



data protection - legislative changes published in December 2021

I. ROMANIA

1. SANCTIONS APPLIED BY THE NATIONAL SUPERVISORY AUTHORITY

1.1 ANSPDCP. The Medical Company TOMMED POLYCLINIC was sanctioned for violating the provisions of Article 5 para. (1) point a), b), and f) and para. (2) of the GDPR in conjunction with Article 9 of the GDPR with a fine in the amount of LEI 9,898.00 (the equivalent of EUR 2,000)

Following the investigation, the Data Protection Authority found that the controller had disclosed certain personal data, including health data of a data subject to another controller, without observing the legal principles and conditions for personal data processing, and without the prior information of the involved person (patient of the controller).

The corrective measure to ensure compliance with the GDPR of the subsequent personal data collection and processing operations, through the periodically training of the persons that process data under the authority of the controller and appropriate involvement of the personal data protection officer, has also been applied to the controller.

1.2 ANSPDCP. TELEKOM ROMANIA COMMUNICATIONS S.A. was sanctioned for violating the provisions of Article 5 para. (1) point d), f) and para. (2) of the GDPR with a fine in the amount of LEI 24,745.00 (equivalent of EUR 5,000), as well as for violating the provisions of Article 17 of the GDPR with a fine in the amount of LEI 4,949.00 (equivalent of EUR 1,000)

The investigation was initiated following a complaint submitted by a data subject through which he/she claimed the receipt from the controller Telekom România Communications SA, on his/her e-mail address, of some invoices and notification messages regarding the debts registered by another person, subscriber of the same controller.

The Data Protection Authority found that the controller has processed inaccurate personal data, which led to the unlawful disclosure of personal data to another person and resulted in a breach of the principles of processing personal.

At the same time, it was found that the controller did not take the necessary measures in order to handle the request for erasure submitted by the data subject.

The following corrective measures were applied to the controller:

- the implementation of appropriate and efficient measures of security, both from a technical point of view (such as: the automatic collection of some data, ensuring the security of the documents' and messages' transmission through encryption/password) and an organizational point of view, through periodically training of the persons that process data under the authority of the controller.
- the implementation of appropriate technical and organizational measures to ensure the correct and efficient implementation of the operations in the database/bases used by the controller and processors, as well as the appropriate training of the persons that process data under their authority.



1.3 ANSPDCP. NOBIOTIC PHARMA S.R.L. was sanctioned for violating the provisions of Article 58 para. (1) of the GDPR with a fine in the amount of LEI 9,890.00 (the equivalent of EUR 2,000)

The investigation was initiated following some complaints through which a data subject complained about the controller sending him unsolicited commercial SMS messages without his consent.

As the controller did not comply with the request for information addressed by the Data Protection Authority in accordance with Article 58 of the GDPR, he was sanctioned with the above-mentioned fine.

II EUROPEAN UNION

2. REGULATIONS

2.1 EDPB adopts final version of Guide no. 1/2021 on examples regarding Data Breach Notifications

Following public consultation, at the Plenary Session of the European Data Protection Board, held on December 14, 2021 the EDPB adopted a final version of the Guidelines on examples regarding Data Breach Notifications.

The purpose of the Guide is to provide recommendations and guidance to personal data controllers, to decide how to manage security breaches and to determine which factors to take into account during risk assessment.

3. SANCTIONS APPLIED IN THE EU

3.1 The Norwegian Data Protection Authority (“Datatilsynet”) imposed to Grindr LLC a fine of EUR 6,5 million for breaches of the GDPR provisions

Following the investigation, Datatilsynet found that, through the Grindr application, an online dating platform, information about GPS location, IP address, mobile phone advertisement ID, age and gender of users, including sensitive data on their sexual orientation, had been disclosed to third parties for marketing purposes. Users also included members from the LGBT Community.

Datatilsynet concluded that the consent was the legal basis for processing applicable in this case, but that the alleged consents collected by Grindr for disclosure of personal data to its partners for marketing purposes were not valid. Users were forced to accept the privacy policy to use the application and were not specifically asked if they wanted to consent to share their data with third parties for behavioral advertising.

3.2 The French National Commission for Informatics and Freedoms (“CNIL”) imposed to FREE MOBILE SAS a fine of EUR 300,000 for breaches of the GDPR provisions.

Following complaints from subscribers concerning difficulties encountered in exercising their rights of access and opposition on receiving advertising messages, CNIL noted that the controller has violated the following provisions of the GDPR:

- Article 12 and 15 of the GDPR, as the company had failed to respond to data subjects' requests in a timely manner;
- Article 12 and 21 of the GDPR, as the company ignored the data subjects' requests to stop sending them commercial prospecting messages;
- Article 25 of the GDPR, as the company continued to send complainants invoices for telephone numbers whose contracts had been terminated;



- Article 32 of the GDPR, as the company had sent users passwords by email, in clear text, without the passwords being temporary and the company requesting their change.

In addition to the above-mentioned fine, as a complementary sanction, CNIL has forced FREE MOBILE to publish in the press the decision imposing the fine.