

(Department) The Personal Data Protection Authority met in the composition of the Department at its headquarters on 15-5-2019 at 10:00 a.m. upon the invitation of its President, in order to examine the case referred to in the present history. The Deputy President, G. Batzalexis, who was in the way of the President of the Authority, K. Menoudakou, the regular members of the Authority, K. Lambrinoudakis and X. Anthopoulos, and the alternate member of the Authority, P. Rontogiannis, were present, as a rapporteur, in place of the regular member Ant . Simvoni, who, although legally summoned in writing, did not attend due to disability. Present without the right to vote were G. Panagopoulou and K. Limniotis, expert scientific auditors, as assistant rapporteurs, who left after the discussion of the case and before the conference and decision-making, and E. Papageorgopoulou, employee of the administrative affairs department , as secretary. The Authority took into account the following: Submitted to the Authority with no. prot. C/EIS/1426/22-02-2019 complaint by A regarding the sending of unsolicited e-mail messages for the purpose of political communication. The complainant received on 02-20-2019 an email message in which the complainant B promotes his candidacy in the upcoming European elections. Then, on 20-02-2019, the complainant addressed the 2nd complainant with an email with the content "Please let me know immediately where you found my email address, because this is a violation of my personal data since I have never declared my details to no party faction". The complainant responded on 02-21-2019 as follows: "Regarding your question, your email is publicly posted on websites managed by the Bar Associations and the Plenary of the Bar Associations. If you do not wish to receive updates regarding my candidacy, you can request (by replying to this email) the deletion of your email address from my recipient list, according to the provisions of the Personal Data Protection Regulation and in particular article 18." The complainant came back on 02-21-2019 with the following message: "My email address is posted on the said websites based on my legal capacity and its use is purely and solely related to my capacity as a lawyer. Your massive use of my and my colleagues' e-mail addresses for vote-hunting purposes is in no way consistent with the purpose for which they were posted and constitutes illegal harassment. It would be good if your legal advisors were more careful about them, especially when it comes to colleagues... and maybe they would take a closer look at the GDPR and especially at article 6 on lawful use based on the purpose for which they have been collected..." In the text of the complaint to the Authority, the complainant also mentions the following: "I consider it unacceptable that contact information that I am obliged to post based on my legal status and for the purpose of practicing it is used in this way for polling, commercial or personal promotion reasons. After all, it is obvious from the specific websites on

which these data are found, that they are posted for professional reasons only and not for use by anyone for any reason, otherwise I - like every other colleague - would have to deal with the deletion and sorting through all those irrelevant electronic messages, which have nothing to do with our legal capacity. I would also like to point out that in the previous elections due to the corresponding practice complained of by other candidates, my email address was flooded with similar irrelevant emails, which 2 3 distracted me from my work and to avoid a repetition of this phenomenon, I am led in this complaint. Finally, I consider it illegal to use my e-mail address in the recipient list of the complainant (as he states in his email) for which I never consented or showed any interest. Why should I unsubscribe from a list - as he urges me - to which they never subscribed? I am asking you to address the issue immediately, before this practice is consolidated to the detriment of all colleagues." The Authority with no. prot. C/EX/1426-1/01-04-2019 document invited the complainant to attend the meeting of the Department of the Authority on Wednesday 10-04-2019. The complainant submitted with G/EIS/2688/09-04-2019 a postponement request, which was considered during the meeting of 04-10-2019 and it was decided to postpone it for 04-17-2019. At the meeting of 04-17-2019, the complainant and his attorney Pavlos Marinakis attended. After the opinions of those present were developed orally, then the complainant submitted with no. prot. G/EIS/3216/06-05-2019 memorandum. The memorandum states, among other things, that the specific incident concerns an individual case, while also the e-mail address of the complainant is published on the internet. Further, the message contained the sender's information, as well as how to unsubscribe from the recipient list. Also, the right of access and objection exercised by the complainant was satisfied. 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, CONSIDERED 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 3 4 and for the free circulation of such data (hereinafter, Regulation), which is in force since May 25, 2018, as data 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 personal data processing". 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 communication is of interest from the point of view of the protection of 4 5 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, the elections of the European Parliament 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, they must be able to demonstrate compliance with their obligations and the rules processing.

4. When political communication is carried out using electronic means

communication,

without human intervention, through public networks

communication, such as e-mail messages (e-

mail), communication requires, in accordance with article 11 par. 1 Law 3471/2006,

as applicable, the prior consent of the data subject, with

subject to paragraph 3 of the same article, as applicable.

5. Political communication using electronic media is allowed without

human intervention and without the subject's consent

data only if the following conditions are met cumulatively:

(a) Contact Information has been lawfully obtained in the context of previous, similar contact with the data subjects, and the subject during the collection of the data informed about their use with purpose of political communication and did not object to this use.

The prior contact need not be purely political in nature, e.g. is it legal to send messages when the electronic mail were collected under a previous call for participation in any event or action, regardless of the political nature her. On the contrary, it is not considered to constitute a similar contact and is not legal use of electronic contact information for policy purposes communication when these details were obtained in the context of business

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relationship, such as a prospect's use of the customer file Member of Parliament.

(b) The controller must provide the subject of given the possibility to exercise the right to object in an easy and clear, and this in every political communication message. In every communication is required to clearly and clearly state the identity of the sender or of the person for whose benefit the message is sent, as well as and a valid address at which the recipient of the message can request the termination of the communication. Consent must be given clearly positive action which constitutes free, specific, explicit and complete recognize indication of the agreement of the data subject in its favor processing of the data concerning it.

6. In this particular case, the complainant, as controller, had not secured the required consent of the complainant either had a previous transactional relationship with her, namely the communication in question was carried out without any of the conditions being met of legality described in the above Thoughts 4 and 5. Besides, the data controller has not demonstrated that it follows procedures, regarding sending emails for policy purposes; communication, which ensure that the above conditions are met legitimacy. So much for the content of the person responsible processing to the complainant, as well as from its content of the memorandum submitted to the Authority, it appears that it took place sending the messages of political content to recipients whose addresses were published on the internet, regardless of the controller if there is prior consent for this purpose or previous transactional relationship, as required by article 11 of Law 3471/2006. The data controller did not provide the Authority with any relevant information with the number of recipients and the frequency of these messages. Taking into account the above, the Authority considers that it should be imposed on data controller or provided for in article 21 par. 1 item b' of n. 2472/1997 sanction referred to in the operative part of the present, which is judged

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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, to B a fine of 2,000 Euros for the above

established violation of article 11 of Law 3471/2006.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou