



data protection - legislative changes published in May 2022

I. ROMANIA

1 SANCTIONS APPLIED BY THE NATIONAL SUPERVISORY AUTHORITY (ANSPDCP)

1.1 KREDYT INKASO INVESTMENTS RO S.A. was sanctioned for violating the provisions of Article 5, 6, 9 and 33 of the GDPR with a fine amounting to LEI 24,740.00 (the equivalent of EUR 5,000)

Following the investigation, the National Supervisory Authority found that the controller had unlawfully processed the data subject's personal data, disclosing his home address, personal identification number, job title, employment contract data and sick leave certificates to several healthcare facilities with which the data subject had no legal relations. In addition, the controller also shared personal data belonging to the complainant's minor child.

The controller also failed to comply with the deadlines for notification of the security incident that occurred, in accordance with the provisions of Article 33 of the GDPR; for such violation, the controller was sanctioned with a warning.

The investigation was initiated following a complaint by the data subject that the controller had disclosed her/his personal data and those of her/his minor child to third parties, without a legal basis.

1.2 MEDLIFE S.A. was sanctioned for violating the provisions Article 32 para. (1) point b), para. (2) and para. (4) of the GDPR with a fine amounting to LEI 24,721.50 (the equivalent of EUR 5,000)

The investigation was initiated following a complaint concerning a possible breach of the GDPR, filed by an individual who identified a series of documents containing personal data of several patients of the controller, disposed of in a waste bin of an administrative-territorial unit.

Following the investigation, it was found that the controller failed to implement adequate technical and organizational measures to ensure a level of confidentiality and security appropriate to the risk of processing personal data, which led to the unlawful access or disclosure of personal data of the controller's patients (name, surname, personal identification number, medical service received, medical analysis performed, amount paid, bank account) and its employees (salary advance).

As a corrective measure, the controller was required to review and update the implemented technical and organizational measures, including the working procedures relating to the protection of personal data, and to implement measures for the regular training of persons acting under its authority.

1.3 MEGAREduceri TV S.R.L. was sanctioned for violating the provisions of Article 83 para. 5 point e) in conjunction with Article 85 para. (1) of the GDPR with a fine amounting to LEI 19,795.60 (the equivalent of EUR 4,000)

Following the investigation, the National Supervisory Authority found that the controller processed the data subject's personal data for the purposes of direct marketing or for sending commercial communications without their express consent.

In particular, several data subjects reported that they received commercial SMS messages promoting the controller's website without having previously given their consent to receive such messages.



II. EUROPEAN UNION

1 RELEVANT ISSUES AT THE EUROPEAN DATA PROTECTION BOARD (EDPB) LEVEL

1.1 EDPB adopts the first version of Guidelines no. 4/2022 on the calculation of administrative fines under the GDPR

During its Plenary held on May 12, 2022, the EDPB adopts the first version of Guideline no. 4/2022 on the calculation of administrative fines under the GDPR, which is under public debate until June 27, 2022.

The Guide provides a 5-step methodology for the correct assessment of the fines imposed by the National Supervisory Authorities of the Member States, based on the circumstances of the case.

The sanction must respect the effective, proportionate and dissuasive character provided for in Article 83 para. (1) of the GDPR, observing the circumstances provided for in Article 83 para. (2) of the GDPR and considering the maximum limits set out in paragraphs (3), (4) and (5) of the same Article of the GDPR.

More details can be found at the following link: https://edpb.europa.eu/system/files/2022-05/edpb_guidelines_042022_calculationofadministrativefines_en.pdf.

1.2 EDPB adopts the first version of Guidelines no. 5/2022 on the use of facial recognition technology in the area of law enforcement

During its Plenary held on May 12, 2022, the EDPB adopts the first version of Guideline no. 5/2022 on the use of facial recognition technology in the area of law enforcement, which is under public debate until June 27, 2022.

The EDPB underlines, in the Guide, that facial recognition tools should only be used in strict compliance with the “Law enforcement” Directive. Furthermore, these tools should only be used if they are necessary and proportionate, as provided for in the Charter of Fundamental Rights of the European Union.

More details can be found at the following link: https://edpb.europa.eu/system/files/2022-05/edpb_guidelines_202205_frtlawenforcement_en_1.pdf.

1.3 EDPB adopts the second version of Guidelines no. 6/2022 on the practical implementation of amicable settlements.

At the European Data Protection Board Plenary held on May 12, 2022, the EDPB adopts the second version of Guideline No 6/2022 on the practical implementation of private settlements.

The second version of the Guide contains only editorial adjustments for publication purposes compared to the first version adopted. The purpose of the Guide is to standardise practice in relation to out-of-court settlements.

As the GDPR does not provide exhaustive regulations and the implementation of this matter is left to the discretion of each Member State, differences in interpretation of the GDPR may arise.

More details can be found at the following link: https://edpb.europa.eu/system/files/2022-06/edpb_guidelines_202206_on_the_practical_implementation_of_amicable_settlements_en.pdf.



2 SANCTIONS APPLIED IN THE EU

2.1 The British Data Protection Authority ("ICO") imposed to Clearview AI Inc. a fine of EUR 9 million for breaches of the GDPR provisions

Following the investigation, ICO found that the controller had unlawfully processed over 20 million facial images, together with personal data in the public domain, without the data subjects being informed of this fact or being asked for their prior consent.

The images were entered into a database that allowed the service provided by the controller to use facial recognition technology to identify people with similar features, together with the link to where the person's image was found, based on any photo uploaded to the platform.

2.2 The Spanish Data Protection Authority ("AEPD") imposed to Google LLC a fine of EUR 10 million for breaches of the GDPR

Following the investigation, AEPD found that Google had transferred personal data without lawful basis to Lumen Project, a controller based in the United States of America, which collected and analysed requests to exercise the right to be forgotten.

Data subjects were only informed of this and were not given the option to object to the transfer. The processing of this information allowed the identification of the individuals, their e-mail addresses, the website from which deletion was requested and the reasons of the request.

In addition to the fine, Google was required to delete all personal data disclosed and to instruct Lumen Project to do the same, as the AEPD could not compel an international organization to comply with the GDPR.