

CECISIN

On the cessation of processing operations of personal data

May 28, 2015 mun. Chisinau

Director of the National Center for Personal Data Protection of Of the Republic of Moldova, Vitalie PANIS, based on the materials accumulated within control no. 02-11 / 119/15, -

FIND:

De facto,

The circumstances that served as the reason for triggering the control the legality of personal data processing operations.

On May 27, 2015, through the media entities, the alleged fact was notified illegal dissemination of information with limited accessibility from the record system – State Register of Legal Entities and Individual Entrepreneurs, Managed by I-5.

State Registration Chamber "in the part concerning the data categories: name, first name and share of the associates, in the address of unauthorized third parties._

as a result of the actions that were required to be performed in accordance with the circumstances of the case, on May 27, 2015, the National Center for Data Protection with Personal Character of the Republic of Moldova (Center) carried out an unexpected control at Personal data controller – [i.S. "State Registration Chamber", being found the fact of disclosure / marketing! information with limited accessibility ?, what records personal data, addressed to unauthorized third parties – ie any persons who pay a pecuniary amount.

Moreover, as a justification for disclosing this information with accessibility limited to any applicant, without proving a legitimate interest established in art. 5 para. (5) of the Law on the protection of personal data, were invoked the provisions of art. 34 para. (1) of the Law on state registration of legal entities and of individual entrepreneurs, according to which, apparently, the data from the State Register of legal entities and individual entrepreneurs would be public, as well as annex no.] of the normative act – Government Decision no. 926 of July 12, 2002 regarding the approval tariffs for paid services provided by i.S. "State Registration Chamber" that offers

In accordance with the definitions found in DEX, COMMERCIALIZE, sell, vb. 1. Tranz. To put a commodity, a good summer. in trade, to make and become the object of trade. (Pr: -ci-a-) – Din fr;

2 in accordance with the provisions of art. 8 para. (1) of the Law on access to information, according to cirora, information with character staff is part of the category of official information with limited accessibility and consists of data relating to a person identified or identifiable physical condition, the disclosure of which would constitute a violation of private, intimate 41 family life, and according to para. (2) of the same article, the access to the personal information is realized in accordance with the provisions legislation_ on the protection of personal data,

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the possibility of issuing (marketing) such information against payment.

Thus, [i.S. The "State Registration Chamber" initiated the development of the activity of enterprising in the part aimed at marketing (disclosure to third parties unauthorized) information with limited accessibility that records character data personally, based on the alleged legal grounds:

1. in accordance with the phrase (first 12 semantic elements) of art. 34 para. (1) of the Law on state registration of legal entities and entrepreneurs Individual, quoted; ,, The data from the State Register and from the articles of incorporation are public and accessible to all ";

2. annex no. 1 of the normative act? – Government Decision no. 926 of July 12, 2002 regarding the approval of tariffs for paid services, _– provided of IS. ,,State Registration Chamber".

De jure,

The analysis performed by the Center pursued the objective of assessing compliance processing * of personal data* performed by the data operator® – LS. State Registration Chamber".

In view of the above, the Center, as the sole Authority national verification of compliance of personal data processing, which acts in conditions of impartiality and independence, which aims to ensure protection of the fundamental rights and freedoms of the natural person with regard to processing of personal data, in particular, the right to the inviolability of life intimate, family and private, enshrined in art. 28 of the Constitution of the Republic of Moldova – qualifies as inadmissible the dissemination / marketing of personal data in purpose of obtaining a pecuniary interest, but not limited to it, in the address of third parties unauthorized.

Starting from the international law and the European / national acquis of protection of personal data, we highlight the following.

In accordance with Art. art. 1, 3 and 4 of the CONVENTION FOR PROTECTION OF PERSONS REGARDING AUTOMATED PROCESSING

3 in accordance with the provisions of art. 2 Law on normative acts of the Government and other administrative authorities central and local public, according to cirora – the normative act is the legal act, issued by the Government and other authorities of central and local public administrations based on constitutional and legal norms;

4 processing of personal data – any operation or series of operations performed on the data with personal data by automated or non-automated means, such as collection, registration, organization, storage, preservation, restoration, adaptation or modification, extra market, consultation, use, disclosure by transmission, destruction or otherwise, alteration or combination, blocking, erasure or destruction;

3 personal data – any information relating to an identified or identifiable natural person (subject of personal data). The identifiable person is the person who can be identified, directly or indirectly, by reference to an identification number or to one or more elements specific to his physical, physiological, mental identity, economic, cultural or social;

6 operator – natural person & or legal person of public or private law, including public authority, any other institution or organization carc, individually or together with others, establishes the purposes and means of processing personal data expressly provided by the legislation in force.

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OF PERSONAL DATA no. 108 (Strasbourg, 28.01.1981), state The Replic of Moldova has assumed the responsibility and, respectively, guarantees the person physical right to the inviolability of intimate, family and private life, regardless of ethnicity, religious views, etc. and / or the (economic) activities they unfolds.

In the same order of ideas, in accordance with the provisions of art. art. 7, 11 and 16 of Directive 95/46 / EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of data with _character personal and free movement of this data, is provided exhaustively and without the right to interpretation, cA any processing of personal data, in the case given by disclosure, dissemination, transmission, use, etc., are to be carried out: 1. with the consent of the subject of personal data; 2. in the absence of consent the subject concerned, provided that there is a legal provision that must be made in a democratic state.

It should be mentioned that the principles of personal data protection provided for in the international acts mentioned above, have been transposed equidistantly into the national profile legislation whose premises were established with its adoption Of the Constitution of the Republic of Moldova, in particular, the right to the inviolability of private life, family and private established in art. 28 of this Law.

We reiterate, however, the invocation of the provisions of art. 34 para. (1) of the Law on Registration of legal persons and individual entrepreneurs as justification a disclosure / marketing of personal data – may not be subject to any criticisms, for the simple reason, c4 according to the quintessence par. (1) of this article, we detach promptly, quoted: ,, . The data from the State Register and from the articles of incorporation are public and accessible to all under the conditions and within the limits provided by the legislation:

"on access to information",

in accordance with the provisions of art. 7 para. (2) lit. c) of the Law on access to information, access to official information may not be restricted, except personal information, the disclosure of which is considered a interference in the private life of the person, protected by data protection legislation personal,

In accordance with Art. 8 paragraph, (2) of the same law, access to information with personal character is made in accordance with the provisions of the legislation regarding protection of personal data.

»Protection of personal data",

? The Republic of Moldova signed the Convention on May 4, 1998 and ratified it by Parliament Decision ar483-XIV of July 2, 1999, in force since June 2, 2000. * With the instrument of ratification of the Convention have been deposited Declarations by which the Republic of Moldova announces that it will not apply the Convention on the processing of personal data by individuals exclusively for personal needs \$ 1 families (provided that they do not infringe the rights of personal data), we also take care of the processing of personal data attributed to information that constitutes a state secret, but, at the same time, it will apply the Convention, including personal data that are not processed automatically, The Republic of Moldova has designated the National Center for Data Protection and Personal Character as the competent authority for implementation of the Convention provisions and for the maintenance of relations of mutual assistance with other States Parties, taking into account some problematic aspects in the field of personal data protection, together with the entry into force, on December 6, 2013, of Law no. 271 of November 7, 2013, the Declarations of the Republic of Moldova to the Convention for the Protection of Persons Concerning 1a were revised automated processing of personal data.

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In accordance with Art. 4 of the Law on data protection with character personally, personal data must be: processed correctly and accordingly the provisions of the law; collected for specific, explicit and legitimate purposes, and subsequently sé not be processed in a manner incompatible with these purposes; adequate, relevant \$ i not excessive in terms of the purpose for which they are collected and / or further processed; accurate and up-to-date, stored in a form that allows the subject to be identified on a

the period that will not exceed the time necessary to achieve the goals.

In accordance with Art. 5 para. (1) of the Law on data protection with personal data, the praxisis / disclosure of personal data may be carried out with the consent of the subject of personal data, or, in the cases provided in para. (5) of the same article – situations irrelevant to the case, due to non-existence a civil legal report from the applicant, which would legislate the alleged interest legitimate.

on registers "

In accordance with the provisions of art.15 par. (2) of the Law on Registers, the rights and obligations of the recipient of the register data are established by the legislation regarding access to information.

in accordance with the provisions of art. 21 para. (1) of the same law, at the end registers containing personal data will be strictly observed human rights and freedoms, and according to par. (2) of the same article, the manner of collection, processing, storage and use of personal data in the registers of state is established by law.

in accordance with the provisions of article 24 para. (1) of the same law, the responsibility for the integrity of the register data lies with the owner! his, and in in accordance with the provisions of par. (3) of the same article, the data protection requirements it is approved by the government, unless the law provides otherwise. The owner of the register is obliged, in comply with the data protection requirements of the register, and ensure the measures organizational and technical necessary for data protection and compliance with these measures.

In accordance with Art. 30 para. (4) of the same legislative act, the data personal data of natural persons are used under the legislation on personal data protection, as in accordance with the provisions of par. (6) al of the same article, the owner of the register is obliged to monitor the use of data in the manner established by the data protection conditions. Providing information technology about the use of data is regulated by law.

in this context, the provisions of art. 1 para. (2) of the Law on Enterprise State, emphasizes that the state enterprise is an independent economic agent with rights of a legal person, which, on the basis of state property, transmitted to them in management, carries out entrepreneurial activity, and in accordance with the provisions art. 9 of the same law, the enterprise may practice any kind of activity provided in its statute, except those prohibited by law.

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We explain that, in accordance with the provisions of the Law on data protection with personal data, the holder of the right to personal data, can only be natural person & – subject of personal data (and / or in case of death physical incapacity – successors in the order provided by the Civil Code), according to art. 3 of the aforementioned law, [i.S. "State Registration Chamber" – as personal data controller, is invested due to specific circumstances the activity carried out, to process personal data as an operator, However, the right to process the data of the subjects / shareholders concerned, no legislate / unfounded assumption of i.S. "State Registration Chamber" to catalog as the owner of this information with limited accessibility.

Explain oa, [i.S. The State Registration Chamber "may disclose the character data personnel of the subjects concerned only on condition that they obtain their consent in order to provide certain services / activities and / or in case of its exercise of some patrimonial / non-patrimonial rights resulting from the actions / inactions of the subject of date. But from that moment, the company as a data operator with character personally assumes the obligation to respect the inviolability of intimate, family and life private. Respectively, [i.S. The "State Registration Chamber" can by no means have the quality of the owner vis-à-vis the personal data of a targeted subject, under the conditions an adequate and civilized democracy.

Moreover, invoking the provisions of the normative act – annex no.] from Hotdrirea Government no. 926 of 12 July 2002 on the approval of tariffs for paid services, provided by i.S. "State Registration Chamber", as the alleged act ce legislate / allow the processing of personal data of individuals and who would include the actions of the nominated company in the exhaustive and irremovable provisions a art. 4 and art. 5 of the Law on the protection of personal data is unfounded, The center qualifying the actions [i.S. "State Registration Chamber" as excessive in the report with the disclosure of personal data to unauthorized third parties.

We remind you that, according to the provisions of art. 2 para. (1) of the Law on documents legislative acts are legislative acts adopted by the sole legislative authority of the state in based on the constitutional norms, according to the procedure established by the Regulation Parliament, by other regulations in force, and occupies the highest position in the hierarchy normative acts from the Republic of Moldova.

Thus, the intention to assign / interpret the Government Decision no. 926 of 12 July 2002 on the approval of tariffs for paid services provided by LS. ,,The room "State registration", as an act that allows the disclosure of categories of character data targeted personnel & associates of the enterprise – natural persons, in the address of any subject without justifying the legitimate interest (which is provided by the legislator as a basis when processing personal data in the absence of the consent of the subject of personal data in certain cases) contravenes the provisions of legislative acts international and national statements stated above.

As previously stated, the distinction between the rights they enjoy natural person and the obligations referring to the legal person in the part concerned the inviolability of invime, family and private life is to be maintained exhaustively in

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in conjunction with the principles established by the Law on the protection of personal data, so that the activity of i.S. "State Registration Chamber" for the provision of services, s4 no exceed the stated purpose and sf not be applied excessively in relation to the categories of data with personal data intended to be disclosed to unauthorized applicants. At the same time, should be retained as the phrase "personal data" is the object of protection from the state of fundamental human rights by assigning the Authority

National control of the processing of personal data of the identification attributions and counteracting the intentions of entities that can obviously harm the right of the person to private life.

As confirmation of those mentioned, the provisions of art. 8 of the Convention human rights, according to which, the interference of an authority is not allowed have been invested with attributes of public interest in the exercise of this right than in to the extent that this mixture is provided for by law and if it constitutes a mdsurd which, of a democratic society, it is necessary ... "".

Considering the above, as well as in accordance with the provisions art. 5 para. (1), 6, 20 para. (1) lit. a), b) and art. 27 para. (4) of the Law on data protection personal Chapter II, pet. 3 lit. a), b) and d) of the Regulation of the Center, approved by Law no. 182-X VI of 10 July 2008, -

HAVE:

1. Immediate cessation of personal data processing operations by i.S. State Registration Chamber ", legal address – Chisinau mun., Bd. Stefanie cel Mare si Sfint nr 73, IDNO: 100460007777 – manifested by dissemination / disclosure of personal data concerning business associates – natural persons, in the address of unauthorized third parties, which do not fall within the provisions of art. 4 and art. 5 of the Law on personal data protection.

2. Informing the National Center for Personal Data Protection of the Republic of Moldova on the actions taken in order to execute this decision, within 10 days of receiving it.

3. National Center for Personal Data Protection of the Republic Moldova will publish this decision on its official website.

4. The decision with the right to appeal in order of administrative contentious within

30 days.

Vitalie PANIS

Director

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