

Summary Final Decision Art 60

Complaint

EDPBI:CZ:OSS:D:2022:1278

Administrative fine

Background information

Date of final decision:	10 April 2024
LSA:	CZ
CSAs:	All SAs
Legal Reference(s):	Article 6 (Lawfulness of processing), Article 13 (Information to be provided where personal data are collected from the data subject)
Decision:	Administrative fine
Key words:	Lawfulness of processing, Anonymisation, Clients, Definition of personal data, Big Data,

Summary of the Decision

Origin of the case

The case concerns the transfer by the controller of the personal data collected by the controller from the users of its antivirus software to its sister company. The proceedings were initiated based on media reports dating from end of 2019/beginning of 2020 and an anonymous filing. The period under review was between April and July 2019. The controller is a company registered in the Czech Republic.

First-instance decision in the case was issued on 14 March 2022 by the Czech DPA as LSA, following an OSS procedure. The said decision was challenged by administrative appeal of the controller, as permitted by the Czech administrative procedural rules. The current administrative appellate decision, addressing the appellant's objections expressed in the administrative appeal, was issued by the LSA (namely by the President of the Czech DPA) on 10 April 2024, following another OSS procedure, and notified to the controller.

Findings

The LSA found that the controller transferred personal data of the users of its antivirus software and its browser extensions to its sister company without due legal title for such processing. The transferred data related to roughly 100 million of users and comprised especially pseudonymized internet browsing history of the users, tied to a unique identifier. Further, the LSA found that the controller misinformed its users (data subjects) about the said data transfers, as it claimed that the transferred data were anonymized and used solely for statistical trend analytics. The LSA resolved that internet browsing history, even if not complete, may constitute personal data, since re-identification of at least some of the data subjects could occur. The controller's infringement is even graver considering that it is one of the foremost experts on cybersecurity that offers tools for data and privacy protection to the public.

Decision

The decision of the LSA is an appellate decision, rejecting the administrative appeal of the controller and confirming the preceding first-instance decision both as to the controller being found liable for Art. 6 and Art. 13 (1) of GDPR infringement and as to the imposition of administrative fine of approx. EUR 13.9 million (CZK 351 million). The decision is final and enforceable.