

Press release

Clarifications regarding the notification received by ANSPDCP in the case of Rise Project

Considering the information and articles published in the public space regarding the notification received by ANSPDCP in the case of Rise Project, we specify the following:

Following the notification received from a natural person, who reported possible violations of the legislation on personal data protection, through the posts made by Rise Project in the public space, under the legal powers of monitoring and control of the National Authority for Processing Supervision Personal data, information was requested regarding the reported situation.

Regarding the erroneous information circulated in the public space, we specify that the Supervisory Authority does not issue summonses.

We also mention that the Supervisory Authority is an autonomous and independent public authority in carrying out its tasks and exercising its powers, according to art. 52 of Regulation (EU) no. 2016/679 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General Data Protection Regulation) in conjunction with Art. 2 of Law no. 102/2005 on the establishment, organization and functioning of the National Authority for the Supervision of Personal Data Processing, with subsequent amendments and completions.

The control competencies of our institution are established by art. 57 para. (1) lit. f) and h) and art. 58 para. (1) and (2) of Regulation (EU) no. 2016/679, of art. 141 of Law no. 102/2005, with subsequent amendments and completions, by Law no. 190/2018, as well as by Decision no. 161/2018 on the approval of the Procedure for conducting investigations.

Thus, art. 57 para. (1) lit. f) of the General Data Protection Regulation (RGPD) confers on the Authority the power to deal with complaints lodged by a data subject, body, organization or association and to investigate their subject matter, and letter h) establishes the competence to carry out investigations regarding the application of the European regulation.

Also, art. 58 para. (1) of the RGPD establishes the investigative powers of the Authority, according to which it may instruct the controller to provide any information that the supervisory authority requests in order to perform its tasks, to obtain from the controller access to all personal data and all information necessary for the performance of its tasks, as well as to obtain access to any data processing equipment and means, in accordance with Union law or national procedural law.

In conjunction with the above, art. 141 of Law no. 102/2018 with subsequent amendments and completions, the control staff of the Supervisory Authority has the right to conduct investigations, including unannounced, to request and obtain from the

operator any information and documents, regardless of storage media, to pick up copies from them. , to have access to any of the premises of the operator and the person authorized by the operator, as well as to have access and to verify any equipment, means or data storage medium, necessary for the investigation, in accordance with the law.

Regarding the procedure for conducting investigations, we specify that it is regulated by Decision no. 161/2018, document published in the Official Gazette, according to which investigations may be carried out in the field, at the headquarters of the Supervisory Authority or in writing.

In the case of written investigations, a standard address shall be sent to the controlled entity, requesting information, data and documents necessary to resolve the case under investigation, in accordance with the applicable legal provisions in the field of personal data protection. In this respect, in the response to the investigation, the controlled entity has the opportunity to present its arguments and defenses regarding the processing (including disclosure) only of personal data.

Regarding the processing of data for journalistic purposes, we emphasize that art. Article 85 of the RGPD states that "Member States shall ensure that the right to the protection of personal data under this Regulation and the right to freedom of expression and information, including processing for journalistic or academic purposes, are enshrined in national law, artistic or literary. "

In this sense, art. 7 of Law no. 190/2018 provides:

"In order to ensure a balance between the right to protection of personal data, freedom of expression and the right to information, processing for journalistic purposes or for the purpose of academic, artistic or literary expression may be carried out if it concerns personal data which have been made manifestly public by the data subject or which are closely linked to the data subject's status as a public person or to the public nature of the facts in which it is involved, by way of derogation from the following chapters of the General Data Protection Regulation:

- a) Chapter II - Principles;
- b) Chapter III - Rights of the data subject;
- c) Chapter IV - The operator and the person authorized by the operator;
- d) Chapter V - Transfers of personal data to third countries or international organizations;
- e) Chapter VI - Independent supervisory authorities;
- f) Chapter VII - Cooperation and coherence;
- g) Chapter IX - Provisions regarding specific processing situations. "

Therefore, the derogations listed in this text of law are applicable if one of the following conditions is met:

the processing concerns personal data which have been manifestly made public by the data subject

data that are closely related to the quality of the data subject's public person

data that are closely related to the public nature of the facts in which the person is involved.

In this context, we specify that art. Article 5 of the RGD sets out a number of principles that must be observed in data processing, as follows:

- collecting data for specific, explicit and legitimate purposes ("purpose-related limitations");
- adequate data, relevant and limited to what is necessary in relation to the purposes for which they are processed ("minimization of data");
- kept in a form which permits identification of data subjects for a period not exceeding the time required to fulfill the purposes for which the data are processed ("storage restrictions");
- processed in a way that ensures adequate security of personal data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage, by taking appropriate technical or organizational measures ("integrity and confidentiality").

The same above-mentioned legal provisions also provide that the operator is responsible for complying with and can demonstrate compliance with these principles ("liability principle").

Regarding the responsibility of the operator, art. 24 of the RGD provides that "Taking into account the nature, scope, context and purposes of the processing, as well as the risks with varying degrees of probability and seriousness for the rights and freedoms of individuals, and be able to demonstrate that the processing is carried out in accordance with this Regulation.

Those measures shall be reviewed and updated as necessary. "

Regarding the publication on the Internet of personal data, we emphasize that the right to privacy and the protection of personal data are guaranteed by art. 26 of the Constitution, art. 8 of the European Convention on Human Rights, as well as art. 7 and 8 of the EU Charter of Fundamental Rights, and the dissemination in the virtual space of the data of the individuals concerned and, implicitly, the provision of a very large number of potential people, without any control over the subsequent use of data for purposes initially, it may lead to the violation of these fundamental rights.

Thus, the relevant case law of the Court of Justice of the European Union (Judgment of 6 November 2003 in Bodil Lindqvist)

stated that references on a website to various persons and their identification by name or other means constitute "processing of personal data". carried out in whole or in part by automated means ", and by publishing on the Internet, personal data become accessible to an indefinite number of people.

We note that the Supervisory Authority, in view of its role as guarantor of the right to privacy and the right to the protection of personal data, has expressed and acted steadily since its establishment in 2005, in order to ensure a balance between the right to protection of personal data, freedom of expression and the right to information.

In this context, the Supervisory Authority firmly states that its actions fall exclusively within the scope of its legal powers, without prejudice to freedom of the press and without interfering in any way with the exercise of the powers and legal duties of other state institutions.

ANSPDCP