Summary Final Decision Art 60
Complaint

No sanction

EDPBI:DEBB:OSS:D:2020:145

Background information

Date of final decision:	13 October 2020
Date of broadcast:	13 October 2020
LSA:	DEBB
CSAs:	AT, BE, DK, ES, FR, HU, IE, LV, NL, NO, PL, SE
Legal Reference:	Lawfulness of processing (Article 6)
Decision:	No sanction
Key words:	Data security, legitimate interest, privacy statement, e-commerce

Summary of the Decision

Origin of the case

The LSA received the complaint and analysed a media report, which elaborated on the port scanning carried out on the controller's website. The LSA followed with a verification of the media report.

Findings

The controller is processing personal data via port enumeration, using legitimate interest as a legal basis.

The purpose of such processing via port enumeration is the identification of potentially compromised systems and the prevention, detection, mitigation and investigation of fraud attempts, security breaches and other prohibited/illegal activities in risk scenarios (what was also phrased in website's privacy policy however without mentioning the port enumeration method itself).

The controller also sees its legitimate interest in the protection of the financial and data protection interests of users, through the protection from unauthorised access. The controller justifies the necessity of this processing on grounds that there is no comparable, less invasive method to pursue and protect the interests described.

According to the controller, the use of this method is limited to identifiable high-risk scenarios and only for the most common and vulnerable operating systems. However the LSA stated that the port enumeration method is carried out during a mere visit to the website and not only, as described by the controller, in every risk scenario.

Decision

The LSA considered justified and comprehensible the controller's use of Article 6.1.f as a legal basis. In addition, the LSA recommended extending the data protection statement to include the information about using the port enumeration method. The LSA closed the case without imposing any sanction.