

Na Františku 32, 110 15 Praha 1

Provision of information pursuant to Section 4 and Section 14(5)(d) of Act No. 106/1999 Coll, on free access to information, as amended

The Ministry of Industry and Trade (hereinafter referred to as "the Ministry") as the obliged entity pursuant to Section 2(1) of the Act 106/1999 Coll., on free access to information, as in force on the date of the request (hereinafter referred to as "Life Resonance, z. s., ID No. 085 97 201, with registered office at Krouzova 3049, Prague, (hereinafter referred to as 'the applicant'), electronic delivery address: mailbox ID - adig6y7, submitted in writing on 2 December by Mr. MVDr. Martin Novotný via the mailbox of the mailroom of the Ministry, concerning the provision of information relating to SAR specific absorption rate tests, and provides information pursuant to Section 4 and Section 14(5)(d) of the Act, on the basis of the request by providing a communication in accordance with Section 4a(2)(a) of the Act.

[1] The Ministry registered a request on 2 December 2022, MIPOX040HXI6, Ref: MPO 114423/2022 for information under the Act to the extent set out below:

"Dear Madam or Sir, we are writing to you pursuant to an interpellation to the Prime Minister of the Czech Republic on 1 December 2022 and pursuant to Act No. 106/1999 Coll., on Free Access to Information (as amended), in relation to your responsibility as a national regulator for broadcasting devices introduced to the market, such as mobile phones, tablets, smart watches, and other devices or accessories enabling wireless broadcasting. From this position and within the framework of European regulations, you are responsible for the safety and health of people who use these marketed devices in our country. We therefore ask for information:

- I Have you carried out Specific Absorption Rate (SAR) tests of electromagnetic radiation from mobile phones, tablets and other 'connected' devices on the body (head, trunk and limbs), and if so, under what conditions (products supplied by the manufacturer or taken from a shop)? If tests have been carried out, we request that all test reports be sent to us and made available to us.
- II Whether these models, which are considered non-compliant in France, have been the subject of particular attention by your departments in the Czech Republic? And what measures have you adopted in order to ensure the safety of consumers?
- III Have you been informed about the recommendations of ANSES?"
- IV When we have focused your attention on this recommendation, what do you intend to do, given that a large proportion of these models have been placed on the French national market and may be on the national market in the Czech Republic?
- V Do you plan to perform SAR measurements on yourself or in cooperation with other authorities for mobile phones and other wireless devices and accessories used in the national market in accordance with ANSES recommendations?
- VI Does your Agency agree with this request and would it support the French proposal in the relevant EU bodies?

VII Which Czech legislation currently defines the maximum permissible SAR levels?

VIII Is there any legislation in the Czech Republic concerning radiation from wireless technologies take into account the different body structures of children (including foetuses) and adults?

[2] The Ministry has examined the application and found that by submitting the above application the applicant seeks the provision of information relating to the testing of the specific absorption rate SAR and the provision of information in relation thereto related information. The information requested relates to the competence of the Ministry within the meaning of section 2(1) of the Act and exists within the meaning of section 3(3) of the Act. The Ministry also ascertained whether the information requested was not the nature of information which is exempt from disclosure, in particular pursuant to Sections 7, 8a, 8b and 9 to § 8 and § 11 of the Act.

[3] According to Article 17(1), (2), (4) and (5) of the Charter of Fundamental Rights and Freedoms, "[f]reedom of expression and the right to information shall be guaranteed, [e]veryone shall have the right to express his or her opinions in words, writing, print, pictorial or other and to seek, receive and impart ideas and information freely, regardless of frontiers, [t]he freedom and the right to seek and impart information may be restricted by law where this is a measure in a democratic society necessary for the protection of the rights and freedoms of others, national security, public safety, the protection of public health and morals, [s]tate authorities and bodies of local self-government shall be obliged to provide information on their activities in an appropriate manner. The conditions and implementation shall be determined by law."

[4] Pursuant to Section 2(1) of the Act, "[t]he relevant entities that are obliged under this Act to provide information relating to their competence are state authorities, territorial self-government units and their bodies and public institutions."

[5] According to Section 3(3) of the Act, "[i]nformation for the purposes of this Act means any content or part thereof in any form, recorded on any medium, in particular the content of a written record on a document, a record stored in electronic form or an audio, visual or audiovisual record."

[6] According to Section 4a para. (2) of the Act, "[w]here information is provided on the basis of a request, it shall be provided in a manner appropriate to the content of the request, in particular by (a) communicating the information in electronic or documentary form, (b) providing a copy of a document containing the requested information, (c) providing a data file containing the requested information, (d) consulting a document containing the requested information, (e) sharing data through an information system interface, or (f) providing remote access to information that is changed, updated, supplemented or re-created over time, or by periodically by other means."

[7] The Ministry, after reviewing the applications, provides the applicant with the following pursuant to sections 4 and 14(5)(d) of the Act section 4a(2)(a) of the Act, the following communication from the Department of Electronic Communications:

- I The Ministry does not carry out these tests, it is not within its scope.
- II Market surveillance is not within the competence of the Ministry; the Czech Trade Inspection Authority is the supervisory authority for the supply of radio equipment to the market and conformity assessment. When placing radio equipment on the market, all manufacturers must ensure that it is designed and manufactured in accordance with the legislation and relevant technical standards, develop technical documentation for it and carry out or arrange for the relevant conformity assessment procedure to be carried out.

III Yes.

IV All manufacturers must ensure, when placing radio equipment on the market, that it is designed and manufactured in accordance with the legislation and relevant technical standards, produce a technical documentation and carry out or arrange for the appropriate conformity assessment procedure to be carried out.

V See answer to question I. To clarify the question, we add that the amendment to EN 50566:20175 containing 0 mm level measurements is currently being prepared by CENELEC - European Committee for Electrotechnical Standardisation. If adopted, the competent authorities will subsequently measure according to the new conditions.

VI The Czech Republic will take a position on this requirement in case of its further discussion in the European Union bodies.

VII Government Regulation No. 426/2016 Coll., on conformity assessment of radio equipment when placed on the market, using standard EN 50566 ed. 2: Product standard for demonstrating the conformity of wireless of wireless communication equipment to the basic restrictions and maximum permissible exposure limits to human electromagnetic fields in the frequency range 30 MHz to 6 GHz: handheld and body worn hand-held and body-mounted devices used in close proximity to the human body. Furthermore, Government Regulation No. 291/2015 Coll, on health protection against non-ionising radiation.

VIII Czech legal regulations do not set specific requirements beyond the relevant technical standards.

[8] According to 8 5(3) of the Act, "within 15 days of the provision of information upon request, the obliged entity shall publish the information in a manner allowing remote access."

Best regards

PaedDr. Slavomír Novotný, Ph.D.
Head of Open Office Department