

Another sanction for violating the RGPD

The National Supervisory Authority completed on 26.09.2019 an investigation at INTELIGO MEDIA SA, finding the following:
Violation of the provisions of art. 5 para. (1) lit. a) and b), art. 6 paragraph (1) letter a) and art. 7 of the RGPD, which led to the application of a fine in the amount of 9000 Euros.

The sanction was applied as a result of notifications stating that for the creation of a new account on the website avocatnet.ro - which belongs to the operator Inteligo Media SA, an unchecked box is displayed, with a text next to the following content: « I do not want to receive "Personal Update", the information sent daily, free of charge, by email, by avocatnet.ro ».

According to these conditions set by the operator, to the extent that a user omits to tick this box, he is automatically subscribed, respectively his e-mail is automatically entered in the subscriber base for this information.

Thus, the subscription took place in the absence of a manifestation of will on the part of the users, which clearly indicates the acceptance of the processing for the purpose established by the operator.

During the control, the operator could not prove the obtaining of an explicit consent, under the conditions provided by art. 7 of the RGPD, for a number of 4357 users, whose personal data were processed.

Also, for the transmission of daily information by e-mail, the operator processed the data on the basis of a legal basis unsuitable for the purpose, namely "execution of a contract".

In this context, we emphasize that according to art. 7 of the RGPD, if the processing is based on consent, the controller must be able to demonstrate that the data subject has given his consent for the processing of his personal data.

Recital 32 in the preamble to that regulation also states:

"Consent should be given by an unequivocal action which constitutes a freely expressed, specific, informed and clear manifestation of the data subject's consent to the processing of his or her personal data, such as a written statement, including in electronically, or verbally. This could include ticking a box when the person visits a site, choosing the technical parameters for information society services or any other statement or action that clearly indicates in this context the data subject's acceptance of the proposed processing of his or her personal data. Therefore, the absence of a reply, the boxes ticked in advance or the absence of an action should not constitute consent. Consent should cover all processing activities carried out for the same purpose or purposes. If the data processing is done for several purposes, consent should be given for all purposes of the processing. Where the consent of the data subject is to be given following an electronic request, that request

shall be clear and concise and shall not unnecessarily disrupt the use of the service for which the consent is given. "

Legal and Communication Department

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