

The English version of this Decision is not legally binding

**THE OFFICE FOR PERSONAL DATA PROTECTION
OF THE SLOVAK REPUBLIC**
Hraničná 12, 820 07 Bratislava 27

Number 00378/2020-Os-5
In Bratislava date 04.05.2020

D E C I S I O N

The Office for Personal Data Protection of the Slovak Republic (hereinafter Office) as the competent administrative body pursuant to Act no. 71/1967 Coll. on administrative proceedings and amending and supplementing certain Acts (hereinafter Administrative Code) in connection with Art. 58 (3) (i) of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter GDPR) concerning the authorisation of an administrative arrangement “Administrative arrangement for the transfer of personal data between each of the European Economic Area (“EEA”) Authorities set out in Appendix A and each of the non-EEA Authorities set out in Appendix B” pursuant to Article 46 (3) (b) of the GDPR to the Národná banka Slovenska, Imricha Karvaša 1,813 25 Bratislava, registration number: 30844789

d e c i d e s

pursuant to Article 46(3)(b) and 58 (3) (i) GDPR to authorise the Administrative Arrangement „Administrative arrangement for the transfer of personal data between Each of the European Economic Area (“EEA”) Authorities set out in Appendix A and Each of the non - EEA Authorities set out in Appendix B“ (hereinafter “Administrative Arrangement”) which has been submitted to the Office as part of the authorisation process by the Národná banka Slovenska, Imricha Karvaša 1, 813 25 Bratislava, Slovakia, registration number: 30844789 (hereinafter NBS) as appropriate safeguards for the transfer of personal data between financial supervisory authorities within the EEA and non-EEA financial supervisory authorities not covered by a European Commission adequacy decision.

J u s t i f i c a t i o n

On 11th February 2020, the Office received an “Application for Consent to the Provisions of an Administrative Arrangement” (hereinafter referred to as the “Application”) from the NBS. In the above-mentioned application, the NBS has requested authorisation of the attached Administrative Arrangement pursuant to Art. 46(3)(b) GDPR. Original Administrative Arrangement has been submitted to the Office as part of the Application. The NBS had

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submitted the application in view of the intention of the NBS to behave as one of the signatories of the Administrative Arrangement. The NBS has stated that the purpose of the Administrative Arrangement was to ensure effective international cooperation between the financial supervisory authorities and to provide adequate safeguards for the transfer of personal data in the absence of a European Commission adequacy decision on the level of personal data protection in a third country under Article 45 GDPR. The NBS has considered the attached Administrative Arrangements as sufficient to provide adequate safeguards for the transfer of personal data outside the European Economic Area, providing the enforceable and effective rights of the data subjects.

Pursuant to Article 46 (1) of the GDPR, in the absence of a decision pursuant to Article 45 (3), a controller or processor may transfer personal data to a third country or an international organisation only if the controller or processor has provided appropriate safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

Pursuant to Article 46 (3) (b) of the GDPR, subject to the authorisation from the competent supervisory authority, the appropriate safeguards referred to in paragraph 1 may also be provided for, in particular, by: provisions to be inserted into administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.

Pursuant to Article 57 (1) (r) of the GDPR, without prejudice to other tasks set out under this Regulation, each supervisory authority shall on its territory: authorise contractual clauses and provisions referred to in Article 46 (3).

Pursuant to Article 58 (3) (i) of the GDPR, each supervisory authority shall have all of the following authorisation and advisory powers: to authorise administrative arrangements referred to in point (b) of Article 46 (3).

According to recital 108 of the GDPR, in the absence of an adequacy decision, the controller or processor should take measures to compensate for the lack of data protection in a third country by way of appropriate safeguards for the data subject. Those safeguards should ensure compliance with data protection requirements and the rights of the data subjects appropriate to processing within the Union, including the availability of enforceable data subject rights and of effective legal remedies, including to obtain effective administrative or judicial redress and to claim compensation, in the Union or in a third country. They should relate in particular to compliance with the general principles relating to personal data processing, the principles of data protection by design and by default. Transfers may also be carried out by public authorities or bodies with public authorities or bodies in third countries or with international organisations with corresponding duties or functions, including on the basis of provisions to be inserted into administrative arrangements, such as a memorandum of understanding, providing for enforceable and effective rights for data subjects. Authorisation by the competent supervisory authority should be obtained when the safeguards are provided for in administrative arrangements that are not legally binding.

On 12th February 2019 European Data Protection Board (hereinafter EDPB) has adopted the Opinion 4/2019 on the draft Administrative Arrangement for the transfer of personal data between European Economic Area (“EEA”) Financial Supervisory Authorities and non-EEA Financial Supervisory Authorities (hereinafter Opinion 4/2019). The EDPB considers that the Administrative Arrangement ensures appropriate safeguards when personal data will be transferred on the basis of this Administrative Arrangement to public bodies in third countries not covered by a European Commission adequacy decision. The aim of the Administrative Arrangement draft is to frame

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the transfers of personal data from EEA financial supervisory authorities to their non-EEA counterparts. The Administrative Arrangement draft may be used by all market regulators in the EEA and submitted to the competent supervisory authorities for authorisation.

According to Opinion 4/2019, the Office shall monitor the Administrative Arrangement and its practical application especially in relation to sections III (5), (6), (8) and IV relating to data subject rights, onward transfers, redress and oversight mechanisms to ensure that data subjects are provided with effective and enforceable data subject rights, appropriate redress and that compliance with the Administrative Arrangement is effectively supervised. The Office shall suspend the relevant data flows carried out by the NBS pursuant to the authorization, if the Administrative Arrangement no longer provides for appropriate safeguards in the meaning of the GDPR.

According to Opinion 4/2019, the NBS as financial supervisory authority of the Slovak Republic in line with the accountability principle, shall keep records of the provided information in order to facilitate the monitoring task of the supervisory authority. This information should in any case be made available upon request from the competent SAs. The Office may, in its authorization, request to receive this information from NBS on an annual basis without any prior request. This information should include elements on the number of data subject requests and claims received by data subjects at EU level, details on the cases not resolved through the envisaged dispute resolution mechanisms as well as on respective findings and actions of the “Assessment Group” following the periodic reviews including actions with regards to the sharing of personal data under Section 6.2.3 of the Administrative Arrangement. The information should also be recorded in respect of notifications received by the national financial supervisory authority concerning the sharing of information to a third party by the third country's financial supervisory authority and on the basis of a legally enforceable demand or required by law.

The Office reviewed the administrative arrangement attached to the NBS's request. The Office states that the administrative arrangement ensures an appropriate safeguard for the transfer of personal data between financial supervisory authorities within the EEA and non-EEA financial supervisory authorities not covered by the European Commission adequacy decision.

On the basis of the above, the Office has decided as set out in the operation part of this decision.

R e m e d i e s

This decision cannot be appealed. This decision is valid and enforceable on the date of delivery.

This decision is reviewable by the court.

JUDr. Juraj Mičura
Head of the Department of
administrative proceedings

Delivered to:

Národná banka Slovenska, Imricha Karvaša 1 813 25 Bratislava