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City

The inspection was initiated on the basis of a notification of a violation of personal data security by the city's personal data protection officer - the inspected person, which resulted in possible deficiencies in the processing of personal data. The subject of the inspection was compliance with the obligations set for the inspected person by General Regulation and Act No. 110/2019 Coll., on the processing of personal data, in connection with the processing of personal data of data subjects in the Mobile Radio application by the city. In the officer's notification in question, it was stated that there was a conscious misuse of personal data by the controlled person, or specifically by the mayor of the city, namely that the allegedly illegally obtained database of contacts of employees and legal representatives of pupils of the local elementary school was used by the mayor to register individuals in the Mobile Radio application, while the mayor himself should have given consent to processing for these data subjects of his own free will their personal data. It is possible to register for the Mobile Radio application, in relation to information related to the given city, through the registration form located on the website of this application, operated by a private company, and also through the registration form located on the city's website and also by using the registration form in paper form. The personal data of a group of data subjects from a local elementary school was handed over to the mayor by the director during the declared state of emergency in connection with the occurrence of the coronavirus (Covid-19). On the instructions of the mayor, these personal data were then imported into the database by the technical support of the Mobile Radio application. The check concluded that consent to the processing of personal data cannot in the given case be considered as consent in the sense of its definition according to Article 4 point 11 of the general regulation, and especially from the point of view of his being informed, when, among other things, the controlled person did not inform the data subject of the possibility of withdrawing consent before granting it, which also resulted in a violation of the provisions of Article 7, Paragraph 3 of the General Regulation. Regarding the legality of the processing in relation to the registered personal data transferred by the local elementary school during the state of emergency, the inspection concluded that the inspected person violated the obligations arising from Article 6, paragraph 1 of the general regulation, as he did not have the proper legal title to process the above-mentioned personal data. The application of the legal title of protection of the vital interests of data subjects or other natural persons in the sense of Article 6 paragraph 1 letter d) of the general regulation could not be accepted in this case. With

regard to the absence and confusion of some information, the inspected person also violated the obligations set out in Articles 13 and 14 of the general regulation, while the deadline for providing this data in the sense of Article 14 para. 3 of the general regulation, and at the same time sufficient transparency and correctness resulting from Article 5 paragraph 1 letter a) of the general regulation. From the information found during the inspection, it was also finally established that there was no breach of personal data security on the part of the inspected person in the given case, as was originally reported by the personal data protection officer. At the same time, the inspectors assessed the situation regarding the cooperation between the inspected person and the personal data protection officer as having significant reserves in terms of setting up effective cooperation, and bordering on a violation of the obligations set forth in Article 39 of the General Regulation. The inspected person did not object to the inspection findings. Additional information: When selecting and appointing a personal data protection officer pursuant to Article 37 of the General Regulation, it is necessary to remember not only that he should be appointed on the basis of his professional qualities, expert knowledge of law and practice in the field of personal data protection, but also on the basis of the ability to perform the tasks set out in Article 39 of the general regulation. However, the aforementioned must also be supported by the position of a personal data protection officer within the meaning of Article 38 of the General Regulation, and the administrator or processor must ensure that the personal data protection officer is properly and timely involved in all matters related to personal data protection.

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