

The Personal Data Protection Agency has ex officio issued a decision imposing an administrative fine on one of the credit institutions based in Zagreb (hereinafter: the Bank) for violating Article 15 para. 3. General Regulations on Data Protection, more precisely due to the refusal to provide personal data to respondents / citizens / clients of the Bank (hereinafter: respondents).

Namely, since October 2018, the Agency for Personal Data Protection (hereinafter: AZOP) has been intensively receiving complaints from citizens stating that they have addressed the Bank with a request for data, that the Bank continuously refuses to submit their requests and requests. personal data, ie. submission of credit documentation related to concluded loan agreements in Swiss francs (CHF) with the relevant Bank. Respondents addressed the Bank legitimately and with the presumption of respect and application of the right of access to their personal data pursuant to Art. 15th century 1 and 3 of the General Data Protection Regulation, by requesting copies of the credit documentation (eg bookkeeping card, repayment plan, annex to the loan agreement, review of changes in interest rates), containing their personal data. Although the Bank, in its capacity as head of processing to which the General Regulation on Personal Data Protection applies, refused to allow respondents access to personal data / delivery of required documentation, stating that according to the Consumer Credit Act and other special regulations it is not access to personal data. but on credit documentation for which there is no obligation to submit because these are repaid loans and she persistently refused to provide respondents with a copy of personal data that she processes about them.

Acting on the complaints of the respondents, AZOP conducted a procedure in which it determined that the documentation whose delivery they requested contained their personal data and in accordance with Art. 57 and 58 of the General Regulation on Data Protection issued decisions (34) in which the Bank was ordered to deliver documentation / copies of personal data to all respondents who requested it. In the procedure of determining the violation of rights carried out by AZOP ex officio, it was determined that in addition to individually submitted complaints to AZOP in the period from 25 May 2018 to 30 April. In 2019, the Bank received a significantly higher number (around 2,500) of such requests from respondents who were also denied the right to provide copies of personal data. which is why AZOP decided to conduct the procedure ex officio and impose the strictest corrective measure - an administrative fine.

The primary reason for imposing an administrative fine lies in the fact that, even after previously issued orders in 34 decisions, AZOP failed to put the Bank in a position to respect the rights of respondents guaranteed by the General Data Protection

Regulation. As the imposition of mild corrective measures (order for personal data) failed to comply with the Bank's compliance with the General Data Protection Regulation, AZOP approached the imposition of administrative fines as the only possible effective measure that will be sufficiently dissuasive and proportionate to the violation.

AZOP was guided by the criteria explicitly prescribed in Art. 83 para. 1. General data protection regulations; first of all, it was taken into account that the described conduct of the Bank led to a serious violation of the rights of respondents, which is regulated by Art. 83 para. 5. b) General data protection regulations for which a fine of up to EUR 20 000 000 is prescribed. Also, as one of the criteria in determining the amount of administrative fines in this case, it was taken into account that the violation covered over 2,500 respondents / citizens of the Republic of Croatia who submitted a request to the Bank for access to their personal data. Also, the fact that it is a violation of a longer duration in the period from May 25, 2018 to April 30, 2019, ie. on a longer period of almost a year in which the applicants were prevented from exercising their rights. It is clear from such conduct of the Bank that the Bank was aware of the fact that in the described manner it denies access to personal data of respondents, ie the protection of their fundamental rights guaranteed by the Regulation. Therefore, it was established that the Bank acted knowingly and intentionally during the alleged breach of obligations under the Regulation, especially because it is not an isolated case of violation of the rights of respondents, but denial of rights to more respondents (2577), the longer duration of the violation and that access to personal data was not provided even after the issuance of individual decisions in which the Bank was ordered to enable the exercise of rights in accordance with Art. 15th century 3. Regulations in individual cases, which certainly indicates the seriousness of the violation.

It is evident from such conduct, ie failure of the Bank to act in accordance with the obligations under the Regulation, that the Bank, as the processing manager, has not, in any way, made an active effort to mitigate possible consequences and risks for the rights and freedoms of respondents. .

In addition to the above, when determining the amount of the fine, it was taken into account that AZOP, as the supervisory body for personal data protection in the Republic of Croatia, learned about the violation from the respondents themselves, and the exact number of respondents was confirmed by the Bank. Therefore, it can be considered that by not acting on the requests of the respondents, the Bank directly avoided certain financial costs that may be considered the acquisition of property gain to the detriment of the respondents.

Also, as one of the criteria, the fact was taken into account that according to the AZOP, the Bank has not been found to have

violated the rights of respondents in accordance with Art. 15th century 3. of the Regulation, as well as other relevant violations of the provisions of the Regulation, and the above was taken into account when determining this corrective measure and its amount. Also, in determining the said penalty, the degree of cooperation with this Agency as a supervisory body was taken into account, which in this case was in accordance with the obligations of the processing manager arising from the Regulation and the Act.