

JOTUN A/S
Postboks 2021
3202 SANDEFJORD

Your reference

Our reference

Date

20/01631-11

18.08.2020

Godkjenning av bindende virksomhetsregler for behandlingsansvarlige (Controller Binding Corporate Rules) for Jotun Group

Vi henviser til deres søknad av 11. august 2017 om godkjenning av bindende virksomhetsregler for behandlingsansvarlige (BCR-C) om overføring av personopplysninger til tredjeland. Nedenfor finner dere vår avgjørelse der vi godkjenner Jotuns BCR-C.

Godkjenningen er gitt i medhold av personvernforordningen artikkel 58 nr. 3 bokstav j og artikkel 47 nr. 1, jf. personopplysningsloven § 1, og med henvisning til Det europeiske personvernrådets (European Data Protection Board - EDPB) «Opinion 24/2020 on the draft decision of the Norwegian Supervisory Authority regarding the Controller Binding Corporate Rules of Jotun», vedtatt 31. juli 2020 i henhold til personvernforordningens konsistensmekanisme, jf. artikkel 64 nr. 1 bokstav f.

Dette vedtaket kan ikke påklages i medhold av bestemmelsene i forvaltningsloven kapittel VI jf. personopplysningsloven § 22 annet ledd.

DECISION OF THE NORWEGIAN DATA PROTECTION AUTHORITY APPROVING BINDING CORPORATE RULES OF JOTUN GROUP

1. Having regard to Article 47(1) of the EU General Data Protection Regulation 2016/679 (GDPR), the Norwegian Data Protection Authority shall approve Binding Corporate Rules (BCRs) provided that they meet the requirements set out under this Article.

Whereas:

2. In accordance with the cooperation procedure as set out in the Working Document WP263.rev.01, the controller BCRs application of Jotun Group (hereafter “Jotun”) were reviewed by the Norwegian Data Protection Authority as the competent Authority for the BCRs (BCR Lead) and by the Danish Data Protection Authority and the Swedish

Data Protection Authority as co-reviewers. The application was reviewed by the supervisory authorities of the EEA in line with the approval procedures set up by the EDPB.

3. The review concluded that the controller BCRs of Jotun comply with the requirements set out by Article 47(1) of the GDPR as well as the Working Document WP256.rev.01 and in particular that the aforementioned BCRs:

i) Are legally binding and contain a clear duty for each participating member of the Group including their employees to respect the BCRs by

- Contractually binding Jotun affiliates and Jotun A/S to comply with the BCR through an Intra-Group Agreement. See Intra-Group Agreement.
- Obligations to abide by the BCR is incorporated in Jotun's Code of Conduct and the corporate governance system, which provides legally binding directions for its subsidiaries and is enforced by Jotun A/S. See BCR art. 1.4, Appendix 4 HR-Policy art. 1.3 and 1.16, appendix 5 Business Principles, appendix 6 customer personal data policy art. 1.3 and 1.16, appendix 7 supplier personal data policy art. 1.3 and art. 1.14.
- A duty to respect the BCR in employee's employment contracts. See Appendix 4 HR-Policy art. 1.16.

ii) Expressly confer enforceable third party beneficiary rights to data subjects with regard to the processing of their personal data as part of the BCRs.

- See BCR art. 1.10 and Intra-Group agreement art. 4.

iii) Fulfil the requirements laid down in Article 47(2)

a) the structure and contact details of the entities of Jotun and all of its affiliated companies

- See annex 10 list of entities bound and Corporate Structure overview;

b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question

- See WP264 section 2, BCR art. 2.1.1 and 3.1.1;

c) their legally binding nature, both internally and externally

- See WP264 section 4, BCR introduction, art. 1.4, annex 12 Intra-Group agreement, annex 4 HR policy art. 1.16;

- d) the application of the general data protection principles, in particular purpose limitation, data minimisation, limited storage periods, data quality, data protection by design and by default, legal basis for processing, processing of special categories of personal data, measures to ensure data security and the requirements in respect of onward transfers to bodies not bound by the binding corporate rules**
- See BCR art 1.9, art. 1.10, art. 2.1, art. 2.4, art. 2.5, art. 2.6, art. 2.7.1, art. 2.7.2, art. 2.9, art. 3.5, art. 3.6, art. 4.1 art. 4.2.1, art. 4.3, art. 4.8, art. 4.9 and art. 5;
- e) the rights of data subjects in regard to processing and the means to exercise those rights, including the right not to be subject to decisions based solely on automated processing, including profiling in accordance with Article 22, the right to lodge a complaint with the competent supervisory authority and before the competent courts of the Member States in accordance with Article 79, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules**
- See BCR art. 4.6, art. 4.14, art. 4.15.4;
- f) the acceptance of liability for any breaches of the binding corporate rules by any member concerned not established in the Union**
- See BCR art. 4.15.5;
- g) how the information on the binding corporate rules, in particular on the provisions referred to in points (d), (e) and (f) above is provided to the data subjects in addition to Articles 13 and 14 of the GDPR**
- See BCR art. 1.6 and art. 5;
- h) the tasks of the Privacy Office in charge of the monitoring compliance with the binding corporate rules within the entities of Jotun and all of its affiliated companies, as well as monitoring, training and complaint-handling**
- See BCR sec. 4.11;
- i) the complaint procedures**
- See BCR sec. 4.14;
- j) the mechanisms within Jotun and all of its affiliated companies for ensuring the verification of compliance with the binding corporate rules. Such mechanisms include data protection audits and methods for ensuring corrective actions to protect the rights of the data subject. Results of such verification will be communicated to the Privacy Office referred to in point (h) and to the Audit Committee, and will be available upon request to the competent supervisory authority**

- See BCR art. 4.13.1, art. 4.15.3, art. 4.15.7;
- k) the mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority**
- See BCR art. 4.18.1;
- l) the cooperation mechanism with the supervisory authority to ensure compliance by Jotun and all of its affiliated companies, in particular by making available to the supervisory authority the results of verifications of the measures referred to in point j)**
- See BCR art. 4.13.1, art. 4.15.6 and art. 4.15.7;
- m) the mechanisms for reporting to the competent supervisory authority any legal requirements to which Jotun and all of its affiliated companies is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules**
- See BCR sec. 4.17;
- n) the appropriate data protection training to personnel having permanent or regular access to personal data**
- See BCR art. 4.12.1.

4. The EDPB provided its opinion 24/2020 in accordance with Article 64(1)(f). The Norwegian Data Protection Authority took utmost account of this opinion.

THE NORWEGIAN DATA PROTECTION AUTHORITY DECIDES THE FOLLOWING:

5. The Controller BCRs of Jotun Group provide appropriate safeguards for the transfer of personal data in accordance with Article 46(1),(2f) and Article 47 (1), (2) GDPR and hereby approves the Controller BCRs of Jotun Group.
6. The approved BCRs will not require any specific authorization from the concerned supervisory authorities.
7. In accordance with Article 57.2.j GDPR, each concerned Supervisory Authority maintains the power to order the suspension of data flows to a recipient in a third country or to an international organization whenever the appropriate safeguards envisaged by Controller BCRs of Jotun Group are not respected.

ANNEX TO THE DECISION

The Controller BCRs of Jotun that are hereby approved cover the following:

a. Scope

Only members of Jotun Group acting as Controller, that are legally bound by the BCRs covered by the Jotun Intragroup Agreement regarding Binding Corporate Rules.

- b. **EEA countries from which transfers are to be made:** All EEA countries. See list of entities bound.
- c. **Third countries to which transfers are to be made:** South-Korea, Egypt, Cambodia, Philippines, Singapore, Abu Dhabi, Algeria, Australia, Bahrain, Bangladesh, Turkey, Brazil, Taiwan Province of China, China, India, Kazakhstan, Kenya, Kuwait, Libya, Morocco, Myanmar, Malaysia, Vietnam, Oman, USA, Russia, South-Africa, Pakistan, Saudi Arabia, Dubai, Qatar, Thailand and Indonesia. See list of entities bound.
- d. **Purposes of the transfer:** See WP264 section 2 and section 7. BCR art. 2.1.1, art. 2.6, art. 3.1.1 and art. 3.4.
- e. **Categories of data subjects concerned by the transfer:** Employees, applicants for job vacancies and clients, suppliers and contact persons. See WP264 section 2 and section 7. BCR art. 2.1.1 and art. 3.1.1.
- f. **Categories of personal data transferred:** Human resources and personnel management, conclusion and execution of customer and supplier agreement and customer and supplier management. See WP264 section 2 and section 7. BCR art. 2.1.1 and art. 3.1.1.

Kind regards

Tobias Judin
Head of International

Anna Kristin Ulfarsdottir
Senior Legal Adviser

This letter has electronic approval and is therefore not signed