

Athens, 05-23-2022

Prot. No.: 1232

DECISION 16/2022

(Department)

The Personal Data Protection Authority met in composition

Department via teleconference on 02-03-2022 at the invitation of its President,

in order to examine the case referred to in the present history.

Georgios Batzalexis, Deputy President, who obstructed the President, was present

of the Authority, Constantinos Menoudakou and the alternate members Demosthenes

Vougioukas, as rapporteur, and Maria Psalla, in replacement of the regular members

Constantinou Lambrinoudakis and Grigoriou Tsolia, who despite being summoned

legally in writing, they did not attend due to disability. The meeting was attended by

Leonidas Roussos, as assistant rapporteur and by order of the President, Irini

Papageorgopoulou as Secretary, employee of its administrative affairs department

Principle.

The Authority took into account the following:

Thirty-six (36) complaints were submitted to the Authority, which concern the

sending unsolicited electronic communications via short text messages;

(SMS) from the dating agency under the name "ANOIXIS" (hereinafter "responsible

processing"). Specifically, submitted under no. prot. C/EIS/4652/02-07-2019,

C/EIS/4805/08-07-2019, C/EIS/5070/19-07-2019, C/EIS/5803/23-08-2019, C/EIS/6255/17-09-

2019,

C/EIS/1297/17-02-2020,

C/EIS/1483/23-02-2020, C/EIS/5980/03-09-2020, C/EIS/3791/09-06-2021, C/EIS/3833/10-06-

C/EIS/8842/18-12-2019,

C/EIS/1022/07-02-2020,

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C/EIS/5012/29-07-2021,

C/EIS/4172/24-06-2021,

C/EIS/5011/29-07-2021,

C/EIS/4090/22-06-2021,

2021,

C/EIS/4186/24-06-2021,

C/EIS/4331/01-07-2021, C/EIS/4500/07-07-2021, C/EIS/4827/20-07-2021, C/EIS/4998/28-07-

2021,

C/EIS/5042/30-07-2021,

C/EIS/5107/02-08-2021, C/EIS/5228/09-08-2021, C/EIS/5489/30-08-2021, C/EIS/5625/07-09-

2021,

C/EIS/7214/05-11-2021,

G/EIS/7383/11-11-2021, G/EIS/7654/22-11-2021 and G/EIS/7803/28-11-2021 complaints. At

complaints all complainants report receiving SMS from dating agency

without having any previous transactional contact or other relationship with the person in charge processing.

C/EIS/6713/17-10-2021,

C/EIS/6595/12-10-2021

In particular, the complaints submitted to the Authority and which were forwarded

to the data controller, through the aforementioned Authority documents,

they concerned advertising messages with the purpose of commercial promotion of his services

said Dating Agency and were sent on the following dates and times, by

below phone numbers:

a) 01/07/2019 and time 17:52 (prot. no. C/EIS/4652/02-07-2019 complaint), by

number...

b) 06/22/2019 at 1:35 p.m. (prot. no. C/EIS/4805/08-07-2019 complaint), by

number...

c) 11/07/2019 and time 12:19 (prot. no. C/EIS/5070/19-07-2019 complaint)

d) 06/08/2019 and time 11:18 (prot. no. C/EIS/5803/23-08-2019), from the number...

e) 11/09/2019 and time 19:21 (prot. no. C/EIS/6255/17-09-2019 complaint), by

number...

f) 10/12/2019 and time 17:52 (prot. no. C/EIS/8842/18-12/2019 complaint), from

the number ...

g) 03/02/2020 and time 18:02 (under case no. C/EIS/1022/07-02-2020 complaint), by

number...

h) 14/02/2020 and time 19:24 (prot. no. C/EIS/1297/17-02-2020 complaint), by

number...

i) 19/02/2020 and time 17:34 (prot. no. C/EIS/1483/23-02-2020 complaint), by

number...

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j) 3/9/2020 at 8:20 p.m. (prot. no. C/EIS/5980/03-09-2020 complaint), by

number...

k) 09/06/2021 and time 1:36 p.m. (prot. no. C/EIS/3791/09-06-2021 complaint), by

number...

l) unspecified date (prot. no. C/EIS/3833/10-06-2021 complaint),

from the number...

m) 22/06/2021 at 1:41 p.m. (prot. no. C/EIS/4090/22-06-2021 complaint), by

number...

n) 24/06/2021 and time 10:34 (prot. no. C/EIS/4172/24-06-2021 complaint), by

number...

o) 24/06/2021 and time 13:56 (prot. no. C/EIS/4186/24-06-2021 complaint), by

number...

p) unspecified date (prot. no. C/EIS/4331/01-07-2021 complaint),

from the number...

q) 06-24-2021 (under the complaint no. C/EIS/4500/07-07-2021), from the number...

r) 20-07-2021 and time 14:19 (prot. no. C/EIS/4827/20-07-2021 complaint), by

number...

s) 28/7/2021 and time 18:09 (prot. no. C/EIS/4998/28-07-2021 complaint), by

number...

k) 29/7/2021 at 6:09 p.m. (prot. no. C/EIS/5011/29-07-2021 complaint), by

number...

Mrs.) on 29/7/2021 (prot. no. C/EIS/5012/29-07-2021 complaint), by

number...

cb) 26/07/2021 and time 15:44 (under no. prot C/EIS/5042/30-07-2021 complaint), by

number...

c) 30/7/2021 and time 12:17 (under no. prot C/EIS/5107/02-08-2021 complaint), by

number...

kd) 09/08/2021 (prot no. C/EIS/5228/09-08-2021 complaint of Zanni A.), by

number...

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ke) 30/08/2021 and time 17:52 (under no. prot C/EIS/5489/30-08-2021 complaint), by

number...

kst) 07/09/2021 and time 12:19 (under no. prot G/EIS/5625/07-09-2021 complaint), from

the number ...

kz) 12/10/2021 and time 3:07 p.m. (prot. no. C/EIS/6595/12-10-2021 complaint), by

number...

ki) 15/10/2021 and time 18:03 (prot. no. C/EIS/6713/17-10-2021 complaint), from

the number ...

kth) 05-11-2021 and time 16:30 (prot. no. C/EIS/7214/05-11-2021 complaint), by

number...

l) 11-11-2021 at 1:04 p.m. (prot. no. C/EIS/7383/11-11-2021 complaint), by

number...

la) unspecified date and time 19:33 (G/EIS/7654/22-11-2021 complaint),

from the number...

b) 18-10-2021 at 4:30 p.m. (prot. no. C/EIS/7803/28-11-2021 complaint), by

number...

lg) 02-02-2022 and time 19:58 (under complaint no. C/EIS/1809/04-02-2022), by

number...

ld) unspecified day and time 14:18 (prot. no. C/EIS/1825/04-02-2022

complaint), from the number ...

le) 07-02-2022 and time 14:22 (prot. no. C/EIS/1905/07-02-2022 complaint), by

number...

pt) 07-02-2022 and time 19:14 (prot. no. C/EIS/1966/08-02-2022 complaint), from

the number ...

All of the above messages had content such as "ANOIXIS DATING AGENCY FIND

DIRECTLY YOUR MAN. MEETINGS - EVENTS - EXCURSIONS 2103251700 AND

NATIONWIDE [www.anoixisdate.gr](http://www.anoixisdate.gr). ADVERTISING MESSAGE" or "ANOIXIS OFFICE

DATING FIND YOUR PERSON PURPOSE COhabitation – MARRIAGE 2103251700 ATHENS –

THESSALONIKI AND PANHELLIC [www.anoixisdate.gr](http://www.anoixisdate.gr). ADVERTISING MESSAGE".

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As part of examining the complaints, the Authority sent the person in charge

processing documents equal to the number of complaints, i.e. thirty-six (36) in total (with original number G/EX/4652-1/12-07-2019, G/EX/4805-1/26-07-2019, G/EX/5070-1/09-08-2019, C/EX/5803-1/19-11-2019, C/EX/6255-1/19-11-2019, C/EX/1297-1/21-05-2020, C/EX/1483-1/21-05-2020, etc.), with which his opinions were requested on each of the above complaints, which were attached to said documents. However, in spite of repeated attempts by the Authority to contact the data controller through the listed address and contact information on its website (anoixisdate.gr), every action was ineffective.

For this reason, he sent to the National Telecommunications and Postal Commission request to grant space name details with the application number C/EX/2372/01-04-2020 document in order to be informed about the details of the person it has assigned the domain name 'www.anoixisdate.gr'. At the same time, he sent to the providers of telecommunications Yuboto Ltd and Cosmote – Mobile Telecommunications SA with the documents under No. C/EX/2376/01-04-2020 and No. C/EX/2378/01-04-2020 and message e-mail from 17-11-2021, respectively, requests for the granting of details of the owners of the telephone numbers in order to be informed about the persons at which have been assigned the telephone numbers ..., ..., ..., ..., ..., ..., ... and ... of which the said messages were sent, and to facilitate the examination of the above complaints.

The National Telecommunications and Postal Commission responded to the grant request site name data with document No. G/EIS/2554/08-04-2020.

According to EETT, the domain name anoixisdate.gr was registered on 06-19-2013 and expired on 18-06-2021. The beneficiary of the domain name was A. Furthermore, with the document No. C/EIS/2555/08-04-2020 the provider Yuboto Ltd responded to the request of Authority to provide details of the owner of the telephone number ... . The phone guy number ... has been assigned to the sole proprietorship of B, with A.F.M.: , D.O.Y.: ... and declared mobile contact phone .... Finally, Cosmote with sub nos. first ... and C/EIS/7630/22-

11-2021 replied that: 1. The owner of the connections ... and ..., ... and ... is B with number passport ..., ... e-mail: ... . 2. Owner of the connections ... and ... is C of ... (deleted from 01/05/2020 and 09/03/2021, respectively) 3. Owner of the connection ... for the period 1/02/2018 - 7/12/2018 was D. On 12/12/2018 this connection was transferred to B and remained active until 17/10/2019.

Subsequently, the Authority sent clarification documents (prot. no.

C/EX/2669/14-04-2020 and C/EX/3330/15-05-2020) to A and B to inform them of

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the submitted complaints to the Authority and asked them to present their views on of the complainants, without receiving any response. Subsequently, every document to data controller was sent to both of the above natural persons, but without never be answered.

Finally, the Authority sent the under no. prot. 1619/29-06-2021 document to the company DNHOST, registrar of the domain name www.anoxisdate.gr, regarding the person for whom has proceeded with this entry since 06-16-2021. The company responded with... her message that the beneficiary of the site name is B, with address ..., who proceeded and in said entry. From a search in the Central Union public directory of Chambers of Greece (<https://www.businessregistry.gr/publicity/show/143491640000>) it appears that the above information of the said person operates a sole proprietorship with distinctive title 'Anoixis', ... .

Then the Authority called with no. prot. C/EX/397/22-02-2022 document no controller and the two above natural persons, attaching the whole of the complaints, at a hearing on Wednesday 02-03-2022, during which the aforementioned complaints were to be discussed as well as the general practice which is followed for the direct promotion of products and services with electronics inside. However, although the document was duly served, neither was the person in charge

processing, but neither did any of the above natural persons attend.

The Authority, after examining all the elements of the file and referring to

of the meeting of 02-03-2022, after hearing the rapporteur and the

clarifications from the assistant rapporteur and after thorough discussion,

THOUGHT ACCORDING TO THE LAW

1. According to art. 4 pc. 7 of the General Regulation (EU) 2016/679 (hereinafter "General

Data Protection Regulation" or "GDPR" or "Regulation") for the protection of

natural persons against the processing of personal data and for

the free circulation of these data, which is in effect from

May 25, 2018, the controller is defined as "the natural or legal person, i

public authority, agency or other body which, alone or jointly with others, determine

the purposes and manner of personal data processing".

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2. The issue of making unsolicited communications by any means

electronic communication, without human intervention, for direct purposes

commercial promotion of products or services and for any kind of advertising

purposes, is regulated in article 11 of Law 3471/2006 on personal protection

data in the field of electronic communications. According to this article, one

such communication is permitted only with the subscriber's express consent

expressly in advance. Exceptionally, according to art. 11 par. 3 of Law 3471/2006, the

legitimately obtained email contact information, in context

of the sale of products or services or other transaction, they may

are used to directly promote its similar products or services

supplier or to serve similar purposes, even when the recipient

of the message has not given his consent in advance, under

provided that he is provided in a clear and distinct manner with the possibility to



opposes, in an easy way and free of charge, the collection and use of  
of electronic data and this during the collection of contact data, as well as  
in each message, in case the user had not initially objected to this  
use. It is also pointed out that short text messages (SMS) also constitute  
e-mails according to the definitions of Law 3471/2006 and  
of Directive 2002/58/EC.

3. According to art. 31 of the GDPR, the controller and the executor  
processing and, as the case may be, their representatives cooperate, thereafter  
request, with the supervisory authority for the exercise of its duties.

4. As can be seen from the data in the files of the complaints under review:

a. None of the complainants had expressly consented in advance  
in order to receive advertising messages from the controller  
but neither did he have any previous business contact or other relationship with him  
controller so that the contact details have been obtained legally  
them so that their prior consent is not required for sending them  
specific messages. The controller did not provide any information to  
prove that the required prior consent of the  
recipients of the SMS messages, or that there had been a previous similar one  
contact/communication.

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b. In none of the specific messages, as attached to the complaints, no  
refers to a valid address to which the recipient of the message can  
requests the termination of the communication by exercising the right to object as defined  
in article 11 par. 4 of Law 3471/2006.

c. As can be seen from the complaints under item. h', j', id', z', lb' and lst' above, o  
controller did not respond to access/deletion requests

of data subjects submitted by electronic means. Therefore, no  
nor does it adequately satisfy the subjects' right of access to the data  
of their personal nature that are processed, as provided for in  
article 15 of the Regulation, but neither the possibility of deleting them from the list  
recipients of said communication, thereby infringing this right  
of their objection to the processing, provided for in article 21 of the Regulation.

5. The controller did not cooperate with the Authority as he did not respond,  
repeatedly, in none of the even number of complaints documents for clarification  
which were sent to him both by e-mail and registered at  
stated contact addresses that it has posted on its website and does not  
attended the meeting of the Authority, where he was called for explanations.

6.

No administrative sanction has been imposed by the Authority on the person in charge in the past  
processing,

Based on the above, the Authority unanimously judges that according to Article 11 of Law  
3471/2006 and articles 15, 21 and 31 of the GDPR, the conditions for enforcement in  
burden of the controller, based on the one hand on article 13 of Law 3471/2006 on  
combination with article 58 par. 2 sec. i' of the GDPR, the administrative sanction, which is mentioned  
in the present provision, which is deemed proportionate to the gravity of the violation.

FOR THOSE REASONS

It imposes on the data controller the effective, proportional and  
dissuasive administrative fine appropriate to the specific case  
according to the special circumstances thereof, amounting to fifty-four thousand euros

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(€54,000.00), for the above found violations of Article 11 of Law 3471/2006  
and articles 15, 21 and 31 of the GDPR.

The Deputy President

George Batzalexis

The Secretary

Irini Papageorgopoulou