

GDPR – AN OPPORTUNITY OR A THREAT FOR POSTAL OPERATORS

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Summary: *EU's General Data Protection Regulation (GDPR), which entered into force in 2018, has increased personal data protection requirements that must be met by all postal operators communicating personal data outside of the EU / EEA. EU / EEA postal operators must ensure that the personal data they possess and exchange is processed securely and in accordance with the GDPR. The purpose of personal data protection is to protect private life and all other human rights and fundamental freedoms during personal data collection, processing and use. Therefore, reliable handling of addresses, phone numbers and e-mail addresses of postal services users in accordance with the GDPR represents not only the essential postal operators' task, but also a new source of potential income.*

Key words: *GDPR, Regulation (EU) 2016/679, personal data, personal data protection.*

1. Introduction

Personal data protection is a fundamental right of each person regardless of their citizenship, place of residence, race, skin colour, sex, language, religion, political or other opinion, national or social origin, property, birth, education, social status or other characteristics. Personal data protection applies to “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 of personal data of identified or identifiable natural persons. 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) – General Data Protection Regulation (hereinafter: the GDPR) governs personal data protection and supervision of personal data collection, processing and use in the EU countries. The purpose of personal data protection is to protect private life and other human rights and fundamental freedoms during personal data collection, processing and use.

Upon adoption of the Regulation 2016/679, postal operators handling users' personal data in their ordinary course of business are obligated to implement various measures with the aim of protecting users' personal data and preventing its misuse on the one hand and optimising business processes and developing new sources of income on the other. It is precisely these two conflicting aims that pose a great challenge for postal operators.

2. Personal data within the meaning of Article 4 of the Regulation 2016/679

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.

An identifiable natural person ("data subject") is one who can be identified, directly or indirectly, in particular on the basis of one or more factors specific to the physical, psychological, mental, economic, cultural or social identity of that natural person.

Natural person's identity means identity on the basis of identifiers specific to that natural person (age, sex, race) which separate that natural person from other citizens. Identity is usually confirmed by inspecting public documents, but this can also be done in other ways. For instance, a natural person's first and last name are his/her identifiers and his/her identity may be confirmed by inspection of his/her ID card or passport.

3. Postal operators as controllers and processors

Postal operators, including Croatian Post, in the capacity of personal data operators, may process personal data only to the extent necessary for compliance with legal obligations stipulated in the Postal Services Act or for performance of a contract, exclusively with the data subject's consent, or on the grounds of legitimate interests. Personal data processing comprises operations such as collection, recording, structuring, storage, alteration, consultation, use, transmission or destruction of personal data. Fundamental obligations of postal operators acting in the capacity of controllers are the following:

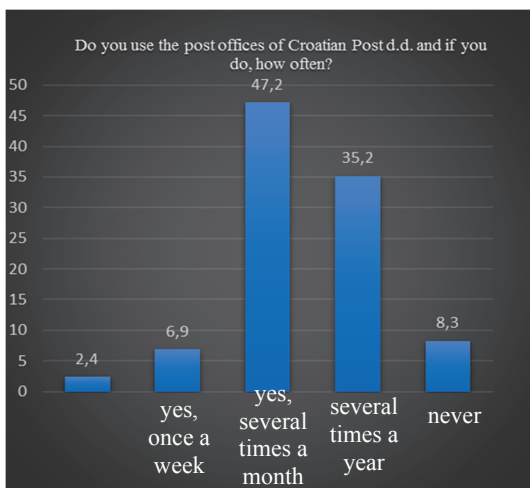
- Provision of information to any data subject for the purpose of exercise of their rights under Articles 12 to 21 of the Regulation;
- Record-keeping of processing activities under Article 30 of the Regulation;
- Designation of the data protection officer under Article 37 of the Regulation;
- Cooperation with a supervisory authority – the Croatian Personal Data Protection Agency;
- Notification of a personal data breach under Articles 33 and 34 of the Regulation.

Processing carried out by Croatian Post d.d. in the capacity of processor is governed by a contract or other legal document and provisions on data protection are defined in accordance with Article 28 of the Regulation. Croatian Post d.d. as processor collects and processes personal data exclusively on the controller's behalf.

Postal operators in the capacity of controllers and processors are obligated to take technical and organisational measures for personal data protection in accordance with the GDPR, which measures are necessary to prevent accidental loss, destruction, unauthorised access, unauthorised alteration, unauthorised publication and any other misuse of personal data and to ensure that employees carrying out data processing operations comply with the obligation of secrecy.

Implementation of appropriate protection measures ensures that personal data is not made accessible by default to an indefinite number of natural persons unauthorised to process personal data. At the time of the determination of the means for processing and at the time of the processing itself, each controller is obligated, taking into account the nature, scope and purpose of personal data processing, to determine protection measures ensuring secure, fair and lawful personal data processing and effective application of the principles of integrity and confidentiality. This is necessary to prevent unauthorised access to personal data and to the equipment used for processing (taking into account in particular the necessity of data processing for each specific purpose, data minimisation and the scope of data during processing).

Over 91% of respondents use the post offices of Croatian Post d.d., while 57% of them use the offices at least once or several times a month.

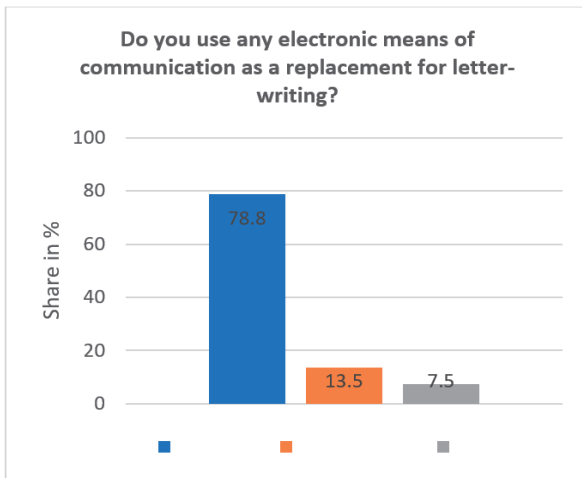


- ❖ *91% of respondents uses post offices at least once a week, while 82% of them use post offices several times a month or several times a year*
- ❖ *there has been a continuous increase in the number of respondents not using post offices at all, while the number of respondents using post offices several times a week has decreased*

Figure 1. Statistical diagram of the use of the post offices¹

A large number of respondents has replaced letter-writing with electronic means of communication.

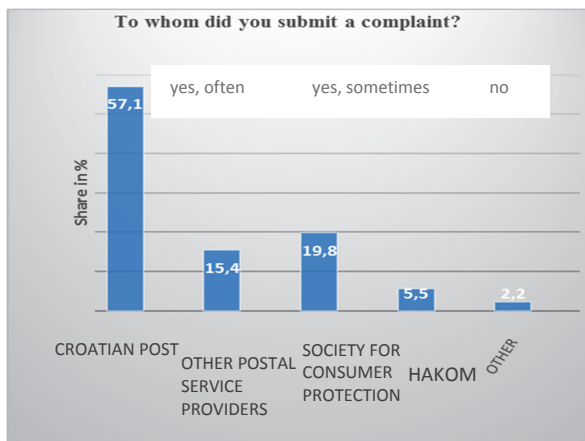
¹ Source: www.hakom.hr



- ❖ *over 92% of respondents use electronic means of communication (e-mail, e-state, smartphone applications) as a replacement for letter-writing and 79% of them do so often*
- ❖ *8% of respondents still communicate by letters*

Figure 2. Statistical diagram of the use of electronic means of communication²

The majority of complaints were submitted to postal service providers.



- ❖ *The majority of respondents' complaints were submitted to postal service providers, mostly to Croatian Post d.d., which is not surprising considering the state of the market.*
- ❖ *Research has shown that the respondents turn to other institutions to protect their rights, while the percentage of respondents contacting the Society for Consumer Protection and the Croatian Regulatory Authority for Network Industries (HAKOM) has increased in particular.*

Figure 3. Statistical diagram of complaint submission³

² Source: www.hakom.hr

³ Source: www.hakom.hr

4. Personal data breach by postal operator

Regarding personal data collection and processing carried out by postal operators in other countries, it is important to mention that the supervisory authority for data protection in the Republic of Austria imposed a EUR 18 million fine against Austrian Post for using data about clients' age and address to profile which political party they might support. Furthermore, Austrian Post also sold the profiling results and committed another breach of the GDPR due to processing of data about frequency of package delivery for direct marketing purposes. Said administrative fine is not final and an appeal may be lodged against it before the Austrian Administrative Court.

5. Big Data

Big data is a technology for collecting, processing and analysing large volumes of various structured and unstructured data which is generated at a high velocity in various intervals (sometimes also in real time) and which is extremely demanding to process.

This technology allows collection of data from various devices or systems that people use, including smartphones, smartwatches, smart TV, ATMs and alike, which serve as data processors and analysers. The big data technology needs to process the data it obtains from the device very quickly, break it down into comprehensible information and then send it over the internet back to the device so that relevant information is available in time.

Postal operators also generate large volumes of data, i.e. big data of extreme importance for the e-commerce sector, as well as for rationalising postal processes, offering new services to users and increasing the competitiveness of postal operators. Postal operators can create new business opportunities based on clients' expectations and encourage digital transformation, adapt the network of subsidiaries and other.

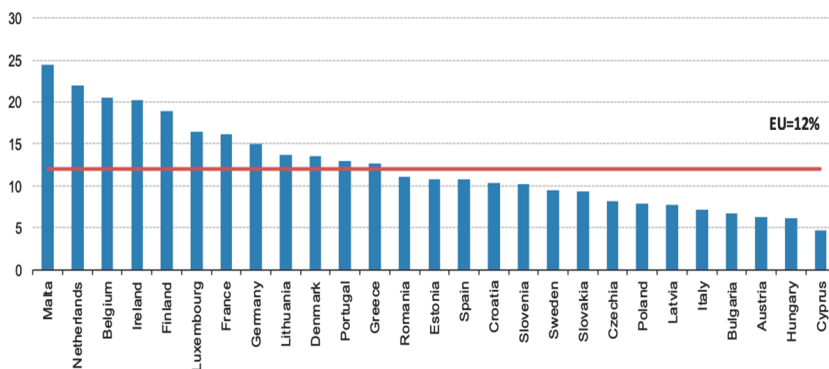


Figure 4. Using big data analytics in EU member states, 2018 (% of companies)

5. Conclusion

The GDPR provides uniform protection of personal data processed in EU member states and allows the possibility of processing personal data of natural persons, including the transmission of such data in third countries, which ensures high standards of protection of natural persons in accordance with relevant requirements, meaning that the companies

needed to adjust only to one set of regulations. Moreover, the GDPR provides additional support for the rights of data subjects, allows stricter supervision of the manner in which their data is (mis)used and stimulates the development of related technologies. However, another important aim of the GDPR is to ensure maximum protection of data flow, particularly with regard to personal data processing as a part of the natural person's identity and privacy, which conflicts the concept of global universality.

It must be pointed out that it is important for natural persons/data subjects that postal services are completed in time, without any misuse of their data. This also applies to new postal services, which are requested using electronic means of communication.

Complaints submitted by natural persons/data subjects mostly pertained to package loss and delayed package delivery, while a smaller number of complaints pertained to the implementation of the GDPR and misuse of personal data during the provision of postal services.

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Rezime: *Opšta uredba o zaštiti podataka (GDPR) Evropske unije, koja je stupila na snagu 2018. godine, povećala je zahteve za zaštitu ličnih podataka koje moraju ispuniti svi poštanski operatori koji komuniciraju lične podatke izvan EU / EEA. Poštanski operatori EU / EEA moraju osigurati da se lični podaci koje poseduju i razmenjuju obrađuju na siguran način i u skladu sa GDPR-om. Svrha zaštite ličnih podataka je zaštita privatnog života i svih ostalih ljudskih prava i osnovnih sloboda tokom prikupljanja, obrade i upotrebe ličnih podataka. Stoga pouzdano rukovanje adresama, telefonskim brojevima i e-mail adresama korisnika poštanskih usluga u skladu sa GDPR-om predstavlja ne samo osnovni zadatak poštanskih operatora, već i novi izvor potencijalnog prihoda.*

Ključne reči: *GDPR, Uredba (EU) 2016/679, lični podaci, zaštita ličnih podataka.*

GDPR – MOGUĆNOST ILI PRETNJA POŠTANSKIM OPERATORIMA

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