



## data protection - legislative changes published in May 2023

### I. ROMANIA

#### 1 SANCTIONS APPLIED BY THE NATIONAL SUPERVISORY AUTHORITY (ANSPDCP)

##### **1.1 AUTOMOBILE BAVARIA S.R.L. WAS SANCTIONED FOR VIOLATING THE PROVISIONS OF ARTICLE 32 PARA. (1) POINT B) AND D) IN CONJUNCTION WITH ARTICLE 32 PARA. (2) AND ARTICLE 25 PARA. (1) OF THE GDPR WITH A FINE AMOUNTING TO LEI 88,563.60 (THE EQUIVALENT OF EUR 18,000)**

As a result of the investigation, it was found that the controller did not implement technical and organisational measures to ensure a level of security appropriate to the risk posed by the processing.

Thus, the controller disclosed the following personal data on its website in an unauthorised manner: name, surname, city, email address, telephone number, current car model, current car year of manufacture, buy-back option, purchase term, purchase method (cash, credit, leasing), approximate budget available, marketing consent options (telephone contact, email contact, SMS contact, newsletter subscription). Approximately 290 data subjects were affected.

The investigation was launched following a personal data breach notification sent by the controller.

##### **1.2 LIBRA INTERNET BANK S.A. WAS SANCTIONED FOR VIOLATING THE PROVISIONS OF ARTICLE 15 PARA. (3) AND (4) AND ARTICLE 12 PARA. (2) AND (4) WITH A FINE AMOUNTING TO LEI 54,345.50 (THE EQUIVALENT OF EUR 11,000)**

As a result of the investigation, it was found that the controller did not fully comply with the exercise of the right of access.

In particular, the reply to the data subject was not communicated in the requested form and to the postal address included in the contract. Moreover, the reply did not contain information on the possibility of lodging a complaint with a supervisory authority and of bringing a legal action for failure to provide copies of the video recordings requested.

The investigation was launched following the complaint made by the data subject.

##### **1.3 COMPANIA NAȚIONALĂ POȘTA ROMÂNĂ S.A. WAS SANCTIONED FOR VIOLATING THE PROVISIONS OF ARTICLE 5 PARA. (1) POINT A) AND PARA. (2) IN RELATION WITH ARTICLE 6 PARA. (1) OF THE GDPR WITH A FINE AMOUNTING TO LEI 24,719.50 (THE EQUIVALENT OF EUR 5,000)**

As a result of the investigation, it was found that the controller had unlawfully processed personal data.

In particular, the controller filled in the Form 230 with the first name, surname and Personal Identification Number of its employees in order to redirect 3.5% of their annual income tax to a foundation belonging to the same controller. This was done with no legal obligation being in place and without the consent of the data subjects.

The investigation was launched following complaints about the filling in of the above-mentioned form.



## II. EUROPEAN UNION

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

#### 1.1 EDPB ADOPTS THE SECOND VERSION OF GUIDELINES NO. 04/2022 ON THE CALCULATION OF ADMINISTRATIVE FINES UNDER THE GDPR

During its Plenary held on May 24, 2023, the EDPB adopts the second version of Guidelines no. 04/2022, after public consultations, on the calculation of administrative fines under the GDPR.

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.

The document is available at the following link: [edpb\\_guidelines\\_042022\\_calculationofadministrativefines\\_en.pdf \(europa.eu\)](https://edpb.europa.eu/edpb/files/2023/05/20230524_guidelines_042022_calculationofadministrativefines_en.pdf)

#### 1.2 EDPB ADOPTS THE SECOND VERSION OF GUIDELINES NO. 03/2021 ON THE APPLICATION OF ARTICLE 65 PARA. (1) POINT A) OF THE GDPR

During its Plenary held on May 24, 2023, the EDPB adopts the second version of Guidelines no. 04/2022, after public consultations, on the application of Article 65 para. (1) point a) of the GDPR.

In essence, the Guidelines clarify the applicable legal framework, procedural safeguards, available remedies and the main steps of the dispute resolution mechanism in the context of cross-border processing of personal data.

In particular, the Guidelines address the right to be heard, the right of access to the file and the EDPB's obligation to state the reasons for its decisions, as well as a description of the remedies available.

The document is available at the following link: [edpb\\_guidelines\\_202103\\_article65-1-a\\_v2\\_en.pdf \(europa.eu\)](https://edpb.europa.eu/edpb/files/2021/10/20211003_article65-1-a_v2_en.pdf)

### 2 SANCTIONS APPLIED IN THE EU

#### 2.1 THE IRISH DATA PROTECTION AUTHORITY ("DPA") IMPOSED TO META PLATFORMS IRELAND LIMITED A FINE OF EUR 1,2 BILLION FOR BREACHES OF THE GDPR

The fine follows the adoption by the EDPB of Binding Decision no. 01/2023 on the dispute submitted by the DPA on data transfers performed by Meta Platforms Ireland Limited for its Facebook service under Art 65 of the GDPR.

Specifically, the controller transferred personal data from the territory of the European Union to the territory of the United States of America lacking safeguards aimed to ensuring an adequate level of protection of personal data.

This is the largest fine ever imposed for non-compliance with the GDPR.

#### 2.2 THE FRENCH DATA PROTECTION AUTHORITY ("CNIL") IMPOSED TO CLEARVIEW AI. PENALTIES OF EUR 5,2 MILLION FOR BREACHES OF THE GDPR

The penalty is imposed because the controller has not provided proof of payment of the previous fine imposed by CNIL.



Thus, in October 2022, the controller was fined €20 million for collecting photos containing faces from public social media accounts for the creation of a database used to market facial recognition services. The controller was also ordered to delete all personal data collected on French territory.

### **2.3 THE CROATIAN DATA PROTECTION AUTHORITY ("AZOP") IMPOSED TO B2 KAPITAL D.O.O A FINE OF EUR 2,265 MILLION FOR BREACHES OF THE GDPR**

As a result of the investigation, AZOP found that the controller had unlawfully processed personal data.

In particular, the controller failed to provide data subjects with prior notification of the processing of personal data and failed to conclude a personal data processing contract with the processor for the consumer bankruptcy monitoring service. Also, no technical and organisational measures ensuring a level of security appropriate to the risk presented by the processing were identified.

The investigation was launched ex officio following the receipt of an anonymous complaint with an USB stick attached containing the first name, surname, date of birth and personal identification number of 77,317 data subjects who had outstanding debts to various credit institutions and who had been acquired by the controller under an assignment contract.

For additional details on this material, please do not hesitate to contact us.

**VOICU & FILIPESCU SCA**  
9A Bilciurești Street, 7th Floor  
014012, Bucharest, Romania  
Tel: +40 21 314 02 00  
Fax: +40 21 314 02 90  
E-mail: [office@vf.ro](mailto:office@vf.ro)  
Web: [www.vf.ro](http://www.vf.ro)

