

28.03.2023

CSM - new competences on data protection

In consideration of the requests received from the general public, regarding aspects regarding the supervision of personal data processing operations carried out by the courts, in the exercise of their judicial powers, we submit the following aspects to the attention of the interested persons:

Through the provisions of art. 34 para. (2) from Law no. 305/2022 regarding the Superior Council of the Magistracy (published in the Official Gazette, Part I no. 1105 of November 16, 2022) establishes: "The Superior Council of the Magistracy is the competent authority for the supervision of personal data processing operations by the courts in the exercise of their judicial powers, within the meaning of art. 55 para. (3) of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/ CE (General Data Protection Regulation)."

These provisions were issued in application of consideration (20) and related to art. 55 para. (3) of the GDPR, following the steps taken by the National Supervisory Authority since 2018.

According to recital (20) of the GDPR "(...) The processing of personal data should not be the competence of the supervisory authorities in the event that the courts exercise their judicial powers, in order to guarantee the independence of the judicial system in the performance of its judicial duties, including in decision making. The supervision of such data processing operations should be able to be entrusted to specific bodies within the judicial system of the member state, which should in particular ensure compliance with the rules provided for in this regulation, sensitize the members of the judicial system regarding the obligations that to them under this regulation and to deal with complaints in relation to such data processing operations."

According to art. 55 para. (3) of the GDPR "Supervisory authorities are not competent to supervise the processing operations of courts acting in the exercise of their judicial function."

Therefore, for the personal data processing activity carried out by the courts in the exercise of their judicial powers, the Superior Council of Magistracy is the institution with supervisory and control powers, which will monitor and verify the personal data processing activity carried out by the courts court from Romania.

Thus, to the extent that a concerned person considers himself injured or does not receive a response within the legal term to a

request to exercise the rights provided for in art. 12-22 of the GDPR, addressed to the courts, as operators of personal data, the data subject has the possibility to subsequently address a complaint to the Superior Council of Magistracy.

In this context, we mention that the National Supervisory Authority for the Processing of Personal Data has recently signaled to the Superior Council of Magistracy the need to update the information on the courts' own websites, as well as to ensure compliance with data protection rules, in application of the provisions of GDPR and Law no. 305/2022.

Legal and Communication Department

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