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Official record on handling of a complaint

The Office for Personal Data Protection (hereinafter “the Office”) received on 15 February 2021 from the German supervisory authority, via the IMI system, a complaint by a German citizen against the conduct of the company [REDACTED], established at [REDACTED] Czech Republic, company registration number [REDACTED]. Pursuant to the complainant, the company requires for the activation of the unlock/lock-up functionality of a [REDACTED] car, through the [REDACTED] application/service, for the purpose of identity check of the person asking for the service activation, a copy of the driving licence even if it already possesses the identity card’s number of the person who has purchased that [REDACTED] car.

[REDACTED] conveyed to the German supervisory authority the information that the controller of customer data in connection with the operation of the [REDACTED] application is the company [REDACTED], established at: [REDACTED] company registration number [REDACTED] (hereinafter “the Company” or [REDACTED]).

The German citizen’s complaint, bearing characteristics of a transborder processing, has been passed on to the Office as the competent authority for further handling.

The Office, within its competences vested by Article 31 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 “the Regulation (EU) 2016/679”) as well as in connection with Article 50(1) of the Act No. 110/2019 Coll., on personal data processing, asked on 30 March 2021 and repeatedly on 14 April 2021 the Company for statement as to the ownership of the [REDACTED] application accompanied with a detailed description of the customer activation procedure and for the provision of the relevant documentation.

The following information were particularly requested:

- 1) *Who is the owner of the [REDACTED] application? Does the company [REDACTED] use this application for its business activity and if so, in what manner? Please specify precisely.*
- 2) *Please describe the entire customer activation procedure of the [REDACTED] application and provide as evidence the relevant documentation.*

- 3) Do you require a driving licence copy for the activation of the unlock/lock-up functionality via the [REDACTED] application?
 - a. If yes, are these copies or scans filed and retained by the company [REDACTED]? In what file?
 - b. For how long?
 - c. What software is used for the retention of these documents? (convey precise information including certificates and provider)
 - d. If, for the activation of the unlock/lock-up functionality via the [REDACTED] application, a copy of some other proof of identity is required, provide information as to what kind of proof is required and reply the questions under 3.a) thru 3.c).
- 4) Provide and evidence the extent of personal data processed by [REDACTED] through the [REDACTED] application.
- 5) Provide the legal grounds pursuant to the Regulation (EU) 2016/679 on the basis of which [REDACTED] processes personal data of its customers via the [REDACTED] application;
 - a. If the legal title laid down in Article 6(1)(f) of the Regulation (EU) 2016/679 is at stake, submit also the balance tests;
 - b. If the personal data are processed on the basis of Article 6(1)(a) of the Regulation (EU) 2016/679, please document how the consent is obtained;
- 6) If [REDACTED] engages a processor for the processing of personal data within the [REDACTED] application in accordance with Article 28(3) of the Regulation (EU) 2016/679, provide contracts related to these processing operations;
- 7) Provide, in compliance with Article 30 of the Regulation (EU) 2016/679, records of processing activities related to the personal data treated via the [REDACTED] application;
- 8) Submit technical and organizational measures pursuant Article 32 of the Regulation (EU) 2016/679 adopted for the security of personal data processed via the [REDACTED] application including technical specifications and certificates.

To verify the Company's statement and the real-life practice in this respect, the [REDACTED] car dealer [REDACTED], respectively [REDACTED] company registration number [REDACTED] was asked on 9 September 2021 for explanation about the [REDACTED] application. Specifically, it was enquired about the process of activation of the [REDACTED] application, the agreement with the controller (the Company), the extent and method of customer data collection during the activation of the [REDACTED] application with special focus to the identity checks of customers.

The following information was particularly sought:

- 1) A copy of the data processing agreement between [REDACTED] a.s. and [REDACTED].
- 2) A comprehensive description of the entire process of activation of the [REDACTED] application including the establishment of the ID [REDACTED] account for needs of the customers. Submit particularly documents evidencing the method of customer data entry and the extent thereof (e.g. PrintScreen of each specific step, work procedure/employee manual).
- 3) Provide the legal title pursuant to the Regulation (EU) 2016/679 your company applies for the processing of customer data via the ID [REDACTED] and the [REDACTED] application.

- 4) *Submit copy of guidance and work procedures provided by [REDACTED] to the [REDACTED] car dealers for the purposes of ID [REDACTED] account establishment and the activation of the [REDACTED] application.*
- 5) *Specifically, provide information, if [REDACTED] requires a copy of the customer's driving licence in order to establish the ID [REDACTED] account and to activate the [REDACTED] application.*

I.

The information and documentation obtained from [REDACTED] concerning the customer data processing in relation to the service provision agreements reveal the following:

The condition for profiting from the Company's services is creation and application of the central user account [REDACTED] ID, i.e. the identity for the customer single sign-in to the [REDACTED] online environment. The [REDACTED] ID functionality serves to the customer identity check on the basis of the customer's personal ID (driving licence). The verified customer can then use the [REDACTED] services. The identity of a verified customer enables to use the Service advisor, Service technician, Service assistant, Sale services staffer, Head of new cars sales, New cars sales staffer and Head of used cars sales.

[REDACTED] recommends verifying the customer identity during the car service under the customer's presence (validity of the personal data and car-related data processed).

[REDACTED] ID functions as single identity within the [REDACTED] environment. The customer registration within one environment is enough then to start using other services that [REDACTED] offers or will offer in future.

Conditions of the [REDACTED] ID usage on the legal grounds pursuant to Article 6(1)(b) of the Regulation (EU) 2016/679 and information on the customer data processing are, in sense of Article 12 et all. of the Regulation (EU) 2016/679, are presented to the customer upon the car purchase and are also publicly accessible on the [REDACTED] website [REDACTED]

[REDACTED], that contain links to the privacy policy, cookies and also the standalone [REDACTED] service, for the activation of which it is necessary to close online separate agreement with the Company [REDACTED]. Contact to the data protection officer is provided there as well: [REDACTED].

The process of signing on to the [REDACTED] services:

After entering the [REDACTED] online environment, the customer signs on by using the [REDACTED] ID whereby the registration process is initiated.

Upon opening the [REDACTED] account, the customer is transparently made acquainted with the "Conditions for using [REDACTED]" and the "Information on personal data processing". These documents are part of the information provided at time of the online sign-on to the [REDACTED] services and are publicly accessible on the Company's website as well.

After establishing the [REDACTED] user account by a customer, a step follows that match the vehicle (by entering the VIN code) with the [REDACTED] user account. Entering (by the customer) of the generated code into the car infotainment follows. After this security step, the car is "parked in the virtual garage" provided by the [REDACTED] account and the customer is enabled to profit from the services contracted.

The electronic processing of customer data is, pursuant to the commercial terms, based on the free decision of the customer to contract paid [REDACTED] [REDACTED] services (first order for services linked to a new car is free of charge).

The online contract with the Company related to the [REDACTED] [REDACTED] services related to one vehicle is concluded in the sense of Article 6(1)(b) of the Regulation (EU) 2016/679.

The period of the contractual relationship is set for three, or for more years. If car user, the customer can cancel the service order without providing any reasons within 14 days as from its conclusion.

The [REDACTED] [REDACTED] services can be used via:

- Infotainment equipped with a system directly from production;
- Management unit of the e-call system enabled also for the mobile apps of the online service;
- Webpages of the [REDACTED] [REDACTED] service;
- Mobile app.

Usage of certain [REDACTED] [REDACTED] online services is for security reasons subjected to the customer identity check at the Company's authorized partner on the basis of driving licence. For instance, [REDACTED] [REDACTED] is a service from the category marked as II. [REDACTED] *"Unlock and lock up" (the customer can remotely, via the portal or a mobile app lock up or unlock a particular car. For the service activation, it is necessary that an authorized [REDACTED] partner verifies the customer's identity).*

The Company processes customer data for the purpose of closing a contract on provision of the [REDACTED] [REDACTED] mobile online services, whereas the provision of customer data is a contractual condition. Refusal to provide these personal data may result in the non-conclusion of the agreement.

Processing of customer data required by the Company in relation to the [REDACTED] [REDACTED] online service is thus realized for the purpose of the contract performance pursuant to Article 6(1)(b) of the Regulation (EU) 2016/679, whereas the extent of the data processed (driving licence number, issuing country and date of expiry) is, in sense of Article 5(1)(c) of the Regulation (EU) 2016/679, adequate, relevant and limited to what is necessary in relation to the purposes and meets the security role of preventing the customer's car from misuse in relation to the false usage of the [REDACTED] [REDACTED] service by an unauthorized person, *for instance, the remote unlocking and locking up of the vehicle.*

The contract performance is conditioned by the active acceptance of the "Conditions of [REDACTED] ID application", whereby the customer may refuse the provision of the [REDACTED] [REDACTED] services and use the [REDACTED] car without these services. The possibility to use the whole scope of these services is dependent on the particular car's equipment as well as on the specification of services that the customer contracted with [REDACTED] [REDACTED].

The company [REDACTED] [REDACTED] is in sense of Article 4(7) of the Regulation (EU) 2016/679 the data controller as well as the owner and operator of the [REDACTED] [REDACTED] application that can be used only with the use of publicly available communication technologies. The application is equipped with the so-called "connective services" that connect the vehicle with its authorized user. The online infotainment means an interactive solution of breakdowns and problems with

the car or the remote access to the information about the car condition, remote unlocking and locking up, etc.

██████████ stores customer data in the sense of the processing agreement “Agreement on protection of personal data for the purpose of compliance with the Regulation (EU) 2016/679 (GDPR) with regard to custom-performed processing of personal data” with the data processor which is the company ██████████ in Germany, agreement number: ██████████ ██████████. ██████████ is in position of a processor in sense of Article 4(8) of the Regulation (EU) 2016/679. Both ██████████ and ██████████ are part of the ██████████

It is clear from the documents and the written statement by ██████████ that the company **does not require from its customers copy of the driving licence**, but processes, in order to ensure the ██████████ services ordered by the customer (for security reasons to oversight the ██████████ ID system) data entered in the driving licence: number of the licence, date and country of issuance, expiry date. The driving licence number is entered into the system online by the customer, or on the customer’s request by the authorized dealer or service at time of the ██████████ ID or ██████████ activation.

„Dealers may at time of the car handover proof the identity of the customer for the purposes of activation of some security-relevant ██████████ services by checking the name, surname and date of birth displayed on the customer’s driving licence and compare them with the data provided by the customer upon the registration with ██████████ ID, respectively ██████████. Or, as the case may be for security, to the end of performance of the ██████████ agreement (remote unlocking and locking up of the car) enters into the system the driving licence number, date and country of issuance and the expiry date.

Dealers are legal persons on their own on the basis of business contracts and possess all necessary documents concerning processing of personal data circulating among ██████████ and the dealer network.“

██████████ provides to the dealer network a detailed guidance how to proceed during the customer identity check for the purposes of ██████████. A customer is regarded as proven if the driving licence number, country of issuance and its expiration has already been entered into the system. A customer that has not been verified cannot get the “unlock and lock-up service” activated for security reasons (Documented by file ██████████).

The submissions from ██████████ are filed under ref. ██████████

II.

The ██████████ statement was verified with the ██████████ dealer ██████████ ██████████ company registration number ██████████ (hereinafter ██████████).

Concerning activation of the ██████████ application, the Office received the following information:

██████████ has closed an Agreement on processing of personal data with the data controller ██████████ and provides, within its business activity, for the ██████████ car owner also other services from ██████████ among others the registration with ██████████ ID, and ██████████

██████████ respectively. Consequently, ██████████ is in the position of a processor in the sense of Article 4(8) of the Regulation (EU) 2016/679.

██████████ has confirmed the ██████████ statement that the creation of a ██████████ ID account and its activation is done by the customer itself and that for its opening it is not necessary to provide a driving licence copy.

The activation of the ██████████ application is done by the customer as well. The manual (Brochure titled ██████████ on-line services) how to proceed is given to the customer at time of a binding order of a car. The customer, with help of the manual, activates access to the ██████████ service. Later, upon the handover of the new car and upon the customer's request, the dealer helps the customer with the sign-on into the ██████████ ID environment and with the activation of ██████████ service in the vehicle. The sign-in and the service activation is performed with the access data which the customer itself has activated.

In case the customer decides to use some of the extended ██████████ ██████████ services (e.g. remote unlock/lock-up), the identity is checked exclusively under the customer's physical presence at the dealer's. The customer verification process is performed in accordance with the relevant methodology, the ██████████. The customer's identity is checked via the personal ID (driving licence).

Any copy of driving licence for verification of the customer identity, neither during the ██████████ ██████████ activation, is not requested pursuant to the methodology and the information conveyed by an ██████████ representative.

It was found out and back checked that ██████████ a.s. provides its customers the service called ██████████ on the basis of a contract (e.g. remote unlocking/locking up of the car) and processes in this regard customer data in sense of Article (6)(1)(b) of the Regulation (EU) 2016/679. For the purpose of an enhanced security, the processed data include also the ██████████ licence number (and country of issuance and expiry date) which is entered into the ██████████ ID system and (as the case may be) to the ██████████ system and serve to the identity verification of a customer requiring the service (e.g. remote unlocking/locking up of the car).

It shall be stated, on the basis of the aforementioned findings, that ██████████ does not require copy driving licences. Dealers can offer their customers help during the activation of the ██████████ application, but neither they are authorized to require a copy of driving licence from customers.

The German customer's claim that ██████████ requires for the activation of the ██████████ ██████████ application a driving licence copy has not been proven.

The supporting documents from the ██████████ car dealer in the Czech Republic, the company ██████████ are filed under the reference ██████████.

Summary:

It has not been found out on the Czech Republic's territory that ██████████ or its authorized dealer requested a copy of driving licence for the purpose of activation of the agreement relating to ██████████ ██████████.

On the contrary, the Company has provided evidence that it has not requested any driving licence copies for the activation of the [REDACTED] services, the registration with which is done online and upon the customer's request.

Moreover, for the provision of additionally contracted services of [REDACTED], again on the customer's request (e.g. the service of remote unlocking and locking-up), [REDACTED] requires electronic processing of the driving licence number, country of issuance and date of expiration. These data are transferred electronically to the Company by the customer itself whereas an authorized [REDACTED] representative may help him upon request. The transfer of these data by the customer is voluntary, but it is a condition for the provision of the requested [REDACTED] services.

At time of the activation of this service, an authorized [REDACTED] representative does verify on spot the customer's identity on the basis of the personal data stored in the system and the physically presented driving licence.

It is an electronically closed contract concerning the provision of services between [REDACTED] and the customer in sense of Article 6(1)(b) of the Regulation (EU) 2016/679.

The company [REDACTED] does not require from customers for the activation of the [REDACTED] service any copy of driving licence and it has been concluded that the company's procedure did not fall under Article 4(7) and 4(8), Article 5, Article 6(1)(b), Article (12) and other following Articles of the Regulation (EU) 2016/679, and consequently, no breach of the relevant legal obligation has been detected.

The complainant failed to document his claim that [REDACTED], a.s. would allegedly have required copy of driving licences from the authorized dealers in Germany for the purpose of their processing for the activation of the [REDACTED] service. Therefore, the Office considers that the merit of complaint shows an individual wrongdoing by an authorized company in Germany which required a driving licence copy for the activation of the remote service of unlocking and locking up of a vehicle.

In accordance with the Regulation (EU) 2016/679 and the Act No. 110/2019 Coll. on processing of personal data, the complaint towards the company [REDACTED] has been adjourned, as there is no reasoned suspicion as to the breach of legal regulations, neither of regulations specifically related to the protection of personal data, nor of other regulations. Therefore, the content of the complaint has not been found reasonable as to the launch of an investigation or commencement of administrative proceedings whilst it would not be appropriate to settle the matter in other way.

Any further Office's proceeding would not open the possibility to find out further facts that could support any conclusion other than the one described in this official record.

The German supervisory authority will be informed of the outcome of this case through the IMI system.

[REDACTED]

(signed electronically)