

(UOOU-09654/18)

## Company

The inspection was initiated on the basis of an inspection plan with a proposal to carry out an inspection of the processing of personal data of clients of the inspected company in connection with the use of a dynamic biometric signature with a focus on the legality of this processing, the provision of information about this processing and the security of the processing of personal data. The inspection concluded that the inspected company in as part of the processing of personal and biometric data, it complies with the obligations of the personal data administrator when providing information according to Article 12 and Article 13 of the General Regulation and when securing personal data according to Article 24 and Article 32 of the General Regulation. Furthermore, it was stated that for the purposes of closing and storing contract documentation, it is not necessary to use a dynamic biometric signature, as it is not required in the case of signing documents in paper form, and a simple image of the client's signature on the dematerialized contract documentation is sufficient for the stated purposes, which is comparable to signing the contract documentation in paper form. established that the controlled company did not comply with the principle of data minimization set out in Article 5 paragraph 1 letter c) of the general regulation when it collected and subsequently stored the dynamic biometric signatures of its clients. The audited company's objection to this finding was rejected by the chairperson of the Office, i.e. the chairperson confirmed with the auditors that dynamic biometric signature of clients is not necessary for the purpose of concluding and keeping contractual documentation or simplifying this process, as it is not required by the auditee in the case of concluding contracts in paper form. According to the provisions of § 561, paragraph 1) of Act No. 89/2012 Coll., Civil Code, ... "The signature of the person acting is required for the validity of a legal act made in written form. A signature may be replaced by mechanical means where this is customary. Another legal regulation determines how a document can be signed electronically during a legal transaction made by electronic means." This other legal regulation was Act No. 227/2000 Coll., on electronic signatures, which was repealed on September 19, 2016, but the explicit legal regulation of dynamic did not contain the biometric signature and its use. It was replaced by the so-called Adaptation Act to Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust-building services for electronic transactions in the internal market and on the repeal of Directive 1999/93/EC (the eIDAS Regulation ), i.e. Act No. 297/2016 Coll., on trust-creating services for electronic transactions, which also does not contain the

legal regulation of dynamic biometric signature and its use. Neither the Civil Code nor the special legislation expressly require a dynamic biometric signature for the validity of a legal act in written form. A simple image of the client's signature on the dematerialized contractual documentation, which is comparable to the signature on the contractual documentation in paper form, is sufficient for the above purposes. An administrative proceeding will be initiated with the controlled company to impose measures to correct the detected situation, and an infraction proceeding will be assessed subsequently.

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