

## Fine for GDPR violation

The National Supervisory Authority completed an investigation at ING Bank N.V. on 04.11.2019. Amsterdam - Bucharest branch, as a result of a notification, noting that the operator violated the provisions of art. 25 para. (1) in conjunction with art. 5 para. 1 lit. f) of the RGD, which led to the application of a contravention fine in the amount of 80,000 euros.

In this sense, the operator did not ensure compliance with the principle of data protection starting from the moment of conception and that of implicit data protection (privacy by design and privacy by default), as it did not proceed to adopt appropriate technical and organizational measures, regarding the integration of guarantees adequate in the automated data processing system in the settlement process of card transactions, affecting a number of 225,525 customers whose payment operations were doubled in the period 8-10.10.2018, also related to the provisions of art. 32 para. (1) lit. d) from GDPR.

In this context, we specify that art 25 para. (1) of the GDPR provides the following:

"Taking into account the current state of technology, the costs of implementation, and the nature, scope, context and purposes of the processing, as well as the risks with different degrees of probability and severity for the rights and freedoms of natural persons that the processing presents, the operator, both in the moment of establishing the means of processing, as well as in that of the processing itself, implements appropriate technical and organizational measures, such as pseudonymization, which are intended to effectively implement the principles of data protection, such as the minimization of data, and to integrate the necessary guarantees in the processing, to meet the requirements of this regulation and protect the rights of data subjects."

Also, art. 5 para. (1) lit. f) of the RGD establishes one of the principles of data processing, namely the fact that the data must be "processed in a way that ensures adequate security of personal data, including protection against unauthorized or illegal processing and against loss, destruction or damage accidental, by taking appropriate technical or organizational measures ("integrity and confidentiality")."

At the same time, according to art. 32 para. (1) lit. d) of the RGD, among the appropriate technical and organizational measures that the operator must take in order to ensure a level of security corresponding to the risk, there is also the one regarding the existence of a process for the periodic testing, evaluation and assessment of the effectiveness of the technical and organizational measures for to guarantee the security of processing.

ANSPDCP