



National case no. 00302/2024-Os

In Bratislava, Slovakia
13.11.2024

IMI no. A56 - 482124

IMI no. CR - 495611

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 January 13, 2023 and January 16, 2023, the Office for Personal Data Protection of the Slovak Republic (hereinafter referred to as the "Office") received complaint from complainant against Booking.com, Herengracht 597, 1017 CE Amsterdam, the Netherlands (hereinafter referred to as the "controller" or "Booking.com "). In his complaint, he argued that on January 13, 2023, Booking.com blocked his personal customer account. The account should have been blocked without any prior warning and without justification. During subsequent calls to the customer line +421 268622640, the operators refused to provide him with information about the reservations on his account. They confirmed that the reservations for stays covered by the payment card are active, but he cannot manage them and they say how he get his data is his problem. According to his claims, the controller do not want to give him access to the data, which exposes him to the risk that his money will be withdrawn. Complainant believed that the reason for the cancellation of his account is criticism of its support of accommodation providers, which, contrary to 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") require copy of passports and/ or identity cards and thereby condition the provision of accommodation services.

The Office based on the findings of Dutch 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 GDPR, decides to **discontinue** the complaint [national case no. 00302/2024-Os, IMI no. A56 482124, Case register 495611].

REASONING

On January 13, 2023 and January 16, 2023, the Office received a complaint from complainant to initiate personal data protection proceedings against the company Booking.com based on the violation of his data.



The complaint is of cross-border nature, since the controller is established in the Netherlands 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 Dutch 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 Dutch 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 Dutch supervisory authority has investigated the matter, while contacting the company with a request for information, in which the company was invited to comment on the complaint.

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

The Dutch SA believes that Booking.com is not the controller of personal data with regard to the processing of a copy of his passport. The accommodation partners are the data controllers for this processing of personal data. Furthermore the presumed abuse of a dominant market position is not a violation of the GDPR and therefore not investigated by the Dutch SA. The investigation of the Dutch SA has been limited to the cancellation/blocking of the account of the complainant.

On 23 February 2023 the Dutch SA contacts Booking.com about this complaint. The Dutch SA requested Booking.com to explain why the account of the complainant was blocked and if this is related to an infringement of the terms and conditions of Booking.com to refer to a specific passage of those terms and conditions.

On 9 March 2023 Booking.com responded to this request. Booking.com explained that in this case the data subject was suspended from their platform because of verbally abusive behaviour against accommodation partners, against Booking.com Customer Service representatives and against Booking.com executives. Five different accommodation partners



separately reported misconduct by the complainant and in correspondence with one of the partners the complainant refers to the partner as 'illiterate', 'fascists' and 'mafias'.

In paragraph A17 of the 'customer terms of service' the measures of Booking.com against abuse stated: "1. If you breach these Terms (including our values and our Content standards and guidelines) or fail to comply with applicable laws or regulations, we have the right to:

- stop you making any Bookings,
- cancel any Bookings you've already made,
- stop you using:
 - our Platform,
 - our Customer Service,
 - your Account

2. If we cancel a Booking as a result, you may not (depending on the circumstances) be entitled to a refund. We may tell you why we've cancelled your Booking, unless telling you would (a) contravene applicable laws and/or (b) prevent or obstruct the detection or prevention of fraud or other illegal activities. If you believe we have incorrectly cancelled your Booking, please contact our Customer Service team."

Considering the above the Dutch SA finds no infringement of the GDPR in this case.

In view of the above, the Dutch SA proposed to reject your 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 Dutch SA to reject the complaint against the company Booking.com and consider the matter as closed in view of the findings of the Dutch 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
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