

UOOU-03120/19

The subject of this review

the company was complying with the obligations set by the general regulation

in connection with the processing of personal data and Act No. 110/2019 Coll., on

processing of personal data, controlled during the operation of business activities

persons, focusing on the legal basis of obtaining personal data, theirs

subsequent processing, including personal data security conditions and more

in connection with the three complaints filed, also for compliance

obligations in the dissemination of business communications stipulated by Act No. 480/2004 Coll., o

some information society services. Controlled person to his

activities uses websites on which access to the e-shop has been created, where

there is an order form, registration form and other information about her

activities, such as the document "Protection of personal data", "Processing of personal data"

or "General Terms and Conditions". The inspector found that the inspected person

processes personal data according to Article 4 points 1 and 2 of the general regulation, located

in the position of administrator in the sense of Article 4 point 7 of the general regulation. On your own

activities also uses processors with whom it has concluded relevant contracts. Further, the inspector checked, on

on the basis of which legal title are personal data processed by the controlled person

data of customers or potential customers. The controlled person does so on

on the basis of the legal title of consent, for the purpose of fulfilling the contract (already in the phase

negotiating the conclusion of a contract), fulfillment of legal obligations when these are

obligations defined by legal norms

(accounting, tax), and last but not least also based on legal title

legitimate interest, when personal data is processed for the purpose of direct

marketing, through letter and e-mail communication and for the purpose

profiling. In this regard, the auditor found that the information about
of consent to the processing of personal data are provided confusingly, agree
found in various parts of the privacy documentation
data, and due to the fragmented nature of the processing, it is non-transparent for the data subject.
The inspector thus concluded that the inspected person had violated the principle of legality,
correctness and transparency referred to in Article 5 paragraph 1 letter a) general
regulation and that the condition of clarity and transparency was not met
consent to the processing of personal data in accordance with Article 7, paragraph 2 of the General Regulation,
as well as simplicity in its appeal according to Article 7, paragraph 3 of the general regulation. Due to the fact that
profiling is carried out for the purpose of direct marketing, the data subject must have
the possibility to object to this processing and to this right must be
notified clearly and separately from other information. However, this was not controlled
properly fulfilled by the person. Thus, the inspector also found a violation of Article 21
paragraph 4 of the general regulation. In relation to scope
of the processed personal data, the controller noted a violation of the stated principle
in Article 5 paragraph 1 letter c) of the general regulation, according to which it must be personal
data reasonable, relevant and limited to the necessary scope in the relationship
to the purpose for which they are processed and the reason for the processing
personal data "gender" that is not relevant for the given purpose. From the inspection findings further
it emerged that the inspected person had insufficiently fulfilled the so-called information obligation
in relation to data subjects. That is why the inspector found a violation
obligations arising from Article 12, Article 13 and Article 14 of the General Regulation,
specifically because the controlled person did not provide relevant data to the subjects
information and does not facilitate the exercise of their rights and at least in the case
profiling did not submit or publish relevant information about this processing
personal data. Furthermore, the inspector found out whether

the information obligation is also properly fulfilled in relation to the use of files cookies on the website of the controlled person. He came to the conclusion that in connection with the use of cookies, the controlled person violated Article 13 paragraph 1 letter e) of the general regulation. She did not disclose any other beneficiaries personal data (cookies), as well as Article 13 paragraph 2 letter a) of the general regulation, because it did not state how long individual personal data (cookies) are stored. Given the fact that the controlled person also sends commercial communications via electronic means means, especially in the form of e-mail, the inspector focused also on compliance with the conditions established by Act No. 480/2004 Coll., which is in this area special to the general regulation of direct marketing mentioned in the general regulation. In this section, the reviewer assessed how the controlled person complies with the conditions under which commercial communications can be disseminated by electronic means, and how it informs data subjects - how on a general level, as well as in relation to the complaints filed (i.e. in relation to individual complainants). In this section controlling stated that the legal title of consent, as he is still a controlled person set, does not meet the legal requirements, as the term "important information" is very misleading and the data subject is thus not sufficiently informed that if he ticks the relevant box, he agrees to the sending of commercial communication within the meaning of § 7 of Act No. 480/2004 Coll., and that this consent must correspond to also the requirements for consent according to the general regulation (for this see above). Therefore the inspector assessed the business communications in question (sent to customers controlled persons) on the basis of the use of the so-called customer exception referred to in § 7 paragraph 3 of Act No. 480/2004 Coll.

In case of compliance with others of the conditions stipulated in § 7 paragraph 4 of Act No. 480/2004 Coll. did not find

controlling in relation to the commercial communications sent (see submitted complaints) violations.

Links

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