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A new penalty for breaching GDPR

In November of this year, the National Supervisory Authority completed an investigation at the operator SUDREZIDENCIAL Broker S.R.L. in which he found the violation of the provisions of art. 32 para. (4) and art. 34 of the General Data Protection Regulation (RGPD), as well as the violation of art. 4 para. (5) from Law no. 506/2004 on the processing of personal data and the protection of private life in the electronic communications sector.

As such, the company SUDREZIDENCIAL Broker S.R.L. was penalized as follows:

fine in the amount of 49,418 lei, the equivalent of 10,000 EURO, for violating the provisions of art. 32 para. (4) from GDPR;

warning for violating the provisions of art. 34 of the GDPR;

warning for violating the provisions of art. 4 para. (5) from Law no. 506/2004

During the investigation, it was found that the operator SUDREZIDENCIAL Broker S.R.L. did not take adequate measures to ensure that any natural person acting under his authority and who has access to personal data does not process them except at his request, which led to the preparation of an Excel record containing the data with personal data (surname, surname, personal numerical code, telephone number, identity card number and series, e-mail address, bank details, real estate purchases, marital status, requested amount, bank, comments) of the operator's customers and others natural persons (customers' life partners).

This situation led to the unauthorized disclosure to the general public of the personal data of at least 509 data subjects, clients of the operator, through their publication by the company's administrator on a certain internet page.

It was also found that the operator did not inform the persons concerned about this violation of the security of personal data, thus violating the provisions of art. 34 of the GDPR.

At the same time, it was found that the company Sudrezidencial Broker S.R.L. stored information (cookie modules that were not technically necessary in the operation of the operator's website) without obtaining the consent of the users, natural persons, and without providing them with clear and complete information according to art. 12 - 14 of the RGPD, violating the provisions of art. 4 para. (5) 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.

In this context, we specify that art. 4 para. (5) from Law no. 506/2004 provides the following:

"Storing information or obtaining access to the information stored in the terminal equipment of a subscriber or user is allowed only with the cumulative fulfillment of the following conditions:

- a) the subscriber or user in question has expressed his consent;
- b) the subscriber or user in question were provided, prior to the expression of consent, in accordance with the provisions of art. 12 of Law no. 677/2001, with subsequent amendments and additions, clear and complete information that:
 - (i) to be presented in an easy-to-understand language and to be easily accessible to the subscriber or user;
 - (ii) to include mentions regarding the purpose of processing the information stored by the subscriber or user or the information to which he has access. (...)"

Legal and Communication Department

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