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On the basis of the inspection plan for 2018, the Office carried out an inspection, the subject of which was the processing of personal data during the enforcement of house arrest, which takes place on the basis of § 334h of Act No. 141/1961 Coll., on criminal court proceedings (penal code), in conjunction with Decree No. 456/2009 Coll., on the control of the execution of a sentence of house arrest. The Office specifically focused on the processing of personal data during the supervision of the execution of a house arrest sentence using the Electronic Monitoring System ("EMS"). The subject of the control falls within the scope of Directive (EU) 2016/680 of 27 April 2016 on the protection of natural persons in connection with the processing of personal data by competent authorities for the purpose of prevention, investigation, detection or prosecution of criminal offenses or the execution of sentences, on the free movement of such data and on the cancellation of Council Framework Decision 2008/977/SVV, which, however, had not been transposed into the Czech legal system at the time of the inspection (although the deadline for transposition had passed). Therefore, the controlled person continued to be subject to the legal regulation contained in Act No. 101/2000 Coll., which was a valid and effective legal regulation at the time of the control and at the same time did not conflict with the principles contained in Directive (EU) 2016/680. The controlled person was entrusted by law with supervising the execution of the sentence of house arrest, including the possibility of using EMS for this purpose. The purpose and means of personal data processing have been determined by law, and the controlled person is therefore in the position of a personal data administrator. In order to supervise the execution of the sentence of house arrest, the controlled person has personal data of convicts (to the extent that they were collected as part of the criminal proceedings or described in the court decision), including sensitive data indicating the state of health of the convict, possibly also about his religious belief (to the extent necessary to assess the possibility of using the sentence of house arrest with control using EMS). The inspectors found that the operation of the data center of the EMS information system and the central monitoring center is ensured for the inspected person by the Ministry of Justice, which is therefore in the position of processor of personal data. The controlled person processed personal data on the basis of the legal title assumed by Act No. 101/2000 Coll. (fulfilment of legal obligations), and informed the concerned persons about the subject processing in accordance with the requirements of § 11, paragraphs 1 and 2 of Act No. 101/2000 Coll. The inspectors also checked the fulfillment of obligations in the area of measures taken to ensure the security of processed personal data in accordance with § 13 of Act No. 101/2000 Coll. with no

finding of wrongdoing on this point. Considering the Ministry's participation in the subject processing in the role of processor, however, the inspectors found a violation of the obligation stated in § 6 of Act No. 101/2000 Coll., because the inspected person did not conclude a contract with the Ministry on the processing of personal data. At the same time, the conclusion of the contract on the processing of personal data between the inspected person and the Ministry should have taken place even before the initiation of personal data processing by the Ministry, regardless of the state of transposition of Directive (EU) 2016/680. Due to the fact that the inspected person immediately corrected the objectionable situation, the Office did not impose measures to eliminate the identified deficiencies and waived the imposition of a fine. The inspection was conducted by the inspector JUDr. Jiřina Rippelová. Recommendation: If a processor is involved in the processing, the administrator is obliged to conclude a processing contract with him. More information about the obligation to conclude a processing contract can be found on the website <https://www.uoou.cz/zpracovatel/d-29316/p1=3938>.

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