

Path: Home page > Main menu > Supervisory and decision-making activity Control of the publication of photos of employees on the employer's website (UOOU-03225/19)

State contribution organization

The inspection was initiated on the basis of a complaint directed against the procedure of the state welfare organization, specifically against the publication of the complainant's photograph on the website of the employer - the inspected person. The Office also decided to start the inspection on the basis of the collected documents, which were gradually handed over to it by the complainant. The subject of the inspection was compliance with the obligations set for the inspected person by the general regulation and Act No. 110/2019 Coll., on the processing of personal data, in connection with the publication of photos of state employees contributory organizations, including the realization of the rights of data subjects. The inspection revealed that the inspected person originally published photos of employees (representatives of regional branches) based on the allegedly granted consent. However, the complainant objected to this and demanded the deletion of the photo from the website. On the basis of this fact, the controlled person re-evaluated the legal basis for the given processing and informed the complainant that the photograph is published based on the legitimate interest of the controlled person in the sense of Article 6 paragraph 1 letter f) of the general regulation. The complainant subsequently submitted a balance test performed upon request. As part of the inspection, it was generally noted that the legal basis for publishing an employee's photo could be the administrator's legitimate interest in the sense of Article 6, paragraph 1 letter f) of the general regulation, but the balance test, submitted by the controlled person as part of the control, did not demonstrate legitimate interests for processing that would outweigh the interests or fundamental rights and freedoms of the data subjects. Thus, the audited person did not prove that the stated legal basis was in evidence for the publication of photos of employees, and the auditors evaluated the processing in question as illegal. The inspection also established that the inspected person provides information to the data subjects to the extent and in a manner corresponding to the requirements set out in Article 12, paragraph 1 and Article 13 of the general regulation, i.e. it has not violated these obligations, except for inaccurate information in relation to the publication of photographs in question. With regard to the way in which the controlled person dealt with the realization of the rights of data subjects, or request for the deletion of the complainant, the inspectors came to the conclusion that the inspected person violated the basic principle of personal data processing according to Article 5 paragraph 1 letter a) of the general regulation, because in relation to the data subject, personal data were not processed correctly and in a legal and transparent manner. It was only after the complainant

expressed her disagreement with the publication of her photo on the website that the controlled person re-evaluated the legal basis on which the said processing is carried out. Among other things, the audited person argued during the audit that the complainant's request for erasure, or objection to processing, she did not deliver in the prescribed manner, on the prescribed form, although the complainant was not once informed of this fact by the controlled person, and on the contrary, she was assured that her request was being dealt with. The inspected person objected to the inspection findings, which were rejected in full by the Chairman of the Office. Additional information: Although the General Regulation does not stipulate a binding form of the balancing test, it must demonstrate legitimate interests for the processing in question that outweigh the interests or fundamental rights and freedoms of the data subjects. If a legitimate interest is not proven, a legal title in the sense of Article 6 paragraph 1 letter c) of the general regulation. As part of the balance test, it will never be possible to be satisfied with the simple statement that there are no risks in relation to the data subject, as stated in the balance text of the controlled person. If the risks are minimized by certain measures, then the balance test provides a suitable space for these considerations and information.

ContextLocation: Document folders > Site map > Main menu > Supervisory and decision-making activities > Completed inspections > Inspections for the year 2020 > Inspection activities in the field of personal data protection - 2nd semester > Employers > Inspection of the publication of employees' photos on the employer's website (UOOU-03225 /19)Show current documents | document archive | documents including the archive