

Data Privacy Alert

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In this issue:

Draft Law: Air carriers may have new obligations on personal data

Air carriers would be required to transmit data from passenger name records that they already collect in their normal activities, related to extra-EU and intra-EU flights they operate, to National Unit of Passengers Information (NUPI) according to a bill submitted to debate by the Ministry of Internal Affairs.

Opinion of the European Data Protection Supervisor ("EDPS") on the new concept of personal data as counter-performance

The new concept of personal data as counter-performance of the draft directive on certain aspects of contracts for the supply of digital content might overlap with the provisions of the regulation on data protection (RDP) is the concerns expressed by EDPS in its Opinion 4/2017. The draft directive aims a harmonized consumer protection regarding digital content.

ECJ: The authorities of Member States may limit, from case to case, access to personal data in the companies register

The Court of Cassation of Italy has referred Court of Justice of the European Union two questions regarding the interpretation of the principle of keeping personal data in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed, in the light of the system of disclosure established by means of companies register.



Draft Law: Air carriers may have new obligations on personal data

Air carriers would be required to transmit the data from Passenger Name Records, which they already collect as part of their regular activity, regarding extra-EU and intra-EU flights they operate, to National Unit of Information on Passenger (NUIP), according to a draft law.

NUIP is expected to be established within the General Inspectorate of the Border Police, as a specialized structure without legal personality.

The draft law also provides NUIP main responsibilities including the protection of personal data processed.

Air carriers who fail to comply with this obligation may be sanctioned with a fine of 25,000 to 50.000 lei. If, within one year from the date of discovery and sanction of the air carrier, the latter commits a new offense, the fines limits will double.

The draft law on the use of data from the passenger name register (PNR) for the prevention, detection, investigation and prosecution of terrorist offenses and serious crime and to prevent and remove threats to national security was published by Ministry of Internal Affairs on March 23, 2017 and will be publicly debated 20 calendar days after publication.

Opinion of the European Data Protection Supervisor ("EDPS") on the new concept of personal data as counter-performance

The new concept of personal data as counter-performance from the Directive proposal on certain aspects concerning contracts for the supply of digital content may overlap with the provision of the General data Protection Regulation (GPD), is the concerns expressed by EDPS in its Opinion 4/2017. The draft directive aims a harmonized consumer protection regarding digital content.

More precisely, the EDPS points out the different approaches on personal data of the Proposed Directive and of the GDPR, respectively, between the notion introduced by the Proposed Directive of "personal data as counter-performance" and the view of the GDPR on personal data as a fundamental right.

A digital contract may fall within the scope of the Proposed Directive if is available to the consumer (i) for a price or (ii) if the consumers "actively provide personal data or other data as counter-performance".

The view of the EDPS is that "personal information is related to a fundamental right and cannot be considered as a commodity" and that "the term «data as a counter-performance» should be avoided". Ultimately, EDPS recommends, "avoiding referring to data (actively) provided by the consumer since it contradicts the existing and future rules on data protection".

ECJ: The authorities of Member States may limit, from case to case, access to personal data in the companies register

The Court of Cassation of Italy has referred Court of Justice of the European Union two questions regarding the interpretation of the principle of keeping personal data in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed, in the light of the system of disclosure established by means of companies register. The companies register was transposed in national legislation, and provides that anyone may, at any time, obtain the data relating to individuals in those register.

CJUE ruled that in the present state of EU law, the Member States shall determine whether individuals who are subject to registration in these registries may request to authorities responsible for keeping them to determine, "on the basis of a case-by-case assessment, if it is exceptionally justified, on compelling

legitimate grounds relating to their particular situation, to limit, on the expiry of a sufficiently long period after the dissolution of the company concerned, access to personal data relating to them, entered in that register, to third parties who can demonstrate a specific interest in consulting that data”.

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