

(Department) The Personal Data Protection Authority (hereinafter, Authority) convened, at the invitation of its President, in a regular meeting in the composition of a department via video conference on Wednesday 08-04-2020 in order to examine the case referred to in the history of this present. The President of the Authority, Konstantinos Menudakos, and the substitute members Grigorios Tsolias, Evangelos Papakonstantinou, as rapporteur and Emmanuel Dimogerontakis, were present, in place of the regular members Charalambos Anthopoulos, Konstantinos Lambrinoudakis and Elenis Martsoukos respectively, who, although legally summoned in writing, did not attend due to obstacle. The meeting was attended by order of the President, Efrosyne Siougle, specialist scientist - auditor as assistant rapporteur and Irini Papageorgopoulou, employee of the Department of Administrative Affairs of the Authority, as secretary. The Authority took into account the following: Complaint No. C/EIS/5379/06-08-2019 was submitted to the Authority by A (hereinafter, the complainant), with which the complainant complains that she exercised her right of access after receiving an envelope of unsolicited political communication via conventional mail from B (hereinafter, the complainant), which included two ballots crossed out. Specifically, the complainant sent an e-mail to the address ..., with 1, in which she asked the complainant to inform her of the name or names of those who gave her personal data and on the basis of which his correspondence was sent, since she did not inform him these elements. According to the complaint, the complainant never received a response to her request. She also contacted the complainant's office by phone and asked to be informed that she found out her address and name but they replied that they cannot inform her and she should proceed with the legal procedures. In addition, the complainant states in the above complaint that the postal address to which the file was sent to her is not included in the electoral rolls or in any publicly accessible telephone (e.g. the OTE directory) or professional directories (e.g. the Yellow Pages) or catalogs of trade fairs as well as in registries made publicly accessible by law. The Authority, in the context of examining the complaint in question, sent the complainant the letter No. C/EX/5379-1/17-09-2019 with which he requested his opinions on the complainants, taking into account the guidelines lines issued by the Authority for Political Communication. Subsequently, due to the non-receipt of a response, the Authority contacted the complainant's office by phone and informed that it has not yet received a response. Following this, the complainant replied to the Authority, with the document No. G/EIS/398/17-01-2020, in which he mentions the following briefly:

1. The complainant entered as a candidate for mayor and in the combination of candidate municipal councilors participated, who could send pre-election material to promote their candidacy.
2. The complainant's office sent an update to a

communication group among municipal councilors, but received no response. 3. The complainant sent the Authority a list of the names of the candidates for municipal councilors, both from the recent municipal elections of 2019 and 2014, in case it is information that a candidate had provided from the previous election. 2 4. It does not have a list of the candidates for district councilors who participated in the 2014 municipal elections with the complainant as a candidate for mayor. 5. In the municipal elections of 2014, the complainant stood, as a candidate for mayor, with the support of the party ..., so the details of the complainant must also be sought in any lists of the aforementioned political party. 6. He noted to the Authority that the e-mail address ... to which the Authority sent document No. C/EX/5379-1/17-09-2019 and which was given to the Authority by the complainant, is incorrect and notified the Authority of the correct e-mail address of the complainant 7. Note to the Authority not to give the e-mail address of the complainant ... to the complainant. Subsequently, the Authority invited the complainant to a hearing at the meeting of the Authority's department on 03-04-2020, with document No. C/EX/1510/24-02-2020, in order to discuss the above complaint as well as the general practice followed for communication of a political nature. The said meeting was attended by the complainant and lawyer C with ..., who presented their views orally. The Authority, after examining the elements of the file, the hearing and after hearing the rapporteur and the assistant rapporteur, who withdrew after the discussion of the case and before the conference and decision-making, after a thorough discussion, CONSIDERED LAW 1.

According to article 4 par. 7 of the General Regulation (EU) 2016/679 for the protection of natural persons against the processing of personal data and for the free circulation of such data 3 (hereinafter, Regulation), which is in force since May 25, 2018, as responsible processor 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. In accordance with the Authority's guidelines regarding the processing of personal data for the purpose of political communication, taking into account the Regulation, 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, from political parties, MPs, MEPs, parties 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 the Regulation (article 4, item 7) if 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. 3. According to article 4 of the above

guidelines of the Authority, a legal basis for political communication by mail can be: (a) The consent of the subjects (article 6, par. 1 a) of the Regulation) for data processing them for the specific purpose. (b) The legal interest of the data controller (Article 6, par. 1 f) of the Regulation) if it is simple data that comes from legal sources, i.e. it was collected in a legal way and its use is not incompatible with the purpose of the policy communication. Such sources are the following: (a) Publicly accessible directories, telephone (e.g. the OTE directory), professional directories (e.g. the 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 Yellow Pages), trade fair catalogs as well as registries made publicly accessible by law (e.g. the General Commercial Register in accordance with articles 5 par. 9 and 16 par. 1, as applicable, Law 3419/2005). Publicly accessible directories are not considered to be those which have been compiled without meeting the legal requirements even if they are available via the internet (eg directories with contact information collected without the consent of the subjects). (b) The electoral rolls are a legal source in accordance with article 5 par. 5 and 6 n. 32623/1998 and article 23 of the codification p.d. 96/2007 under the statutory conditions referred to in article 4 of the above guidelines of the Authority. Even when the personal data comes from legal sources, the data controller must, before carrying out the policy communication, consult the register of article 13 par. 3 of Law 2472/1997, which is kept by the APDPH, and in which all persons who are not wish their data to be processed for advertising purposes by mail 4. According to article 15 par 1 of the Regulation: "1. The subject of data has the right to receive from the controller confirmation as to whether or not the personal data that the concerning being processed and, if this is the case, the right of access to personal data and the following information: (...)'

5. According to article 12 par. 3 of the Regulation "The data controller provides the data subject with information about the action that carried out on request under Articles 15 to 22 without delay and in any case within one month of receipt of the request.

This deadline can be extended by two more months, if required, taking into account the complexity of the request and number of requests. The controller informs the subject of data for said extension within one month of its receipt

request, as well as the reasons for the delay. If the subject of data submits the request by electronic means, the update is provided, if possible, by electronic means, unless the data subject

5

ask for something different.”

6. In this case, from the facts of the case under consideration, it appears that the complainant received a postal envelope, which she had in external view the information of the complainant and two internal ones ballots marked with a cross. However, it does not appear that the envelope was sent by the complainant himself for the promotion of his candidacy since it can reasonably be considered that it has been sent by a candidate municipal councilor, o who participated in the combination of the accused, for its promotion of his own candidacy, since the envelope contained two crossed out ballots. Besides, since it was not established who sent the file to complainant, it does not appear which is the source from which the its postal address, to which the above postal envelope was sent and which, according to the complaints, does not exist in public accessible sources.

7. Based on the above, no violation on his part is documented complained about sending unsolicited political communication via conventional mail.

8. The complainant did not respond to the access request, which was made by complainant both by e-mail and by telephone against violation of articles 15 par. 1 and 12 par. 3 of the Regulation.

9. The complainant did not provide the Authority with information regarding the information it provides to data subjects on how to exercise

of the right of access.

10. The complainant did not provide information to the Authority regarding his actions to inform the data subjects that the address e-mail ..., which is widely available on the internet, is incorrect, as he stated in his response document to the Authority, so that do not create the impression that it can be used by the subjects

6

of the data.

11. The complainant cooperated, as data controller, with the Authority responding to the document for clarification and providing the information that were requested during the Authority meeting

12. No administrative sanction has been imposed on the complainant in the past, as controller from the Authority.

Based on the above, the Authority unanimously judges that the conditions are met enforcement against the complained controller based on the article 58 par. 2 sec. i' of the Regulation and article 15 par. 6 of Law 4624/2019 of administrative sanction, referred to in the operative part of the present, which is considered proportional to the gravity of the violation.

FOR THOSE REASONS

It imposes on B the effective, proportionate and dissuasive administrative fine that is appropriate in the specific case according to more special circumstances thereof, amounting to three thousand euros (3,000.00) euros, for the above found violations of articles 15 par. 1 and 12 par. 3 of Regulation.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou