REPUBLIC OF ESTONIA
DATA PROTECTION INSPECTORATE

Your: 01.10.2020

Management board member

Our: 09.11.2020 no 2.1.-1/20/3119

Reprimand and notice of termination of the proceedings concerning the protection of personal data

Estonian Data Protection Inspectorate (inspectorate) received a complaint from a Finnish citizen via the Internal Market Information system IMI, concerning the disclosure of the debt information of natural persons on the webpage of [redacted]: [redacted]. In connection with that, the inspectorate initiated a supervision proceeding on the basis of clause 56 (3) 8) of the Personal Data Protection Act.

During the proceeding the inspectorate established that in addition to the aforementioned web link, the information of debtors has been disclosed also on the web link: [redacted].

In connection with that, the inspectorate made a proposal to [redacted] in the matter of personal data protection no. 2.1.-1/20/3119 on 11 September 2019 which reads as follows: *"Remove the personal data (name, debt) relating to the violation of an obligation, disclosed on the webpage of [redacted]"*. The deadline for responding to the proposal was 23 September 2020. Within the proposal, the inspectorate also draw attention to the possibility of a precept and imposing of a penalty payment.

As the proposal of the inspectorate was not replied within the prescribed time, the inspectorate issued a precept-warning to [redacted] on 30 September 2020, which reads as follows: *"Discontinue the disclosure of personal data (name, debt) relating to the violation of an obligation on the webpage [redacted]. The disclosed personal data can be found on the following web links: [redacted] and [redacted]"*.

On 1 October 2020, a representative of [redacted] sent a response to the inspectorate, according to which the personal data relating to the violation of an obligation have been removed from the webpage. After receipt of the confirmation, the inspectorate also inspected the webpage [redacted] and did not establish any personal data in connection to the violation of an obligation.

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Based on the materials of the case, [redacted] disclosed on its webpage [redacted] the names and amounts of debt of persons, that is, it processed personal data.

However, when processing personal data, one must follow the requirements of the Personal Data Protection Act and the General Data Protection Regulation (GDPR), incl. it follows from Article 6 of the GDPR that processing of personal data is lawful only if carried out on the basis of one of the grounds listed in Article 6 of the GDPR. The burden of proof in that regard lies with the controller.

Regardless of the legal grounds, a controller must follow also the principles set out in Article 5 of the GDPR, incl. the provisions of paragraph 1 idents a, b and c:

- processing is lawful, fair and transparent for the person;
- purpose limitation – personal data are collected for specified, explicit and legitimate purposes;
- data minimisation – personal data are adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

The controller shall be responsible for, and be able to demonstrate compliance with these obligations (see GDPR, Article 5, paragraph 2). At the same time, we explain that personal data may be processed only within the extent that is necessary for the achievement of the determined purposes and at the same time the purpose of data processing must be secured using the methods that interfere with the fundamental rights of the person as little as possible. For that, the controller must always assess in advance whether the processing (disclosing) of the data is inevitable for the fulfilment of the purpose or, is it possible to use less infringing measures.

In addition, also section 10 of the Personal Data Protection Act must be considered when processing personal data in connection with violation of obligation. Subsection 10 (1) of the Personal Data Protection Act stipulates the following: "*Transmission of personal data related to violation of any obligation to third parties and processing of the transmitted data by any third party is permitted for the purpose of assessment of the creditworthiness of the data subject or for any other similar purposes and only in the case the controller or processor has verified the accuracy of the data transmitted and the legal basis for transmission of personal data and registered the data transmission*".

Based on the above, it is prohibited to disclose personal data of a debtor on webpages and transmission of data is allowed only, if the conditions set out in subsection 10 (1) of the Personal Data Protection Act have been met. In addition, also subsection 10 (2) of the Personal Data Protection Act must be considered, before transmission of the data, which stipulate the conditions that prohibit the transmission of data.

Accordingly, by disclosing the personal data, the requirements of the Personal Data Protection Act and the General Data Protection Regulation were violated.

In light of the above, incl. the fact that now the personal data related to the violation of obligation have been removed from the webpage, **we issue a reprimand to [redacted] in accordance with Article 58 (2) b) of the General Data Protection Regulation and draw attention to the following:**

1. **In processing the personal data, the controller must proceed from the General Data Protection Regulation, incl. Articles 5 and 6.** Personal data processing is lawful only, if at least one of the conditions set out in Article 6, paragraph 1 of the GDPR has been complied with. Regardless of the legal grounds, the controller must also proceed from all of the principles of processing the personal data, set out in Article 5 of the GDPR.

2. **Upon transmission of personal data related to violation of any obligation, Article 10 of the Personal Data Protection Act must be considered.** At the same time, disclosing the data related to violation of an obligation is prohibited.

Furthermore, we draw attention also to the fact that responding to the inquiries made within the supervision proceedings is mandatory and when responding, the deadline given by the administrative authority must be complied with. In the event that there are problems with responding to the inspectorate by the determined deadline, it is also possible to explain to the supervision authority the objective circumstances that were an obstacle. Simply not responding and failure to adhere to the deadlines, however, are not acceptable and may lead to imposing a penalty payment.

Based on the above, we shall terminate the supervisory proceeding.

This decision may be challenged within 30 days by submitting one of the two:
- A challenge to the Director General of the Estonian Data Protection Inspectorate pursuant to the Administrative Procedure Act[1], or
- An appeal to an administrative court under the Code of Administrative Court Procedure[2] (in this case, the challenge in the same matter can no longer be reviewed).

Respectfully

/*signed digitally*/
[redacted]
lawyer
authorised by Director General

[1] https://www.riigiteataja.ee/en/eli/527032019002/consolide
[2] https://www.riigiteataja.ee/en/eli/512122019007/consolide