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## Penalty for GDPR violation

In February 2021, the National Supervisory Authority completed an investigation at the operator BNP Paribas Personal Finance SA Paris Sucursala Bucharest and found the commission of the act of "non-compliance with the provisions of art. 12 regarding unsolicited communications", provided by art. 13 para. (1) lit. q) from Law no. 506/2004 on the processing of personal data and the protection of private life in the electronic communications sector, amended and supplemented.

As such, the operator of BNP Paribas Personal Finance SA Paris Sucursala Bucharest was fined 10,000 lei.

The investigation was started as a result of a complaint submitted by the data subject regarding the fact that he received a commercial SMS message from BNP Paribas Personal Finance S.A. on his phone number. Paris Branch Bucharest.

Following the investigation, it was found that the operator did not prove the existence of the prior consent of the respective person, according to art. 12 of Law no. 506/2004, amended and supplemented, although the petitioner had previously exercised, repeatedly, the right of opposition to the processing of her data for marketing purposes.

The provisions of art. 12 of Law no. 506/2004, amended and supplemented, provide for the following:

"(1) It is prohibited to carry out commercial communications by using automated calling and communication systems that do not require the intervention of a human operator, by fax or electronic mail or by any other method that uses electronic communications services intended for the public, unless where the subscriber or user concerned has previously expressed his express consent to receive such communications

(2) Without prejudice to the provisions of para. (1), if a natural or legal person directly obtains the e-mail address of a customer, when selling a product or service to him, in accordance with the provisions of Law no. 677/2001, the natural or legal person in question may use that address, for the purpose of carrying out commercial communications regarding similar products or services that that person markets, provided that they clearly and expressly offer customers the opportunity to object by a simple and free means to such use, both when obtaining the e-mail address and on the occasion of each message, if the customer did not initially object.

(3) In all cases it is prohibited to make commercial communications by electronic mail in which the real identity of the person in the name and on whose account they are made is hidden, in violation of art. 5 of Law no. 365/2002, republished, or in which no valid address is specified to which the recipient can send his request regarding the cessation of such communications or in

which the recipients are encouraged to visit internet pages that contravene art. 5 of Law no. 365/2002, republished.

(4) The provisions of par. (1) and (3) shall also apply mutatis mutandis to legal person subscribers."

Also, art. Paragraph V. (2) from Law no. 129/2018 provides that "All references to Law no. 677/2001, with subsequent amendments and additions, from the normative acts are interpreted as references to the General Data Protection Regulation and its implementing legislation."

Legal and Communication Department

A.N.S.P.D.C.P.