing of personal data is the legal obligation of the controller or the performance of a task of public interest / official authority of the controller, then that legal basis must be established by Union law or the law of the Member State to which the controller is subject. and the purpose of the processing or, in respect of the processing referred to in paragraph 1 (e), must be necessary to carry out a task in the public interest or to exercise the official authority of the controller.

In this sense, the situations of application of the Act on the Financing of Political Activities, Election Campaigns and Referendums (OG 29/19 and 98/19) are examples of processing that is necessary to comply with the legal obligation of the controller. This Act applies to the regular annual funding of political parties, independent deputies and independent councilors and to the financing of election campaigns of political parties, independent lists or lists of voters and candidates in the elections for President of the Republic of Croatia, Members of the Croatian Parliament and Members of the European Parliament. , for

municipal mayors, mayors, prefects and their deputies and for members of representative bodies of self-government units.

Pursuant to Article 21 of the Act, political parties, independent representatives and independent councilors are obliged to submit reports on donations to the State Election Commission, which is obliged to publish these reports on its website. The said report contains the personal name, ie name and address, as well as the personal identification number of the donor, the date of payment of the donation, the amount of the donation paid and the type of each individual donation. Information on the address of the natural person's donor is not published.

Also, Article 23, paragraph 1 of the Act on the Election of Representatives to the Croatian Parliament (OG 116/99, 109/00, 53/03, 167/03, 44/06, 19/07, 20/09, 145/10, 24 / 11, 93/11, 19/15, 104/15 and 98/19) is a legal obligation of the State Election Commission within the meaning of Article 6 (1) (c) of the General Data Protection Regulation to publish the names and surnames of candidates for each election unit in all daily newspapers in the Republic of Croatia and on the Croatian Radio and Television.

Data on political opinions represent a special category of personal data in terms of the provisions of the General Data Protection Regulation. The processing of special categories of personal data is prohibited in principle. Therefore, in addition to the legal basis referred to in Article 6 (1) of the General Data Protection Regulation, their processing requires one of the exceptions to the general prohibition on processing special categories of personal data referred to in Article 9 (2) of the General Data Protection Regulation. is the explicit consent of the respondent for one or more specific purposes.

Furthermore, the General Data Protection Regulation also applies to publicly published data, and all obligations and principles from the General Data Protection Regulation, in particular the principle of legality, purpose specification and transparency, apply to the processing and use of such data.

Automated decision-making, including profiling, which produces legal effects on or significantly affects the respondent, is in principle prohibited. Creating profiles related to sending targeted messages to certain respondents can significantly affect them because it can affect their voting and will in principle be allowed only with the prior explicit consent of respondents.

Political parties, candidates or other participants in the election campaign may, as a rule, rely on the consent of the respondents or on a legitimate interest for the purpose of advertising and sending personalized messages to voters. However, a legitimate interest may be the legal basis for the processing of personal data of respondents for the purpose of advertising or sending marketing messages to voters only if voters can reasonably expect to receive such messages due to their relationship

with a political party, such as when a voter is a member. party or its donor.

If personal data is processed for the purpose of direct marketing, the respondent should have the right to object to such processing, including profiling to the extent related to such direct marketing, whether in relation to initial or further processing, at any time and free of charge. This right should be explicitly made known to the respondent and presented clearly and separately from all other information. This means that each marketing message should also include a notice to the respondent that they may object to further receipt of such messages at any time. If the respondent objects to processing for direct marketing purposes, personal data may no longer be processed for such purposes.

In any case of targeted advertising, taking into account the principle of transparency, voters should be provided with appropriate information explaining why they receive a particular message, who is responsible for the message and how they can exercise their rights, including the right to complain to the Agency.

Therefore, in addition to the above, the Agency recommended to all political parties and other participants in the election campaign to send their messages to citizens / voters using less invasive methods regarding the privacy of respondents and their personal data (for example; through the media, public forums, handing out impersonal leaflets). brochures and other materials in which they present and explain their program), ie. to address citizens as much as possible in presenting their programs in ways that do not necessarily involve the processing of their personal data, such as sending personalized brochures, letters, leaflets and other materials (including sending SMS, MMS or messages). e-mails) addressed to a specific citizen / voter stating his / her personal data (for which processing the legal basis referred to in Article 6 (1) of the General Data Protection Regulation is required).

In addition, we point out that in accordance with Article 34 of the General Data Protection Regulation Act (OG 42/18), anyone who considers that his right guaranteed by the General Data Protection Regulation and the General Data Protection Regulation Implementation Act has been violated may submit A request to the Agency to establish a violation of rights.