

Athens, 02-12-2022

Prot. No.: 3094

DECISION 63/2022

The Personal Data Protection Authority met in a meeting at the headquarters of the Authority on 22-11-2022, Tuesday at 10:00 a.m. upon invitation of the President of, in order to review ex officio cases of imposition of sanctions under application of article 11 of Law 3471/2006 in the context of an unsolicited policy communication, in view of the subsequent issuance of decisions of its Council of State within the meaning of this article. The President of the Authority was present, Konstantinos Menudakos and the regular members of the Authority, Spyridon Vlachopoulos, Charalambos Anthopoulos, Grigorios Tsolias and Aikaterini Iliadou, as rapporteurs, Christos Kalloniatis and Konstantinos Lambrinoudakis. Present, without right The auditors were Kyriaki Karakasis, Haris Symeonidou, expert scientists of law and Georgia Panagopoulou, specialist IT scientist, as assistants rapporteurs, as well as Irini Papageorgopoulou, employee of the administrative department affairs, as secretary.

The Authority after hearing the Speakers

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THOUGHT ACCORDING TO THE LAW

1. The Fourth Department of the Council of State, in the context of examining applications of annulment against Decisions of the Authority by which fines were imposed for unsolicited political communication, based on the provision of article 11 of Law 3471/2006, accepted that: "...To limit the, necessary for the functioning of the democratic state, communication of the candidate for parliament during the pre-election period with the electors of the district in which is applying, special regulation is required. No such special arrangement

can be considered article 11 par. 1 of Law 3471/2006 [...] which regulates the unsolicited communications for direct marketing purposes products or services and for any kind of advertising purposes, transferring the corresponding provision of article 13 of directive 2002/58, re unsolicited calls for direct marketing purposes, as well as in communication described in the above provisions does not, however, fall within the scope of communication of the parliamentary candidate during the pre-election period. [...] This interpretation does not affects the protection of the personal data of the individuals involved persons, [...], since the general ones still apply provisions of the GDPR, based on which the legality of each can be judged processing". (see SC 1343, 1344, 1345/2022).

2. In the decisions of the Authority with no. 19 of the year 2019, 12, 14, 17, 19, 24, 28, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 56, 58 of the year 2020, 3, 4, 7, 8, 9, 14, 19 and 46 of the year 2021 and 17 and 26 of the year 2022, sanctions have been imposed for unsolicited political communication on the basis of the above provision of article 11 of the law.

3471/2006. Taking into account the aforementioned decisions Council of State, there is a legal reason for revocation of the above of the Authority's decisions, with which sanctions were imposed under provision of article 11 of Law 3471/2006 and not in the provisions of the GDPR which is still applied to assess the legitimacy of each processing.

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## FOR THOSE REASONS

The Authority revokes the no. 19 of the year 2019, 12, 14, 17, 19, 24, 28, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 56, 58 of the year 2020, 3, 4, 7, 8, 9, 14, 19 and 46 of the year 2021 and 17 and 26 of the year 2022 its aforementioned decisions.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou