



data protection - legislative changes published in January 2022

I. ROMANIA

1. SANCTIONS APPLIED BY THE NATIONAL SUPERVISORY AUTHORITY

1.1 KAUFLAND ROMANIA SCS was sanctioned for violating the provisions of Article 15 para. (3) of the GDPR with a fine in the amount of LEI 14.846,40 (the equivalent of EUR 3,000)

As a result of the investigation, the Data Protection Authority found that, by the refusal to provide a full copy of the video recordings for the time period during which the data subject was in the commercial premises, the controller violated the data subject's right of access.

The transmission of the images could be carried out without being affect the rights and freedoms of third parties, by using the process of blocking ("blurring") the images concerning the data and personal information of other data subjects.

The controller was required to implement technical and organizational measures, in order to enable the full exercise of the data subject's right of access, while respecting the rights of other persons.

2 REGULATIONS

2.1 The National Supervisory Authority has launched on 28.01.2022 the "Guide on the processing of personal data by owners' association".

The guide is intended to support owners' associations in fulfilling their obligations as personal data controllers, as follows:

- in relation with the installation of a video surveillance system, it is established that this measure may be taken based on the legitimate interest of the owners' association, *e.g.*, to ensure the security and protection of persons, goods and valuables of the buildings and public utility installations, as well as their enclosures, but also in the area of access to the building or elevators. Monitored premises shall be pointed out by an appropriate pictogram located in a visible place, so that it can be seen by any person, as an expression of the obligation to inform the data subject. It is recommended that the information storage not to last longer than 30 days, except in duly justified cases where events have occurred that require only the relevant images to be stored for a longer period which is necessary to fulfill those purposes (*e.g.*, until the final settlement of a criminal case by the judicial authorities).
- disclosure of personal data such as the first and last names of owners/tenants on the notice board shall only be made on the basis of an express legal provision or unequivocal consent expressed by the data subject. Lack of response or action from the data subject shall not be equivalent to a valid consent.
- the recording of personal data in the property register shall be made without the data subject's consent only to the extent that there is a legal obligation to do so. The registration is made based on the identity card and, for children under 14, based on their birth certificate. The owners' association is not allowed to request photocopies of these documents, which will only be checked visually for compliance.
- the processing of personal data by owners' associations does not fall under the situations provided for in Article 37 of the GDPR, therefore, there is no obligation to appoint a data protection officer.



II. EUROPEAN UNION

1 REGULATIONS

1.1. EDPB adopts the first version of the Guide 01/2022 on data subjects' rights - right of access, in public consultation.

The Guide provides several guidelines and recommendations, as follows:

- limitation of the procedures for identifying the person submitting the request. To this end, requesting a copy of the identity card in the identification process shall be considered inappropriate, except where strictly necessary in relation to the personal data concerned and the provisions of applicable national law, where applicable;
- the controller shall not be entitled to refuse access to personal data on the grounds that the information concern third parties. To this end, the controller should take measures to avoid disclosure information which shall affect the rights and freedoms of third parties;
- the data subject is not required to motivate the request for access to information and the controller is not entitled to analyze whether the data provided can effectively help the data subject;
- if the details in the access request do not allow the controller to identify the personal data relating to the data subject, the controller may refuse to provide the information.

2 SANCTIONS GRANTED IN THE EU

2.1 The Italian Data Protection Authority („Garante per la protezione dei dati personali”) imposed to Enel Energia S.p.A a fine of EUR 26,5 million for breaches of the GDPR provisions

Following an extensive investigation, Garante per la protezione dei dati personali found that the controller failed to responde in legal time or acte upon hundreds of requests under consumers' right of access and right to object. In particular, the data subjects have still received promotional phone calls, even pre-recorded ones, on behalf of or on behalf of the controller, in the absence of their consent for marketing purposes.

In addition to the fine, the controller was required to implement several technical and organizational corrective measures for the free and unrestricted exercise of the rights of data subjects, in particular as regards the right to object on receiving promotional messages.

2.2 The Austrian Data Protection Authority („DSB”) imposed to REWE International AG a fine of EUR 8 million for breaches of the GDPR provisions

Following the investigation, DSB sanctioned REWE International AG for non-compliance with the GDPR by one of its subsidiaries, Unser Ö-Bonus Club GmbH - which operates a client loyalty and reward programme - for the processing by the latter of the client's personal data for marketing purposes, without obtaining their prior consent.

The DSB decision against food retailer REWE International highlights that parent companies are ultimately responsible for how their subsidiaries handle data subjects' data, even if the entity operates separately as its own company and is economically independent.



2.3 The Hellenic Data Protection Authority („HDPА”) imposed to Cosmote Mobile Telecommunications S.A. a fine of EUR 6 million for breaches of the GDPR provisions

Following notification by the controller of a security breach concerning a leakage of data on subscribers' telephone calls, the HDPА also examined the lawfulness of the personal data processing operations carried out at the controller's level, and identified its non-compliance with several provisions of the GDPR and violation of the principles of transparency and lawfulness in the processing of personal data.

It was found that the unlawful practices lasted for 6 years, affecting more than 10 million data subjects, and that, for a long period of time, pseudonymisation was not implemented either.