

Athens, 12-05-2021 Prot. No.: 1207 DECISION 20/2021 (Department) The Personal Data Protection Authority met in a composition of the Department via video conference on 02-17-2021 at 10:00, following 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 Evangelos Papakonstantinou, as rapporteur, in place of the regular members Charalambos Anthopoulos and Konstantinos Lambrinoudakis respectively, who, although legally summoned in writing, did not appear attended due to disability. Regular member Spyridon Vlachopoulos, although legally summoned in writing, did not attend due to disability. The meeting was attended by order of the President, Georgia Panagopoulou, expert scientist - auditor as assistant rapporteur and Irini Papageorgopoulou, employee of the Authority's administrative affairs department, as secretary. The Authority took into account the following: Submitted to the Authority with no. prot. G/EIS/6076/09-09-2019 complaint against the company "KARIERA SOLE INDIVIDUAL TECHNOLOGY CURRENT, COMMERCIAL PROMOTION AND EXPLOITATION OF SPECIAL PUBLICATIONS" under the distinguishing title "KARIERA S.A." regarding the sending of electronic messages Kifisias Ave. 1-3, 11523 Athens T: 210 6475 600 E: contact@dpa.gr www.dpa.gr 1 mail with advertising content to the complainant while he had repeatedly requested to be removed from the recipient lists. Specifically, according to document C/EIS/6076/09-09-2019, the complainant states that from ... he stopped wishing to receive further electronic messages from kariera.gr. He tried to make use of the link embedded in each email, selecting the appropriate options on the web page that appears, but the emails continued to arrive as normal. On ... sent email requesting to be removed from email lists. He was instructed to follow a specific ticketing procedure, which he proceeded to immediately on ... and by which he requested the complete deletion of all information relating to him from their databases. After confirming his contact details and his request, he received on ... information that all his personal data has been deleted. But he continued to receive emailed ad proposals similar to ads he had previously expressed interest in. On ... sent a new message about the issue via the ticketing method without receiving a response and on ... sent a warning to appeal to the Authority if the issue is not resolved, with no response either. The Authority with no. prot. C/EX/6076-1/03-10-2019 document informed CAREER about the complaint and asked for its opinions. CAREER responded with no. prot: C/EIS/7394/30-10-2019 her document, in which she analyzes the history of the complainant's communications with the company in his attempt to be removed from the lists of acceptable advertising messages. A specific technical problem was identified, which is described in the document as follows: The personal data processed by the Company are recorded

electronically in a data table that the Company calls the 'Master Data Table' (hereinafter the "Master Data Table"). All changes to personal data, such as deletions from e-mail lists or deletion requests submitted by data subjects through the Data Management Platform, are first entered into the Master Data Table and then incorporated/copied into the individual databases that are 2 connected with the Master Data Table, through a synchronization process that occurs automatically on a daily basis. One of these sub-databases connected to the Master Database is the "E-mail Database". Due to a technical error in the Company's computer systems, a duplicate record of the complainant's e-mail address was created in the E-mail Database. This technical error of double registration was detected and corrected immediately so that it does not happen again in the future. However, the duplicate record of the complainant's e-mail address remained in the E-mail Database, so that while the first record was normally deleted, the second record remained in the E-mail Database. Thus, when the complainant submitted a request to be deleted from the E-mail Database, using the delete/unsubscribe link, the request was successfully recorded in the Master Database, but the synchronization process failed to replace/delete the duplicate email address. of the complainant in the E-mail Database. Therefore, this is the reason why the complainant continued to receive e-mails about job offers from the Company. Then the Authority sent the no. prot. C/EX/931/05-02-2020 document in which he requested the following clarifications: For how long did the technical error with the double registration of the email address exist in the systems and how was it detected? How many e-mails have been entered into the systems during this time? How many requests to delete guest e-mails were received during this time? Have there been any complaints from email recipients? CAREER responded with no. prot. C/EIS/1765/06-03-2020 document in which he clarifies the following: The technical error occurred 6 months before ..., i.e. during the time period between .... The technical error was detected through the investigation carried out due to the complaint forwarded by the Authority. A total of 26,969 e-mails have been entered on the Greek website (Kariera.gr) during the existence of the technical error. 76 requests were submitted 3 to delete the e-mails of visitors to the www.kariera.gr website during this period. There were also 5 "Customer Service Issues" requests received during the time of the technical issue, on the grounds that the user cannot successfully unsubscribe. Following the above, the Authority proceeded to summon the company for the departmental meeting on 11-11-2020, with its document number C/EX/6076-1/30-10-2020. The company attended the meeting through the legal representative of Theofilos Vassiliadis and through the lawyer of Panagiotis Kontogeorgakopoulos (...). A ...of the company was also present. After receiving a deadline, the company submitted the memorandum No. G/EIS/7991/20-11-2020, in which it refers to its previous documents and in addition clarifies that the

response to the subject's request and its satisfaction are two different stages of the process of deleting his personal data, and that the company's response was immediate, while due to the technical problem the deletion did not take place. The company has as its permanent policy and makes every reasonable effort to complete the aforementioned deletion process within one (1) month from the submission of each deletion request, making every effort to respond immediately to the requests of the subjects and not to use the possibility of extending the response deadline by two (2) further months, which is expressly provided in the Regulation under certain conditions. Also, when the technical problem was resolved, the details of the complainant as well as all other data subjects facing a similar problem, including the five subjects who had made the requests-complaints, were successfully deleted from the company's information systems. In the context of the company's continuous improvement and commitment to the proper management of personal data, the company continues to develop new systems, which in the near future the company will be able to delete and generally manage them with greater immediacy and ease. The company's goal is, from the moment the subject's request is confirmed, to simplify the internal data deletion process, so that the response time is significantly reduced. 4 The Authority, after examining the elements of the file, after hearing the rapporteur and the clarifications from the assistant rapporteur, who was present without the right to vote and left after the discussion of the case and before the conference and decision-making, after a thorough discussion, CONSIDERED IN ACCORDANCE WITH THE LAW 1. From the provisions of articles 51 and 55 of the General Data Protection Regulation (Regulation (EU) 2016/679 - hereinafter GDPR) and article 9 of law 4624/2019 (Government Gazette A' 137) that the Authority has the authority to supervise the implementation of the provisions of the GDPR, this law and other regulations concerning the protection of the individual from the processing of personal data. 2. According to article 4 par. 7 of the GDPR, which has been in force since May 25, 2018, the controller is defined as "the natural or legal person, public authority, agency or other body that, alone or jointly with others, determines the purposes and the way of the processing of personal data". 3. The issue of making unsolicited communications by any means of electronic communication, without human intervention, for purposes of direct commercial promotion of products or services and for each type of advertising purposes, is regulated by article 11 of Law 3471/2006 on the personal data protection in the field of electronic communications, which incorporated Directive 2002/58/EC into the national legal order. According to this article, such communication is permitted only if the subscriber

expressly consented in advance. Exceptionally, according to article 11 par.

3 of Law 3471/2006, the email contact details that

legally acquired, in the context of the sale of products or services or otherwise

transaction, can be used for direct promotion

similar products or services of the supplier or for the service

similar purposes, even when the recipient of the message has not given

his consent in advance, provided that he is provided with

5

way clear and distinct the possibility to object, in an easy way and

free of charge, in the collection and use of his electronic data and this

when collecting contact information, as well as in each message, if applicable

that the user did not initially object to this use.

4.

According to article 17 par. 1 of the GDPR, "The subject of the data

has the right to ask the controller for deletion

personal data concerning him without justification

delay and the controller is obliged to delete data

of a personal nature without undue delay, if one of

the following reasons: (...) c) the data subject objects to

processing in accordance with Article 21 paragraph 1 and there are no imperatives

and legitimate grounds for the processing or the data subject objects

to processing in accordance with Article 21(2)'. Further, in the article

21 par. 2 of the GDPR states that "If personal data

are processed for direct marketing purposes, the

data subject is entitled to object at any time to

processing of the personal data concerning him for the

due to marketing, including profiling, if relevant

with this direct marketing.”

5.

Article 25 of the GDPR states that “Taking into account the latter developments, implementation costs and the nature, scope, context and purposes of the processing, as well as the risks of a different possibility occurrence and seriousness for the rights and freedoms of natural persons persons from processing, the controller applies effectively, both at the time of determining the means of processing and and at the time of processing, appropriate technical and organizational measures, such as the pseudonymization, designed to implement principles of protection of data, such as data minimization, and integration of necessary guarantees in the processing in such a way as to meet the requirements of this regulation and to protect the rights of data subjects.”

6.

In this particular case, data processing has taken place

6

personal nature of the complainant for the purposes of promoting products and services from the CAREER company, which is the controller. THE legality of the original collection is not judged by the present one, as o complainant accepts that he had provided his details to the company.

7.

The complainant, according to the original complaint, expressed object to sending messages for product promotion purposes. THE controller should have had the appropriate procedures in place to

respond. The controller did not act to stop it sending the advertising messages, as it should, as well as opposition and deletion in case of direct marketing must be done respected. This happened only after the intervention of the Authority. Therefore, from initial complaint results in a violation of Article 17 in conjunction with Article 21 par. 2 of the GDPR.

8.

Only after the complaint was forwarded by the Authority to the company were they made the appropriate actions to investigate the reason why the deletion of data of the complainant had not been done, and during this investigation found out what the technical error was. From the information that follows requested by the Authority and as a result of the data controller's investigation it emerged that there were a further 78 cases of failure to satisfy the right deletion of subjects as well as 5 requests-protests for this issue, the which the controller had not detected through the processes that applied, nor did the technical error. It is therefore established that the company did not in practice have the necessary procedures to ensure the deletion of the data in order to meet the requirements of the GDPR and to the rights of data subjects are protected. Therefore, there is a violation of article 25 par. 1 of the GDPR.

9.

The Authority takes into account aggravatingly, that the violation is related to an exercise rights of the data subject, that the technical fault was of duration of a semester and had affected 79 data subjects, that there were protests of 5 data subjects which due to incorrect procedures do not they received a reply that the data controller has an online store

and uses electronic communication techniques, therefore it should have

7

ensure the correct response to requests to exercise rights.

Furthermore, according to the publicly available data in GEMI1, the company v

in the year 2019 it had a turnover of €4,202,734.53 and profits after taxes

€879,150.88. As a mitigating factor, it takes into account that it is the first offense for her

specific company, that after the intervention of the Authority the person in charge

processing took action to investigate and correct it

problem and finally, the unfavorable economic situation due to the pandemic

Covid-19.

10.

Based on the above, the Authority unanimously judges that according to article 17 in

combination with Article 21 para. 3 of the GDPR and Article 25 para. 1 of the GDPR

the conditions for enforcement against the data controller are met, with

based on article 58 par. 2 i) of the GDPR and taking into account its criteria

of article 83 par. 2 of the GDPR, of the administrative sanction referred to in the ordinance

of the present, which is judged to be proportional to the gravity of the violation.

BECAUSE OF THIS

The Authority imposes, on the "CAREER SOLE INDIVIDUAL COMPANY

PROMOTION AND EXPLOITATION KNOW-HOW

SPECIAL PUBLICATIONS" with the distinctive title "CARIER S.A." the effective,

proportionate and dissuasive administrative fine appropriate to

specific case according to its special circumstances, amount

five thousand euros (5,000.00) euros, for the violations identified above

of article 17 in combination with article 21 par. 3 of the GDPR and article 25

par. 1 of the GDPR.

The Deputy President

George Batzalexis

The Secretary

Irini Papageorgopoulou

1 <https://www.businessregistry.gr/publicity/show/5366801000>

8