



National case no. 00274/2024-Os

In Bratislava, Slovakia  
13.11.2024

IMI no. A56 - 317122

IMI no. CR – 332013

### 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“)

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On April 1, 2021, the Office for Personal Data Protection of the Slovak Republic (hereinafter referred to as the "Office") received e-mail from complainant which included an attachment labeled "Complaint against NarutaMed Prahaceuticals s.r.o. Banská Bystrica" dated April, 1, 2021 (hereinafter referred to as the "complaint"). Complainant completed the above complaint on April 29, 2021. In the complaint, he objected that the call center operator of the controller NaturaMed Pharmaceuticals s.r.o., with registered office U Smaltovny 625, 370 01 České Budějovice, Reg.no.: 26106965 (hereinafter referred to as "Company" or "the controller" or "NaturaMed Pharmaceuticals s.r.o. ") required from him the year of birth when ordering a vitamin product, against which he have defended himself with a reference to their business conditions and alerted the controller, that according to their terms and conditions, only a person over the age of 18 can place an order, therefore the sworn statement shall be sufficient. Since the controller's operator insisted on stating the year of birth, he said to him a fictitious year of birth.

The Office based on the findings of Czech 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) of the 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"), decides to **discontinue** the complaint [national case no. 00274/2024-Os, IMI no. A56 317122, Case register 332013].

### REASONING

On April 1, 2021, the Office received a complaint from complainant to initiate personal data protection proceedings against the company NaturaMed Pharmaceuticals s.r.o. based on the violation of his personal data.

The complaint is of cross-border nature, since the controller is established in the Czech Republic 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 Czech



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 concerned supervisory authority for this cross-border processing. The Office and the Czech 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 Czech supervisory authority has investigated the matter, while contacting the company with a request for information, in which the company was invited to comment on a complaint.

Summary and proposed procedure of the Czech supervisory authority as the lead supervisory authority for cross-border processing:

The documents “NaturaMed’s General Commercial Terms“ and “Information on Processing of Personal Data by NaturaMed“, published by the Company on the Slovak version of its e-shop ([www.naturamed.sk](http://www.naturamed.sk)), show that the controller of personal data processed in relation to the Company’s business activity on the territory of the Slovak Republic is NaturaMed Pharmaceuticals s.r.o. established in the Czech Republic. With regard to the aforementioned facts, the Czech SA accepted in accordance with Article 56 of the GDPR (EU) the role of a lead supervisory authority and investigated the complaint.

In its letter of 14 September 2021, the Czech SA accordingly to Article 31 of the GDPR asked for the information whether the Company, in course of the order processing, either via its e-shop ([www.naturamed.sk](http://www.naturamed.sk)) or its dedicated telephone line, requested information about the order party’s data of birth; and if true, on the basis of which legal ground pursuant to Article 6(1) of the GDPR it did so and for what purpose of processing.

In reply to the mentioned request, the Czech SA received on 17 September 2021 a statement in which the Company saying that it requested this piece of information only as voluntary one whereby, for the purpose of verification of the contractual condition of majority, it also accepted a declaration by the buyer of being older than 18 years (without



processing of the date/year of birth). In case a customer provides the date/year of birth to the Company, such data is processed in compliance with Article 6(1)(b) of the GDPR and with Article 6 (1)(f) of the GDPR for the purposes of evidence, legal protection, or enforcement of legal claims (identification of the contractual party).

Furthermore, the Czech SA asked on 23 November 2021 in writing the Company for cooperation and requested minutes from the operators' training or other kind of guidance for operators where it would be stated that the order party declaration of being older than 18 years was sufficient for verification of majority;

The Czech SA, in reply to this request, received on 3 December 2021 a statement from the Company containing as evidence the following:

- Controller's Guidelines – Age Verification – Contractual Terms on Reaching Majority dated 16 September 2021, where, as follow-up of Mr. Fridrich's complaint alerts its processor (call centre operator) that the Company, upon an order placement, did not require the date/year of birth for verification of the majority condition.
- Verification script for the Company's customer line operators, being a set of instructions or the Company's telephone lines operators on how to process a product order. This document provide the scope of personal data which the operator is obliged to obtain from the calling party: name, surname, address and year of birth or the solemn pledge that the caller has reached majority.

The Czech SA has assessed the alleged conduct of the Company about which complainant complained and states that in the case of its request to disclose the date of birth in the course of an order processing, the Company had proven that this was a voluntary information and could be, for the purpose of contract conclusion, replaced by the order party's statement as to being older than 18 years. The Company evidenced this with a "verification script" fixed for the customer centre operators. Moreover, the Company, after being notified by the Czech SA about reception of the complaint, has issued for its processor operating its customer line the "Controller's Guidelines – Age Verification – Contractual Terms on Reaching Majority of 16 September 2021", in which it reiterated that a sole proclamation by the order party of being older than 18 years was sufficient.

Based on the above mention findings the Czech SA therefore states that the Company has sufficiently evidenced that it did not required information as to the order party's date of birth for the purpose of completion of an order of its products so that if the operator did require this from the complainant, she acted at variance with the Company's guidelines. The investigation performed did not reveal that this staff member's misconduct occurred more than on one occasion.

In view of the above, the Czech supervisory authority proposed to reject the 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 Czech supervisory authority to reject the complaint against the company NarutaMed Prahaceuticals s.r.o. and consider the matter as closed in view of the findings of the Czech



supervisory authority 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  
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