

When is the e-mail address personal data and when is its use a violation of the right to privacy?

An e-mail address containing the full name of the data subject qualifies as personal data, the unlawful processing of which does not in itself constitute a violation of the right to privacy. However, there are other stipulations!

The unlawful processing of personal data may be carried out purely by mistake, while in the opinion of the Curia it is necessary for the violation of personality rights that the given act is directed against the personality of the other, thereby implementing a greater prohibited interference in the privacy of the data subject. In an important decision, the Curia clarified when an e-mail address qualifies as personal data and when the unauthorized use of an e-mail address is an infringement of privacy rights. Based on the decision, the Curia confirmed that the personal e-mail address containing the full name of the natural person concerned is personal data.

At the same time, the Curia pointed out that the unlawful processing of personal data does not automatically constitute a violation of the personality rights related to the protection of personal data, in the absence of any other factual element. The reason for this is that due to the different personal and material scope of the General Data Protection Regulation (GDPR) and the Civil Code (Civil Code), the scope of protection provided by the two laws is also different. The conclusion is based on the practice of the Curia that while the right to the protection of personal data under the GDPR may be violated by simple mistake, which in itself however does not constitute a prohibited interference in the privacy of the data subject to such an extent that it also constitutes a violation of personality under the Civil Code. In order that a certain act of unlawful processing of personal data also qualifies in the same time as a infringement of personality rights, it is necessary that the unlawful act in question is directed against the personality of the other and thus results in the violation of personality rights.

The Curia emphasized that personality rights provide legal protection against a direct harm of the personality of a natural person that violates one of his or her personality rights stemming from human dignity, which implies that the unauthorized processing of personal data does not in itself establish personality protection.

The Curia confirmed, that the e-mail address of the natural person containing his or her full name, based on which the person can be identified, is a personal data. It does not changes this fact, if the name of the data subject occurs frequently, because in that case for the complete identification of data subject, only some other personal information should be linked to.