

Athens, 09-21-2021 Prot. No.: 2104 DECISION 42/2021 (Department) The Personal Data Protection Authority met as a Department via video conference on 04-21-2021 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, the members Spyridon Vlachopoulos, Konstantinos Lambrinoudakis and the alternate member Grigorios Tsolias attended as rapporteur and in place of the regular member Charalambos Anthopoulos, who, although he was legally summoned in writing, did not attend due to disability. The meeting was attended, by order of the President, by George Roussopoulos, 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: A complaint No. C/EIS/617/27-01-2020 of A was submitted to the Authority, according to which B (hereinafter also responsible for processing), a member of the Parliament of Greece, sent a press release to her personal email address without the complainant having given her consent. The complainant further complains that her email address was visible to other recipients of the message. 1-3 Kifissias Ave., 11523 Athens T: 210 6475 600 E: [contact@dpa.gr](mailto:contact@dpa.gr) [www.dpa.gr](http://www.dpa.gr) 1 The Authority, with its document G/EIS/617-1/09-03-2020, informed the responsible processing on the complaint, asking for its views on it. The complainant responded with her letter C/EIS/1895/11-03-2020, stating that the complainant's e-mail address was accidentally included in the list of recipients of the specific press release of her office, apologizing for the disturbance caused to complainant and assuring that her email address has been removed from the relevant mailing lists. According to this response, the e-mail address of the complainant was obvious, because the specific e-mail was addressed to professional journalists - political editors. From the information in the complaint it appears that the content of the message was a press release in relation to the political action of a member of Parliament and that the displayed e-mail addresses, which, as can be seen from many of the domain names of the e-mail addresses of the recipients, are related to largely with journalists, are in several cases directly related to their name and are visible to all recipients. 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, following a thorough discussion , **CONSIDERED ACCORDING TO THE LAW 1.** According to article 4 par. 1 of the General Regulation (EU) 2016/679 for the protection of natural persons against the processing of personal data and for the free movement of such data (hereinafter GDPR) personal data is "any information concerning an identified or identifiable natural person (" 2 data subject"); an identifiable natural person

is one whose identity can be ascertained, directly or indirectly, in particular by reference to an identifier such as a name, an identity number, location data, an online identifier or one or more factors that characterize the physical, physiological, genetic, psychological, economic, cultural or social identity of the natural person in question'. In this context, the e-mail address of a natural person is a given of a personal nature, since it can function as an element of indirect identification of its owner, allowing communication with him, while in several cases it even carries elements of the owner's name, identifying him directly. 2. In article 4 para. 7 of the GDPR, a 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". 3. Article 5 paragraph 1 of the GDPR defines the Principles governing the processing of personal data. These include the principles of accuracy (sec. d'), according to which the data must be accurate in relation to integrity and confidentiality (sec. f'), according to which the data are processed in a way that guarantees the appropriate security of personal data, including their protection against unauthorized or illegal processing and accidental loss, destruction or damage, by using appropriate technical or organizational measures. 4. Based on Article 6 para. 1 of the GDPR, "the processing is lawful only if and as long as at least one of the following conditions applies: (...) a) the data subject has provided consent for the processing of his personal data for one or more specific purposes, (...) f) the processing is necessary for the purposes of the legitimate interests pursued by the controller or a third party, unless these interests are overridden by the interest or the fundamental rights and freedoms of the data subject which impose the protection of the processing and purposes 3 of personal data, in particular if the data subject is a child." 5. Article 32 par. 1 and 2 of the GDPR stipulates that: "1. Taking into account the latest developments, the cost of implementation and the nature, scope, context and purposes of the processing, as well as the risks of different probability of occurrence and severity for the rights and freedoms of natural persons, the controller and the executor the processing implement appropriate technical and organizational measures in order to ensure the appropriate level of security against the risks (...) 2. When assessing the appropriate level of security, the risks deriving from the processing, in particular from accidental or illegal destruction, loss, alteration, unauthorized disclosure or access to personal data transmitted, stored or otherwise processed". 6. As can be seen from the data in the case file, the processing of the complainant's e-mail address, which was partially automated under no. 2 para. 1 GDPR, was made by the complainant, as controller, for the purpose of sending a press release in relation to the political action of a member of the Hellenic Parliament. From the recipients of the e-mail it appears that the recipients were mainly journalists. The processing of journalists' contact information for this purpose

may be lawful, either on the legal basis of the data subject's consent (Article 6 para. 1 a GDPR), or on the basis of the overriding legitimate interest (Article 6 para. 1 in the GDPR). The complainant accepts that the sending of the press release to the complainant's e-mail address was done by mistake, but it appears that she thought the address corresponded to a journalist. Therefore, in this case, it appears that the processing of the complainant's address was based on Article 6 para. 1 of the GDPR and therefore the claim of the complainant that she had not given consent does not have legal influence to substantiate a violation of Article 6 para. 1 a' GDPR. 7. Based on Article 32 of the GDPR, the use of electronic addresses to satisfy the purpose of the processing must be done in a way that ensures the least possible risk in relation to the natural persons who are recipients of the messages. In this case, the inclusion of the complainant's e-mail address in the "To" field of the e-mail message made that address known to all recipients of the e-mail message. Given that many of the recipient addresses correspond to personal e-mail addresses of natural persons, which do not have a connection to any means of communication on behalf of their domain (e.g. email@μεσοεκκλησιας.gr), the data controller should have prevented the risk in question, through organizational measures, but by using "hidden notification" or by sending individual messages, if the possibility exists<sup>1</sup>. Furthermore, as the inclusion of the complainant's address was, according to the complainant, by mistake, it also follows that there were no appropriate measures to ensure the principle of accuracy (Article 5 para. 1 d GDPR) as the complainant was burdened with the obligation to have checked whether the address corresponds to a journalist. 8. The Authority takes into account that the consequences of disclosing the complainant's e-mail address to journalists are minor importance, that this action has been done without malice, as the person responsible for processing considered that the address corresponded to a journalist and that he took immediate action to address the violation, deleting it from his records as soon as he became aware of the complaint. Based on the above, the Authority unanimously considers that according to article 32 par. 1 in combination with article 5 par. 1 f of the GDPR and article 5 par. 1 d', the conditions for exercising the corrective power to the controller of article 58 par. 2 b of the GDPR, which is judged to be proportional to the gravity of the violation.

<sup>1</sup> See Guidelines 01/2021 on Examples regarding Data Breach Notification, public release

consultation, pp. 28 and 29.

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#### FOR THOSE REASONS

The Authority reprimands B for the violation of articles 32 par. 1 c

combination with article 5 par. 1 f' and article 5 par. 1 d' of the GDPR.

The Deputy President

George Batzalexis

The Secretary

Irini Papageorgopoulou

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