

8.3.2022.

Administrative fine for failure to provide a copy of personal data at the request of the respondent

The Agency for the Protection of Personal Data imposed an administrative fine in the amount of HRK 940,000.00 on the data controller, i.e. the company from the energy sector (hereinafter: the Company) for failing to provide video surveillance camera recordings (copies of personal data) at the request of the respondent, which led to violations of Article 15, paragraph 3 of the General Data Protection Regulation.

The Agency received a request to determine the violation of the right to personal data protection from the respondent who asked the Company to deliver video surveillance camera footage of the applicant (respondent). Namely, the applicant used the services of a gas station at one of the Company's branches and, due to dissatisfaction with the measurement of fuel consumption, filed a complaint in accordance with consumer protection regulations. After that, in order to better protect his consumer rights, he requested the delivery of copies of his personal data via a copy of the video surveillance camera, specifying the exact date and time. The Company refused such a request for the reason that it considered that there was no written request from the competent authorities for the delivery of a copy of the recording, that the purpose of the request was not justified, and that obtaining such a copy would negatively affect the rights and freedoms of the employees of the gas station and customers who were present in at that moment. In his address to the Company, the applicant warned of the possibility of contacting the Agency in the event of a violation of his rights to the protection of personal data.

After the Agency, at the request of the applicant, gave an opinion in principle on the obligation of the personal data processing manager to provide the respondents with copies of the requested video surveillance recordings on which they are located, the Company replied to the applicant that they could not provide him with the requested recordings due to the fact that the archive of recordings on sale place is deleted after seven days.

In the case in question, there was a violation of the right to access personal data, i.e. to obtain a copy of the applicant's personal data, as one of the fundamental rights of the respondent, in such a way that he was denied the right to obtain a copy of the footage of the video surveillance camera on which the applicant was on the sales floor poured fuel at the Company's location, and for which the violation of the General Data Protection Regulation prescribes the imposition of an administrative fine in accordance with Article 83, paragraph 5, point b), that is, an administrative fine in the amount of up to EUR 20,000,000 or, in the case of an entrepreneur, up to 4% of the total annual worldwide turnover for the previous financial year, whichever is

greater.

In this administrative matter, not only the indirect material damage to the applicant was determined, but also the possible financial benefit of the Company, which, by not providing the recording and its subsequent deletion after the expiration of the seven-day period, indirectly avoided the financial damage it could have suffered as a result of the consumer dispute with the applicant, and by not submitting the recording, it eliminated a potentially important piece of evidence in the special proceedings. In doing so, we emphasize that the Agency is not authorized to determine whether the damage actually occurred and its amount, however, if the damage was suffered due to a violation of the General Regulation on Data Protection or if there is such a possibility, then the Agency should take this fact into account when assessing the amount of the administrative fine. Administrative fine for failure to take appropriate security measures for personal data processing

The Personal Data Protection Agency imposed an administrative fine in the amount of HRK 675,000.00 due to failure to take appropriate security measures for the processing of personal data by the commercial chain (hereinafter: the Company) as a data controller, contrary to Article 32, paragraph 1, point b) and d) and paragraphs 2 and 4 of the General Regulation on Data Protection, which led to the unauthorized processing of personal data of the respondents through their public publication on social networks and in the media.

The Agency for the Protection of Personal Data received from the Company a Report on the violation of the respondent's personal data, in which it is stated that the employees of the Company, without authorization and contrary to the Company's internal acts and instructions, took a video surveillance recording with a mobile phone and the same was distributed to the public without authorization, i.e. the recording reached social media networks and in the media, and it remained available. It was established that the Company did not take adequate actions to prevent its employee from making a recording of a video surveillance monitor using a mobile device. Namely, the Company has undertaken certain organizational protection measures such as employee education, adoption of internal acts that stipulate the authorization of access to recorded videos and the signing of a confidentiality statement for employees, however, it did not undertake appropriate organizational and technical security measures, neither before nor after the incident. and which could reduce the risk of the same or similar injury to the lowest possible level.

Likewise, the controller did not regularly supervise the implementation of technical and organizational measures aimed at ensuring the confidentiality, integrity and availability of personal data, i.e. failed to regularly test, evaluate and determine the

effectiveness of technical and organizational measures designed to ensure the security of processing through video surveillance.

In the case in question, there was a violation of the controller's obligations by not implementing appropriate technical security measures for the processing of personal data, for which the General Regulation on Data Protection prescribes the imposition of an administrative fine in accordance with Article 83, paragraph 4, point a), that is, an administrative fine of up to 10 000,000 euros or, in the case of entrepreneurs, up to 2% of the total annual turnover at the world level for the previous financial year, whichever is greater.

The Agency believes that the corrective measures in the form of an administrative fine are effective, proportionate and dissuasive, and that the amount is fully appropriate to the circumstances of both cases. The higher amount of the fine will achieve, in addition to the general, special prevention, in such a way that the subject managers of personal data processing will be deterred from similar violations of the General Data Protection Regulation in the future, and all managers/executors of processing will become aware of the necessity to comply with regulations on personal data protection data, and especially in respect of the rights of respondents, which are the basis of the entire normative framework on the protection of personal data.