



REPUBLIC OF ESTONIA
DATA PROTECTION INSPECTORATE

FOR INTERNAL USE

Holder of information: Data Protection

Inspectorate

Date: 20.02.2024

Valid until the decision enters into force

Legal ground: Public Information Act § 35 cl 1 p
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SA Lithuania

20.02.2024 nr 2.1.-1/23/630-1610-7

Final decision

Notice of termination of the proceedings concerning the protection of personal data.

Estonian Data Protection Inspectorate (Estonian DPI) received a complaint through IMI system (case nr 532854) from SA Lithuania. Since the controller – ██████████ - has its main establishment in Tallinn, Estonia, Estonian DPI has accepted the case as LSA.

THE COMPLAINT

Lithuanian citizen lodged a complaint against the controller which is established in Estonia. Complainant, who is an employee of ██████, says that his personal identification number is seen together with his name and surname in the invoice which was given to the customer. The complainant contacted ██████ on this issue and ██████ explained to the complainant the following statement: *“We see that when you registered to work as a courier for ██████ ██████”, you did not submit the individual activity under business certificate, wherein your personal information is indicated. Since we did not have any other personal information, only this number, which you have previously forwarded, was written-in to the system. I have corrected this information in the system and now the clients should see your individual activity under business certificate code.”*

SA Estonia started an investigation in order to clarify the process of collecting data from couriers by ██████, its purpose and legal basis and sent the controller several inquiries.

POSITION OF THE DATA CONTROLLER

1. Personal data is processed for the performance of the contract concluded with the courier. So, the processing of courier’s personal data is based on GDPR art 6 cl 1 p b (processing is necessary for the performance of a contract to which the data subject is party). ██████ collects and processes personal data of couriers to ensure regulatory compliance, for verifying the courier’s qualifications for pursuing this professional activity of delivering food and safeguarding the contractual relations associated with the ██████ app service, including resolving any delivery service quality issues and monitoring your compliance on an ongoing basis.
2. The personal data of couriers is disclosed to clients once the courier has accepted the

request for delivery service and contract for delivery service is concluded between the client and the courier. The client will see the courier's name and geographic location of the courier. At the same time, the personal data of client disclosed to the courier with whom the client concludes the contract for delivery service. Via [REDACTED] app, the courier will see the first name and first letter of the last name of the client, geographic location of the client and information of the order for the Meal made by the client (including the restaurant where the meal was ordered) and contact phone number of the client. Pursuant to data processing agreement concluded between the courier and [REDACTED], after providing the delivery service, the courier is entitled to retain the client data related to the performance of the delivery service for the maximum period of 1 month.

3. Pursuant to § 2(2) of the Accounting Act (AA)¹, any legal person in private or public law registered in Estonia, as well as any self-employed person, is an accounting entity. Pursuant to § 4(2) of the AA, an accounting entity is obliged to document all economic transactions. The documentation is based on the basic accounting documents, which also include invoices. Section 7 of the AA sets out the minimum list of information to be entered on invoices.
4. If the courier is a taxable person according to § 19 of the Value Added Tax Act (VAT Act)², couriers must comply with additional requirements, e.g. concerning the information to be included on invoices according to § 37 of the VAT Act.
5. If the courier is a person liable to VAT under the VAT Code of the Republic of Lithuania of 5 March 2002, the courier must comply with the provisions of the VAT Code of the Republic of Lithuania of 5 March 2002. According to this law couriers must comply with the requirements concerning the information to be provided on invoices pursuant to Article 80 of the Lithuanian VAT Law.
6. We clarify that pursuant to clause 2.3 of the General Terms and Conditions, [REDACTED] acts only as an information society service provider in the management of [REDACTED] Platform and is not a party to the Sales Agreement or the Delivery Agreement. Pursuant to clause 2.4 of the General Terms, [REDACTED] also acts as an agent of the couriers in the administration of the [REDACTED] Platform in relation to the brokering of delivery contracts between the couriers and the customers. Each courier, as agent, has authorised [REDACTED], as agent, to accept certain payments from customers and affiliates on behalf of and/or for the benefit of the couriers and to distribute the funds received to the couriers in accordance with the General Terms.
7. Pursuant to clause 8.1 of the General Terms, [REDACTED], acting as agent for the courier, will prepare and issue invoice(s) to the customer for the courier fee and (where applicable) the small order fee on behalf of the courier and will accept payment from the customer for the invoice(s) on behalf of the courier, other than cash payment. The legal basis for the processing of personal data by the courier is Article 6(1)(b) of the GDPR.
8. Depending on the type of business chosen by the courier (Business Account, Self-Employed or Company), different information will be displayed on the invoices:
 - a. Company account: first name and surname of the courier, contact address (address of [REDACTED]), other information related to the courier service (total amount, VAT percentage, VAT amount, delivery charge, tip, service charge).
 - b. Company and Self-employed: Company or Self-employed business name, Legal

¹ <https://www.riigiteataja.ee/en/eli/ee/530102013006/consolide/current>

² <https://www.riigiteataja.ee/en/eli/ee/527022014003/consolide/current>

form, Registration code, contact address, VAT number (if any), Other information related to the courier service (total amount, VAT percentage, VAT amount, delivery charge, tip, service charge).

9. In Lithuania, the rules on disclosure are similar:
 - a. Self-employed person operating under a self-employed person certificate: First name and surname of the courier, Self-employed certificate number, City from where the courier service was provided, other information related to the courier service (total amount, VAT percentage, VAT amount, delivery charge, tip, service charge).
 - b. Company: name and surname of the courier, business name of the company, legal form, registration code, contact address, VAT number, other information related to the courier service (total amount, percentage of VAT, amount of VAT, delivery charge, tip, service charge).
10. █████ confirms that as of 17.07.2023 it does not display the personal identification code of couriers on invoices sent to █████ Lithuanian customers.

POSITION OF THE ESTONIAN DATA PROTECTION INSPECTORATE

11. Person's ID number together with a person's full name is considered to be personal data in the sense of GDPR article 4 p. 1 and not sensitive data in the sense of GDPR article 9. In addition, the status of the courier and its acting legal status (business entity or self-employed, etc.) is also part of the personal data composition.
12. Estonian DPI has reviewed the reasoning given by the Controller and finds that according to GDPR article 6 clause 1 p b controller has legal basis for processing personal data:
 - a. processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.
13. Estonian DPI agrees after thoroughly reviewing the given answers and provided documents by █████ that the legal basis for processing courier's personal data is provided.
14. The GDPR also lays down the rights of data subjects to the processing of their personal data. Under Article 16 of the GDPR, the data subject has the right to request the controller to rectify inaccurate personal data concerning him or her. As the abovementioned data together fall under the category of personal data, it must be possible to rectify it and the controller must enable the data subject to rectify the data at the request of the data subject. The data subject has requested █████ to rectify the status of the courier's legal basis for providing courier services.
15. █████, as the controller of the personal data, must provide the data subject without undue delay, but no later than one month after receipt of the request, with information on the action taken in response to a request pursuant to Articles 15 to 22 of the GDPR. That period may, where appropriate, be extended by two months considering the complexity and amount of the application. The controller shall inform the data subject of any such extension and of the reasons for the delay within one month of receipt of the request (Article 12(3) GDPR).
16. If the controller fails to act on the request of the data subject, it shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not acting and explain the possibility of lodging a complaint with the

supervisory authority and seeking a judicial remedy (Article 12(4) of the GDPR).

17. In analysing controller's actions regarding article 12, the Estonian DPI makes notice of the complainant's own actions, where he, when first registering as a courier, provided [REDACTED] with information that was inaccurate (choosing to be a business entity rather than self-employed). After the complainant realised that his personal ID was displayed on the [REDACTED] invoices, he contacted the data controller with a right to rectification and right to information to which immediately [REDACTED] remedied the situation. With this the data controller has met all the requirements in GDPR article 5 clause 1 point d, article 12 and article 16 clause 1.

To conclude, SA Estonia will terminate the proceedings regarding the complaint made against [REDACTED] because the data subject request has been fulfilled and no persistent GDPR infringements have been identified.

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 Act³, or
- An appeal to an administrative court under the Code of Administrative Court Procedure⁴ (in this case, the challenge in the same matter can no longer be reviewed).

Best regards

[REDACTED]
Data security expert
authorized by Director General

³ <https://www.riigiteataja.ee/en/eli/527032019002/consolide>

⁴ <https://www.riigiteataja.ee/en/eli/512122019007/consolide>