



National case no. 00180/2024-Os
Our ref. no.
IMI no. A56 - 170844
IMI no. CR – 527460

In Bratislava, Slovakia
13.11.2024

Official record

to discontinue the processing regarding the complaint pursuant to Sec. 100 (5) of the Act no. 18/2018 Coll. on Personal Data Protection and amending and supplementing certain Acts (hereinafter referred as „Slovak Data Protection Act“)

On March 15, 2019, the Office for Personal Data Protection of the Slovak Republic (hereinafter referred to as the "Office") received a complaint from complainant to initiate personal data protection proceedings against the company H&M Hennes & Mauritz GBC AB, Mäster Samuelsgatan 46, 106 38 Stockholm, Sweden (hereinafter referred to as "controller" or "H & M Hennes & Mauritz GBC AB"), the subject of which was a suspected violation of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter as "GDPR"), which should have occurred in connection with the exercise of the data subject's right to access data pursuant to Art. 15 of the GDPR, while the information about the measures taken based on his request was provided to him in English, which was incomprehensible to him.

The Office based on the findings of Swedish supervisory authority as LSA and on the basis of the provisions of Sec. 100 (5) (a) of Slovak Data Protection Act and Art. 60 (8) GDPR, decides to **discontinue** the complaint [national case no. 00180/2024-Os, IMI no. A56 170844, Case register 527460].

REASONING

On March 15, 2019, the Office received a complaint from complainant to initiate personal data protection proceedings against the company H&M Hennes & Mauritz based on the violation of Art. 15 of the GDPR.

Slovak SA contacted H & M Hennes & Mauritz SK s.r.o., Zochova 754/6-8, 811 03 Bratislava, IČO: 36 718 271 in preliminary vetting. Slovak SA has asked whether this company is controller or processor in this matter. The company claimed that it is not controller or processor of the information system which store data related to online payments. The company H & M Hennes & Mauritz SK s.r.o. has not any access to this information system and did not carry out the processing operations with data related to online orders. The fact that the company communicated with the complainant in Slovak or Czech language can be explain by the fact that Swedish company H & M Hennes & Mauritz GBC AB has its customer center



resided in Poland which employs employees who communicate with customers in Slovak and Czech language. The controller of the information system in which the online payments data are processed is Swedish company H & M Hennes & Mauritz GBC AB, Mäster Samuelsgatan 46, 106 38 Stockholm, Sweden.

The Office sent a complainant letter no. 00180/2024-Os-2 dated February 5, 2024 to inform him that his complaint is of cross-border nature, since the controller is established in Sweden and it is likely that the processing of personal data significantly affects the persons concerned in several European member states. The Office therefore requested the Swedish supervisory authority to deal with the matter in question, as it is within the meaning of Art. 56 of the GDPR entitled to investigate the matter. The Office is the supervisory authority concerned for the cross-border processing of personal data. The Office and the Swedish supervisory authority provided each other with relevant information and assistance in the matter in question for the sake of consistent implementation and application of the GDPR and adopted measures for effective mutual cooperation.

Pursuant to Art 4 (1) GDPR, for the purposes of this Regulation: 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Pursuant to Art. 4 (2) GDPR, for the purposes of this Regulation: 'processing' means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Pursuant to Art. 4 (23) GDPR, for the purposes of this Regulation: 'cross-border processing' means either:

- (a) processing of personal data which takes place in the context of the activities of establishments in more than one Member State of a controller or processor in the Union where the controller or processor is established in more than one Member State; or
- (b) processing of personal data which takes place in the context of the activities of a single establishment of a controller or processor in the Union but which substantially affects or is likely to substantially affect data subjects in more than one Member State.

Pursuant to Art. 55 (1) of the GDPR, each supervisory authority shall be competent for the performance of the tasks assigned to and the exercise of the powers conferred on it in accordance with this Regulation on the territory of its own Member State.

Pursuant to Art 56 (1) GDPR, without prejudice to Article 55, the supervisory authority of the main establishment or of the single establishment of the controller or processor shall be competent to act as lead supervisory authority for the cross-border processing carried out by that controller or processor in accordance with the procedure provided in Article 60.



Pursuant to Art. 60(7) GDPR, the lead supervisory authority shall adopt and notify the decision to the main establishment or single establishment of the controller or processor, as the case may be and inform the other supervisory authorities concerned and the Board of the decision in question, including a summary of the relevant facts and grounds. The supervisory authority with which a complaint has been lodged shall inform the complainant on the decision.

Pursuant to Art. 60(8) GDPR, by derogation from paragraph 7, where a complaint is dismissed or rejected, the supervisory authority with which the complaint was lodged shall adopt the decision and notify it to the complainant and shall inform the controller thereof.

Pursuant to Art. 78 (1) GDPR, without prejudice to any other administrative or non-judicial remedy, each natural or legal person shall have the right to an effective judicial remedy against a legally binding decision of a supervisory authority concerning them.

Pursuant to Sec. 99 (1) of the Slovak Data Protection Act The purpose of personal data protection proceeding (hereafter as “proceeding”) is to determine whether there was any infringement of the rights of natural persons when their personal data were processed or if there was any violation to this Act or GDPR in the area of personal data protection; and, if any deficiencies are identified, if it is reasonable and useful, to impose corrective measures or impose a fine for violation of this Act or GDPR .

Pursuant to Sec. 100 (1) of the Slovak Data Protection Act, the proceeding is initiated based on the complaint of a data subject that claims that his or her rights lay down by this Act are directly influenced (hereafter as “the complainant”), or without a complaint.

Pursuant to Sec. 100 (5) (a) of the Slovak Data Protection Act, (5) The Office shall discontinue the complaint if the complaint is manifestly unfounded.

The Swedish supervisory authority as LSA has investigated the matter, while contacting the company with a request for information, in which the company was invited to comment on your complaint.

Summary and proposed procedure of the Swedish supervisory authority (hereinafter as Swedish SA) as the lead supervisory authority for cross-border processing:

The Swedish SA stated that the complainant has sent a request for access to H&M pursuant to Article 15 of the GDPR. Article 15 of the GDPR states that the data subject has the right to obtain from the controller confirmation as to whether personal data concerning him or her are being processed and, where that is the case, access to the personal data and certain information (also referred to as an extract from the register). Article 12(1) of the GDPR provides, inter alia, that the controller shall take appropriate measures to provide to the data subject any communication pursuant to Article 15 in a concise, transparent, intelligible and easily accessible form, using clear and plain language. The European Data Protection Board (EDPB) has stated that the requirements of Article 12(1) imply, inter alia, that a controller providing a service in a country shall also provide its answers in the language understood by data subjects in that country.



H&M stated that information sent to the complainant in 2019 was written in English. After the case was brought to the company's attention through Swedish SA's letter, H&M contacted the complainant and provided him with a translated version of the requested extract from the register in Slovak. Today, Slovak customers receive extracts from the register in Slovak.

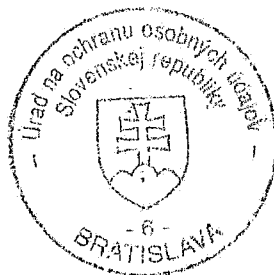
H&M informed Swedish SA that the company has now satisfied the complainant's request for access with information in Slovak. Swedish SA notes that the complainant's right of access under Article 15 of the GDPR has thus now been satisfied in accordance with the requirements of Article 12(1) of the GDPR.

In view of the above, the Swedish SA proposed to reject a complaint in accordance with Art. 60 par. 8 GDPR.

The Office hereby in accordance with Art. 60 (8) of the GDPR accepted the decision of the Swedish SA to reject a complaint against the company H & M Hennes & Mauritz GBC AB and consider the matter as closed in view of the findings of the Swedish SA as the leading supervisory authority for cross-border processing of personal data.

On the basis of abovementioned findings, the Slovak SA decided to discontinue the proceeding regarding the complaint pursuant to Sec. 100 (5) (a) of the Slovak Data Protection Act.

Should the new relevant facts be identified, the case could be reviewed in the personal data protection proceedings.



Head of the Department
of administrative proceedings
Office for Personal Data
Protection of the Slovak Republic