



## Laga Newsflash

### Retailer given administrative (GDPR) fine for requiring electronic ID for loyalty card provision

The Data Protection Authority (**DPA**) recently imposed an administrative fine of EUR 10,000 on a retailer who, for the sole purpose of producing a loyalty card, requires the reading of customers' electronic identity card (**eID**). The electronic identity card contains a large amount of information regarding its holder. The use of this information, without the customer's valid consent, is considered disproportionate to the service offered in return.

#### Facts

A complaint was raised with the DPA regarding the use of eID for the provision of a commercial service, namely the creation of a loyalty card. As the complainant did not want to show their identity card, the loyalty card was refused, despite the former offering to send details in writing to the retailer to benefit from a loyalty card. This practice by the retailer is, according to the DPA, not in line with the General Data Protection Regulation (**GDPR**), for a number of reasons.

#### Violation of data minimisation principle

The principle of "data minimisation" means that a data controller should limit the collection of personal information to what is directly relevant and necessary to accomplish a specified purpose.

In order to create the loyalty card, the retailer requires the reading of personal data on the eID, such as surname, first name, address, etc., as well as the photo and the barcode

linked to the National Registry number. The DPA underlines that the processing of the National Register number is subject to strict rules with respect to its consultation and use.

As a result, the DPA believes that the reading and use of all data on the eID are processing operations that are disproportionate to a commercial context and, as such, are disproportionate to the objective of merely creating a loyalty card.

## No valid consent

The DPA also challenges 'consent' as legal ground for the processing operation in the case at hand. To be valid, consent must be given freely, and be specific, informed and unambiguous. In this case, the consent given cannot be considered as free consent, as no other alternative is provided to the customer.

## Action required

Companies should only collect the personal data actually necessary to accomplish their identified purpose.

When relying on consent as a legal ground, companies should make sure that consent is given freely, is specific, informed and unambiguous. In employment relationships, it should be noted that consent will generally not be considered as valid grounds for personal data processing.

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