

**THE OFFICE FOR PERSONAL DATA PROTECTION  
OF THE SLOVAK REPUBLIC**  
Hraničná 12, 820 07 Bratislava 27

Case Number 01224/2024-Os  
Ref. Number 2024/1224/12799/OSK  
In Bratislava 06.11.2024

**D E C I S I O N**

The Office for Personal Data Protection of the Slovak Republic (hereinafter Office) as the competent administrative body pursuant to Act no.71/ 1967 Coll. on administrative proceedings and amending and supplementing certain Acts (hereinafter Administrative Code) in connection with Art. 58 (3) (i) 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 GDPR) regarding the authorisation of an administrative arrangement “Agreement between the Úrad pre dohľad nad výkonom auditu (Auditing Oversight Authority) in the Slovak Republic and the Public Company Accounting Oversight Board in the United States of America on the Transfer of Certain Personal Data” pursuant to Article 46 (3) (b) of the GDPR to the Úrad pre dohľad nad výkonom auditu, Slovanská 1, 810 05 Bratislava, Registration number: 42 129 079

**d e c i d e s**

pursuant to Article 46(3)(b) and 58 (3) (i) GDPR to authorise the „Agreement between the Úrad pre dohľad nad výkonom auditu (Auditing Oversight Authority) in the Slovak Republic and the Public Company Accounting Oversight Board in the United States of America on the Transfer of Certain Personal Data” (hereinafter as Agreement) which has been submitted to the Office by the Úrad pre dohľad nad výkonom auditu, Slovanská 1, 810 05 Bratislava, Registration number: 42 129 079 (hereinafter as UDVA) as appropriate safeguards for the transfer of personal data to a third country – USA.

**J u s t i f i c a t i o n**

UDVA has submitted by an official request addressed to the Office on April 9, 2024, an Agreement between UDVA and the Public Company Accounting Oversight Board, 1666 K Street NW, Suite 300, Washington, DC 20006-2803, USA (hereinafter as PCAOB) on the transfer of certain personal data intended to frame the transfers of personal data from the UDVA to the PCAOB in accordance with Article 46(3)(b) GDPR.

During the approval process, the Office took into account EDPB Guidelines 2/2020 on Articles 46(2)(a) and 46(3)(b) of Regulation 2016/679 for transfers of personal data between European Economic Area (EEA) and non-EEA public authorities and bodies adopted on 15 December 2020; the Opinion 05/2021 on the draft Administrative Arrangement for the transfer of personal data between the Haut Conseil du Commissariat aux Comptes (H3C) and the Public Company Accounting Oversight Board (hereby called PCAOB) adopted by the EDPB on February 2nd 2021. The EDPB has already issued an Opinion on the same matter under the

form of Opinion 05/2021 on the draft Administrative Arrangement for the transfer of personal data between the Haut Conseil du Commissariat aux Comptes (H3C) and PCAOB on February 2nd, 2021.

Saving national specificities, the Office stated that the arrangement between the UDVA and the PCAOB contains the same guarantees as the one provided by the agreement between the H3C and the PCAOB. The Office must regardless authorise any new agreement. The agreement between the UDVA and the PCAOB is in all material the same as the arrangement between the H3C and the PCAOB.

As in the arrangement between the H3C and the PCAOB, the exchange of personal data between the UDVA and the PCAOB is necessary to ensure their audit regulatory functions in accordance with the Sarbanes-Oxley Act and Article 47 of Directive 2006/43/EC of the European Parliament and of the Council on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (hereinafter as Directive 2006/43/EC), namely for the purposes of auditor oversight, inspections and investigations of registered audit firms and their associated persons subject to the regulatory jurisdiction of the PCAOB and the UDVA.

The Office reviewed the Arrangement and its Annexes that include the following guarantees:

#### Definitions of concepts and data subject rights:

Article I of the DPA contains the relevant definitions necessary to determine the scope of the DPA and its consistent application. Among them there are some definitions of key concepts and rights of the European data protection legal framework such as “personal data”, “processing of personal data”, “personal data breach”, “right of access” and “right of erasure”.

#### Principle of purpose limitation and prohibition of any further use:

Article III.1 of the Agreement provides that personal data transferred by the UDVA to the PCAOB may be processed by the PCAOB itself only to fulfil its audit regulatory functions in accordance with the Sarbanes - Oxley Act, i.e., for the purposes of auditor oversight, inspections and investigations of registered audit firms and their associated persons subject to the regulatory jurisdiction of the PCAOB and the UDVA. According to the principle of purpose limitation, the transfers can therefore only take place in the framework of such mandates and responsibilities. The PCAOB will not be allowed to process personal data it receives for any purpose other than as set forth in the Agreement.

Article III.2 of the Agreement provides that the PCAOB primarily seeks the names, and information relating to the professional activities, of the individual persons who were responsible for or participated in the audit engagements selected for review during an inspection or an investigation, or who play a significant role in the firm’s management and quality control. Such information would be used by the PCAOB in order to assess the degree of compliance of the registered accounting firm and its associated persons with the Sarbanes-Oxley Act, the securities laws relating to the preparation and issuances of audit reports, the rules of the PCAOB, the rules of the SEC, and relevant professional standards in connection with its performance of audits, issuances of audit reports and related matters involving issuers (as defined in the Sarbanes-Oxley Act).

## Principle of data quality and proportionality:

Article III.2 of the Agreement provides that the personal data transferred by the UDVA must be accurate, adequate, relevant and not excessive in relation to the purposes for which they are transferred and further processed.

In addition, each Party will inform the other if it becomes aware that previously transmitted or received information is inaccurate and/or must be updated. Having regard to the purposes for which the personal data have been transferred, the Parties will make any appropriate corrections to their respective files, which may include supplementing, erasing, restricting the processing of, correcting or otherwise rectifying the personal data as appropriate.

## Principle of transparency:

As provided by Article III.3 of the Agreement, a general notice to data subjects will be provided by both the UDVA and the PCAOB by publishing the Agreement itself on their websites. In addition to the Agreement, UDVA will provide information in relation to the processing carried out, including the transfer, the type of entities to which data may be transferred, the rights available to them under the applicable legal requirements, including how to exercise those rights and information about any applicable delay or restrictions on the exercise of such rights, including restrictions that apply in the case of cross-border transfers of personal data, and the contact details for submitting a dispute or claim. This notice will be effected by publication of this information by the UDVA on its website alongside the Agreement. The PCAOB will also publish on its website appropriate information relating to its processing of personal data, including information noted above, as described in the Agreement. Furthermore, individual notice will be provided to data subjects by the UDVA in accordance with the GDPR (articles 14-23). If after consideration of any applicable exemptions to individual notification and in light of discussions with the PCAOB, the UDVA concludes that it is required under the GDPR to inform a data subject of the transfer of his/her personal data to the PCAOB, then the UDVA will notify the PCAOB in advance of making such individual notification.

## Principle of data retention:

Article III.2 of the Agreement provides that personal data must be retained 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, or for the time as required by applicable laws, rules and regulations. The Parties shall have in place appropriate record disposal procedures for all information received pursuant to the Agreement.

## Security and confidentiality measures:

Article III.4 of the Agreement envisages that the PCAOB has provided information describing its technical and organizational security measures deemed adequate by the UDVA to guard against accidental or unlawful destruction, loss, alteration, disclosure of, or access to the personal data. The PCAOB agrees to notify the UDVA of any change to the technical and organizational security measures that would adversely affect the protection level afforded for personal data by the Agreement and to update the information in Annex I in accordance with Article IV, paragraph A.3 of the SOP if such changes are made. The PCAOB will also update the information in Annex I if such changes are made. In the case that the PCAOB provides such notification to the UDVA, the UDVA would notify the Office of such changes.

The PCAOB has also provided to the UDVA a description of its applicable laws and/or rules relating to confidentiality and the consequences for any unlawful disclosure of non-public or confidential information or suspected violations of these laws and/or rules.

Where a receiving Party becomes aware of a personal data breach affecting personal data that has been transferred under the Agreement, it will without undue delay and, where feasible, not later than 24 hours after having become aware that it affects such personal data, notify the personal data breach to the other Party. The notifying Party shall also, as soon as possible, use reasonable and appropriate means to remedy the personal data breach and minimize the potential adverse effects.

#### Safeguards relating to data subject rights:

Article III.5 of the Agreement provides for safeguards relating to data subject rights. In particular, data subjects whose personal data has been transferred to the PCAOB can exercise his/her data subject rights as defined in Article I(j) of the Agreement including by requesting that the UDVA identifies any personal data that has been transferred to the PCAOB. In addition, data subjects may request directly to the UDVA to confirm with the PCAOB that their personal data is complete, accurate and, if applicable, up-to-date and that the processing is in accordance with the personal data processing principles in this Agreement. The PCAOB will address in a reasonable and timely manner any such request from the UDVA concerning any personal data transferred by the UDVA to the PCAOB. The data subject can also contact the PCAOB directly. Either Party may take appropriate steps, such as charging reasonable fees to cover administrative costs or declining to act on a data subjects' request that is manifestly unfounded and excessive.

Any restriction to these rights are subject to a Party's legal obligation not to disclose confidential information pursuant to professional secrecy or other legal obligations. Such restrictions may be restricted to prevent prejudice or harm to supervisory or enforcement functions of the Parties acting in the exercise of the official authority vested in them, such as for the monitoring or assessment of compliance with the Party's applicable laws or prevention or investigation of suspected offenses; for important objectives of general public interest, as recognized in the United States and in the Netherlands or in the European Union, including in the spirit of reciprocity of international cooperation; or for the supervision of regulated individuals and entities. The restriction should be necessary and provided for by law, and will continue only for as long as the reason for the restriction continues to exist.

#### Automated decision making:

Article III.5 provides that the PCAOB will not take a legal decision concerning a data subject based solely on automated processing of personal data, including profiling, without human involvement.

#### Special categories of Personal Data/Sensitive Data:

Article III.6 provides that special categories of personal data/sensitive data shall not be transferred by the UDVA to the PCAOB.

#### Restrictions on onward transfers:

According to Article III.7 of the Agreement, the PCAOB will only share personal data received from the UDVA with those entities identified in Annex II, other than the U.S. Securities and Exchange Commission, the PCAOB will request the prior written consent of the UDVA and will only share such personal data if the third party provides appropriate assurances that are consistent with the safeguards in the Agreement. When requesting such prior written consent, the PCAOB should indicate the type of personal data that it intends to share and the reasons and purposes for which the PCAOB intends to share the personal data. If the UDVA does not provide its written consent to such sharing within a reasonable time, not to exceed ten days, the PCAOB will consult with the UDVA and consider any objections it may have. If the PCAOB decides to share the personal data without the UDVA written consent, the PCAOB will notify the UDVA of its intention to share and the UDVA may then decide whether to suspend the transfer of personal data, and to the extent that it decides to suspend such transfers, the UDVA will inform accordingly the Office. Where the appropriate assurances cannot be provided by the third party, the personal data may be shared with the third party in exceptional cases if sharing the personal data is for important reasons of public interest, as recognized in the United States and in the Slovak Republic or in the European Union, including in the spirit of reciprocity of international cooperation, or if the sharing is necessary for the establishment, exercise or defense of legal claims.

Regarding the sharing of personal data with the U.S. Securities and Exchange Commission, the PCAOB will obtain from the former appropriate assurances that are consistent with the safeguards in the Agreement. In addition, the PCAOB will periodically inform the UDVA of the nature of personal data shared and the reason it was shared if providing such information will not risk jeopardizing an ongoing investigation. Such restriction regarding information related to an ongoing investigation will continue only for as long as the reason for the restriction continues to exist.

A data subject may request from the UDVA certain information related to his or her personal data that has been transferred by the UDVA to the PCAOB in the course of cooperation pursuant to the SOP. It shall be the responsibility of the UDVA to provide such information to the data subject in accordance with applicable legal requirements in the GDPR and the Slovak Data Protection Act. Without prejudice to the previous paragraph, upon receipt of a request from a data subject, the UDVA may request from the PCAOB information related to the PCAOB's onward sharing of such personal data in order for the UDVA to comply with its disclosure obligations to the data subject under the GDPR and the Slovak Data Protection Act. Upon receipt of such request from the UDVA, the PCAOB shall provide to the UDVA any information that has been made available to the PCAOB concerning the processing of such personal data by a third party with whom the PCAOB has shared such personal data.

#### Redress:

Article III.8 of the Agreement provides for a redress mechanism. There are four layers of redress provided for the data subject in the Agreement. First, any dispute or claim brought by a data subject concerning the processing of his or her personal data pursuant to the Agreement may be made to the UDVA, the PCAOB, or both, as may be applicable. Each Party will inform the other Party about any such dispute or claim, and will use its best efforts to amicably settle the dispute or claim in a timely fashion.

The PCAOB will inform the UDVA of reports it receives from data subjects on the processing of his/her personal data that was received by the PCAOB from the UDVA and will consult with the UDVA on a response to the matter.

Secondly, if a Party or the Parties is/are not able to resolve a concern or complaint made by a data subject regarding the processing of personal data by the PCAOB and the data subject's concern or complaint is not manifestly unfounded or excessive, the Party or Parties may use an appropriate dispute resolution mechanism conducted by an independent function within the PCAOB.

Thirdly, the decision reached through this dispute resolution mechanism may be submitted to a second independent review, which would be conducted by a separate independent function. The decisions of both reviews are binding on the PCAOB. These dispute resolution mechanisms are described in detail in Annex III of the Agreement.

In situations where the UDVA is of the view that the PCAOB has not acted consistent with the safeguards set out in the Agreement, the UDVA may suspend the transfer of personal data under this agreement until the issue is satisfactorily addressed and may inform the data subject thereof. Before suspending such transfers, the UDVA will discuss the issue with the PCAOB and the PCAOB will respond without undue delay.

Finally, in any case, the data subject may exercise his or her rights for judicial or administrative remedy (including damages) according to Slovak law.

Oversight mechanism:

Article III.9 of the Agreement provides for an oversight mechanism ensuring the implementation of the safeguards. This oversight mechanism consists of a combination of internal and external oversight.

With regards to the internal oversight, each Party will conduct periodic reviews of its own policies and procedures that implement the safeguards of the Agreement. Upon reasonable request from the other Party, a Party will review its policies and procedures to ascertain and confirm that the safeguards specified in the Agreement are being implemented effectively and send a summary of the review to the other Party.

Regarding the external review, upon request by the UDVA to conduct an independent review of the compliance with the safeguards in the Agreement, the PCAOB will notify the Office of Internal Oversight and Performance Assurance ("IOPA"), which is an independent office of the PCAOB, to perform a review to ascertain and confirm that the safeguards in the Agreement are being effectively implemented. The details of the functioning of IOPA are provided in Annex IV of the Agreement. IOPA will provide a summary of the results of its review to the UDVA once the PCAOB's governing Board approves the disclosure of the summary to the UDVA.

Where the UDVA has not received the IOPA's results of its review and is of the view that the PCAOB has not acted consistent with the safeguards specific to its obligations under the Agreement, the UDVA may suspend the transfers to the PCAOB until the issue is satisfactorily addressed by the PCAOB. Before suspending transfers, the UDVA will discuss the issue with the PCAOB and the PCAOB will respond without undue delay. In the event that the UDVA suspends the transfer of the personal data to the PCAOB, or resumes transfers after such suspension, the UDVA shall promptly inform the Office.

Pursuant to Article 46 (1) of the GDPR, in the absence of a decision pursuant to Article 45 (3), a controller or processor may transfer personal data to a third country or an international organisation only if the controller or processor has provided appropriate safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

Pursuant to Article 46 (3) (b) of the GDPR, subject to the authorisation from the competent supervisory authority, the appropriate safeguards referred to in paragraph 1 may also be provided for, in particular, by: provisions to be inserted into administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.

Pursuant to Article 58 (3) (i) of the GDPR, each supervisory authority shall have all of the following authorisation and advisory powers: to authorise administrative arrangements referred to in point (b) of Article 46 (3).

The Office decides to authorise this Agreement as a suitable data protection safeguard with a view to the cross-border data transfer, conditional to full compliance by the signatories with all the clauses of the DPA, Annexes and SOP. The Agreement is authorised under the procedure described under Art. 64(3): In the cases referred to in paragraphs 1 and 2, the Board shall issue an opinion on the matter submitted to it provided that it has not already issued an opinion on the same matter. That opinion shall be adopted within eight weeks by simple majority of the members of the Board. That period may be extended by a further six weeks, taking into account the complexity of the subject matter. Regarding the draft decision referred to in paragraph 1 circulated to the members of the Board in accordance with paragraph 5, a member which has not objected within a reasonable period indicated by the Chair, shall be deemed to be in agreement with the draft decision.

The Office will monitor the Agreement and its practical application especially in relation to Articles III.7, 8 and 9 relating to onward transfers, redress and oversight mechanisms to ensure that data subjects are provided with effective and enforceable data subject rights, appropriate redress and that compliance with the Agreement is effectively supervised.

The Office will suspend the relevant data flows carried out by the UDVA pursuant to the authorisation, if the administrative arrangement (Agreement, Annexes and SOP) no longer provides for appropriate safeguards in the meaning of the GDPR.

## **R e m e d i e s**

This decision cannot be appealed. This decision is valid and enforceable on the date of delivery.

This decision is reviewable by the court.

**JUDr. Juraj Mičura**  
**Head of the Department of**  
**administrative proceedings**

### **Delivered to:**

Úrad pre dohľad nad výkonom auditu, Slovanská 1, 810 05 Bratislava