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On the basis of the Office's control plan, the Office carried out an inspection of compliance with the obligations of the administrator of personal data stipulated by Act No. 101/2000 Coll. in connection with the organization of a receipt lottery according to Act No. 112/2016 Coll., on the registration of sales. As part of the inspection, an initiative whose content was related to the subject of the inspection was also examined.

During the processing of personal data in connection with the receipt lottery, the inspected person is in the position of a personal data administrator, but nevertheless entrusted the processor with comprehensive security of the lottery (the company Diebold Nixdorf s.r.o., with which the Office carried out the inspection in parallel). The Authority found that the ticket lottery rules allow for two types of player registration, namely basic registration and full registration (creating a player account). The scope of personal data collected by the controlled person also depends on the type of registration chosen.

The controlled person concluded a contract with the processor that meets the requirements of § 6 of Act No. 101/2000 Coll. (processing contract). The controlled person also met the requirements of § 5 paragraph 2 (legal title of processing), § 13 (security of personal data) and § 16 (notification of intended processing to the Office).

The office also focused on assessing the scope of personal data collected, in particular the data entered by the player when registering the receipt and which are used to verify it in the electronic sales record system. The Office found that until March 1, 2018, one of the mandatory data from the receipt was also the tax identification number of the taxpayer who issued the receipt in question. Nevertheless, when defining the parameters of the receipt lottery (i.e. determining the required range of data), the audited person should have taken into account the specific nature of the tax identification number of natural persons, which is also their birth number, and set the parameters of the receipt lottery in such a way that its operation was possible without processing this data.

Following the verdict of the Constitutional Court of December 12, 2017, Pl. ÚS 26/16, the audited person modified the parameters of the receipt lottery so that the processing of the tax identification number is no longer necessary. It is clear from this that setting up the lottery in this way was possible from the beginning. The Office therefore came to the conclusion that the inspected person violated the obligation set out in § 5 paragraph 1 letter d) Act No. 101/2000 Coll. (collection to an appropriate and necessary extent).

The Chairperson of the Office rejected the objections submitted by the inspected person against the inspection findings. Due to the fact that the inspected person immediately corrected the objectionable situation and taking into account all the other circumstances mentioned above (especially the assessment of the case by the Constitutional Court), the Office did not impose corrective measures and waived the imposition of a fine.

The inspection was conducted by the inspector Mgr. et Mgr. Božena Čajková.

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