

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, day 11

March

2019

DECISION

ZSPR. 440.1052.2018

Based on Article. 104 § 1 of the Act of June 14, 1960, Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended) and Art. 7, art. 60 of the Personal Data Protection Act of May 10, 2018 (Journal of Laws of 2018, item 1000, as amended) in connection with Art. 6 sec. 1 lit. c of the Regulation of the European Parliament and of the EU Council 2016/679 of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Journal of Laws EU L.2016.119.1 of 04.05. 2016 and Dz. Urz. UE. L.2018.127.2 of 23.05.2018) after conducting administrative proceedings regarding the complaint of Mr. DS, residing in in B., for the processing of his personal data by P. S.A. based in Warsaw, President of the Personal Data Protection Office refuses to accept the request.

Justification

The Personal Data Protection Office received a request from Mr. D. S., residing in in B. (hereinafter: the "Complainant"), regarding the processing of his personal data by P. S.A. with its seat in Warsaw, (hereinafter referred to as: "P."), as regards his personal data, when submitting a complaint in electronic form using the online complaint form available on [...]. The complainant also applied for a decision ordering P. to delete his personal data concerning his address of residence. In the content of the complaint, the Complainant alleged that the following quote: "(...) In the process of submitting a complaint via the complaint form, there is an option" I consent to sending a reply to the notification / complaint / request for a refund to the above-mentioned e-mail address ". I gave my consent, but the system still obliged me to provide my personal data in the form of my home address. I consider this procedure unlawful, because since I have agreed to send a reply to the e-mail address, personal data in the form of my home address are in no way necessary for the carrier, and as the Regulation provides, the processing of personal data should have a strictly defined purpose. (...) if I did not agree to respond to the complaint via e-mail, this reply would be sent by traditional mail to the address of residence (...) ".

In the course of the proceedings conducted in this case, the President of the Personal Data Protection Office established the following facts.

1. In the process of submitting a complaint in electronic form using the online complaint form available on [...], it is required to provide the name and surname of the complainant, his e-mail address to which the reply will be sent and the correspondence address of the complainant (street, house number / apartments, postal code, city and contact telephone number as well as data on the train connection, including departure, arrival, date, time, ticket number and train number).
2. In a letter of [...] October 2018, P. explained that the Complainant's data in the scope of the address provided in connection with the complaint submitted via the online form are required by the provisions of Regulation § 5 b para. 1 point 2 of the ordinance of the Minister of Transport and Construction on determining the condition of shipments and complaint procedure of February 24, 2006 (Journal of Laws No. 38 item 266) as amended by the ordinance of the Minister of Infrastructure and Construction and the Minister of Maritime Economy and Inland Navigation amending the ordinance in on determining the condition of parcels and complaint procedure of December 13, 2017 (Journal of Laws of 2017, item 2406).
3. P. processes the Complainant's personal data obtained directly from the Complainant in the following scope:

name and surname - in order to purchase a ticket, in connection with the voluntary registration of an account in the online ticket sales system P., in order to receive and consider complaints, complaints and to ensure the safety of trading;

e-mail address - in order to enable the purchase of a ticket via the above-mentioned website, in order to receive and consider complaints, complaints and requests regarding the concluded contract of carriage;

address of residence - in order to receive and consider complaints, complaints and applications;

IP address - in order to enable the purchase of a ticket via the above-mentioned website.
4. P. has not received any request from the Complainant regarding the exercise of his rights in connection with the processing of personal data, including the cessation of processing of this data.

After reviewing the entirety of the evidence collected in the case, the President of the Office for Personal Data Protection considered the following:

The lawfulness of the processing of personal data on the basis of the Regulation of the European Parliament and the EU Council 2016/679 of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Journal of Laws EU L.2016.119. 1 of 04/05/2016 and Journal of Laws of the EU. L.2018.127.2 of

23/05/2018), hereinafter referred to as Regulation 2016/679, should be assessed in the context of meeting the condition of Art. 6 sec. 1. One of such conditions is the fact of processing personal data when it is necessary to fulfill the legal obligation incumbent on the administrator - art. 6 sec. 1 lit. c) of Regulation 2016/679. Pursuant to this provision, processing is lawful only if and to the extent that processing is necessary to fulfill the legal obligation incumbent on the controller.

The complainant, in his letter of [...] July 2018, accused P. of the requirement to provide his address of residence when submitting a complaint in electronic form using the online complaint form posted on [...], despite prior consent to respond to the complaint via e-mail .

The explanations sent by P. indicate that the legal basis for the processing of personal data, in particular the address of residence of the person submitting the complaint (the Complainant), is a generally applicable law, i.e. § 5b para. 1 point 2 of the Regulation - Regulation of the Minister of Transport and Construction on determining the condition of shipments and complaint procedure of February 24, 2006 (Journal of Laws of 2017, item 2406). Pursuant to this provision, the complaint should include the name and surname (name) and address of residence (registered office) of the entitled person or of the traveler. Thus, the quoted provision is a premise from the above-mentioned art. 6 section 1 lit. c) of Regulation 2016/679.

There is therefore a legal basis for the processing of the Complainant's personal data in the scope of the address of residence. In light of the above, in the opinion of the President of the Personal Data Protection Office, there are no grounds to conclude that the provisions of the Personal Data Protection Act have been violated. Therefore, it is justified for the President of the Personal Data Protection Office to issue a decision refusing to consider the complainant's request.

The decision is final. The party has the right to lodge a complaint against this decision with the Provincial Administrative Court in Warsaw, within 30 days from the date of its delivery to the party. The complaint is lodged through the President of the Personal Data Protection Office. The fee for the complaint is PLN 200. The party has the right to apply for the right of assistance, which includes exemption from court costs and the appointment of an attorney, legal advisor, tax advisor or patent attorney. The right to aid may be granted upon the application of a party submitted before the initiation of the proceedings or in the course of the proceedings. This application is free of court fees.

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