

Pursuant to art. 104 § 1 of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), art. 7 sec. 1, art. 60, art. 102 paragraph 1 point 1 of the Act of May 10, 2018 on the protection of personal data (Journal of Laws of 2019, item 1781) and art. 57 sec. 1 lit. a), art. 58 sec. 2 lit. d) and i) in connection with joke. 5 sec. 1 lit. a), e) and f) and par. 2, art. 24 sec. 1 and 2, art. 28, art. 30 sec. 1 lit. d) and f) and art. 32, as well as art. 83 sec. 1 - 3 of Regulation (EU) 2016/679 of the European Parliament and of the Council 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, and repealing Directive 95/46 / EC (general regulation on data protection) (Journal of Laws UE L 119 of May 4, 2016, p. 1 and Journal of Laws UE L 127 of May 23, 2018, p. 2), after administrative proceedings regarding the processing of personal data by the Mayor of Aleksandrów Kujawski , The President of the Personal Data Protection Office I. stating that the Mayor of Aleksandrów Kujawski has violated the provisions of: a) Art. 5 sec. 1 lit. a) and f) in connection with joke. 5 sec. 2 of the General Data Protection Regulation, i.e. the principles of compliance with the law and the principles of confidentiality and art. 28 sec. 3 of the general regulation on the protection of personal data by providing personal data to T. Sp. z o.o. with its seat in T. and for the consortium of entities: W. S.A. with headquarters in G. and C. S.A. based in K. without a legal basis, i.e. without the prior conclusion of the above-mentioned subjects of personal data entrustment agreements referred to in art. 28 sec. 3 of the General Data Protection Regulation, in connection with running the website of the Public Information Bulletin of the Municipal Office in Aleksandrów Kujawski, b) art. 5 sec. 1 lit. e) in connection with joke. 5 sec. 2, i.e. the rules for limiting storage, and art. 24 of the General Data Protection Regulation due to the lack of appropriate policies regarding the processing of personal data in the Public Information Bulletin of the Municipal Office in Aleksandrów Kujawski in terms of their timeliness and purposefulness of publication and specifying deadlines for deleting personal data, c) art. 5 sec. 1 lit. f) in connection with joke. 5 sec. 2 of the General Data Protection Regulation, i.e. the principles of integrity and confidentiality, the principles of correctness, and art. 24 of the General Data Protection Regulation by failing to conduct a risk analysis related to the use by the Mayor of Aleksandrów Kujawski of the YouTube channel for the purpose of transmitting recordings of the sessions of the Aleksandrów Kujawski City Council, d) art. 5 sec. 1 lit. f) in connection with joke. 5 sec. 2 of the General Data Protection Regulation, i.e. the principles of integrity and confidentiality, and Art. 32 of the General Data Protection Regulation by failing to implement appropriate technical and organizational measures to secure the data of natural persons in connection with the storage of recordings of the sessions of

the City Council of Aleksandrów Kujawski only on YouTube servers, without making and storing backup copies of these recordings in the own resources of the City Hall in Aleksandrów Kujawski, e) art. 5 sec. 2 of the General Data Protection Regulation, i.e. the principle of accountability, and Art. 30 sec. 1 lit. d) and f) of the general regulation on data protection by failure to indicate in the register of personal data processing activities, for activities related to the publication of information on the website of the Public Information Bulletin of the City Hall in Aleksandrów Kujawski, all recipients of data and failure to indicate the planned date of data deletion for these processing activities in a method ensuring the processing of data in accordance with the principle of limited storage, instructs the Mayor of Aleksandrów Kujawski to adjust the processing of personal data to the provisions of the General Data Protection Regulation, within 60 days from the date on which this decision becomes final, by: 1) ceasing to provide personal data for T. Sp. z o.o. with its seat in T. and for the consortium of entities: W. S.A. with headquarters in G. and C. S.A. based in K., without a legal basis, i.e. without the prior conclusion of personal data entrustment agreements with the above-mentioned entities referred to in art. 28 sec. 3 of the general regulation on the protection of personal data, in connection with the running of the website of the Public Information Bulletin of the Municipal Office in Aleksandrów Kujawski, the purposes for which the data is processed, - ensuring compliance with the deadlines for data deletion, 3) conducting a risk analysis in connection with the publication of recordings of the city council sessions and implementation of appropriate organizational and technical measures in connection with the processing of personal data on the YouTube channel in connection with the transmission of session recordings city council and storing recordings on YouTube servers, 4) implementation of appropriate organizational and technical measures aimed at securing the data of natural persons from the recordings of the session of the Aleksandrów Kujawski City Council by ensuring the availability of backup information in the own resources of the Municipal Office in Aleksandrów Kujawski, 5) including in the register of personal data processing activities, for processing activities related to the running of the Public Information Bulletin, information: . 30 sec. 1 lit. d) the general regulation on data protection, b) about the planned dates of data deletion, in accordance with art. 30 sec. 1 lit. f) General Data Protection Regulation. II. for violation of the provisions of Art. 5 sec. 1 lit. a), e) and f), Art. 5 sec. 2, art. 28, art. 30 sec. 1 lit. d) and f) and art. 32 of the General Data Protection Regulation imposes a fine on the Mayor of Aleksandrów Kujawski in the amount of PLN 40,000 (in words: forty thousand zlotys 00/100). Justification From 28 January to 1 February 2019, the inspectors authorized by the President of the Personal Data Protection Office conducted at the Mayor of Aleksandrów Kujawski (hereinafter also: the Mayor) an inspection of the compliance of personal data processing with the

provisions on the protection of personal data, i.e. with the Regulation of the European Parliament and Of the Council (EU) 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, and repealing Directive 95/46 / EC (general regulation on data protection) (Journal of Laws EU L 119 of May 4, 2016, p. 1 and EU Official Journal L 127 of May 23, 2018, p. 2) and the Act of May 10, 2018 on the protection of personal data (Journal of Laws of 2019, no. . item 1781), hereinafter also referred to as the Act. The scope of the control covered the method of processing personal data by the Mayor of Aleksandrów Kujawski as part of the process of sending correspondence and keeping the Public Information Bulletin (BIP), as well as the method of keeping a register of processing activities and documenting violations of personal data protection. In the course of the inspection, oral explanations were received from the employees of the Municipal Office in Aleksandrów Kujawski and the IT systems used to process personal data and the BIP website were inspected. The facts were described in detail in the inspection report, which was signed by the Mayor of Aleksandrów Kujawski. On the basis of the evidence collected in this way, it was established that in the process of processing personal data, the Mayor, as the administrator, violated the provisions on the protection of personal data. These shortcomings consisted in: 1) providing personal data to T. Sp. z o.o. with its seat in T. and for the consortium of entities: W. S.A. with headquarters in G. and C. S.A. based in K. without a legal basis, i.e. without the prior conclusion of the above-mentioned subjects of the personal data processing agreement referred to in art. 28 sec. 3 of the General Data Protection Regulation, in connection with running the website of the Public Information Bulletin of the Municipal Office in Aleksandrów Kujawski; 2) the lack of internal procedures regarding the review of resources published in BIP in terms of ensuring data processing in accordance with the principle of limited storage, as a result of which on the BIP website Of the Municipal Office in Aleksandrów Kujawski, documents containing personal data are published for a longer period than required by law; 3) failure to implement appropriate technical and organizational measures to protect the rights or freedoms of natural persons in connection with the storage of session recordings only on YouTube servers, without making copies of recordings of the sessions of the Aleksandrów Kujawski City Council that are in the office's own resources; 4) failure to conduct a risk analysis in connection with the use of the YouTube channel by the Mayor of Aleksandrów Kujawski in order to fulfill the legal obligation resulting from art. art. 8 sec. 2 of the Act of 6 September 2001 on access to public information (i.e. Journal of Laws of 2019, item 1429), hereinafter also referred to as DPIP, 5) failure to indicate in the register of personal data processing activities, for activities related to the publication information on the BIP website of the Municipal Office in Aleksandrów

Kujawski, all recipients of data and failure to indicate for these processing activities the planned date of data deletion in a manner ensuring data processing in accordance with the principle of limited storage. Therefore, on [...] June 2019, the President of the Office For the Protection of Personal Data, he initiated ex officio administrative proceedings to clarify the circumstances of this case (letter ZSPU.421.3.2019). In response to the notification about the initiation of administrative proceedings, the Mayor of Aleksandrów Kujawski in a letter of [...] June 2019, ref. [...], informed that: 1. In terms of deficiencies regarding the period of publication of documents in BIP, he submitted a request to the Minister of Digitization for the interpretation of the provisions of the Act on access to public information and requested the suspension of the proceedings until receipt of the above-mentioned interpretation. 2. The Act on Access to Public Information clearly shows that disclosure of data concerns people in power, and not those who exercised power. In connection with the above, property declarations may be made available in BIP only of councilors exercising power for a period of 5 years, and therefore during the term of office, and after this period they should be removed from the BIP and stored in paper form for a period of 6 years in relation to deadlines from the date of their submission and disclosure on request in accordance with the principle of openness. For other deficiencies indicated by the President of the Personal Data Protection Office in the letter of [...] June 2019, no. After reviewing all the evidence gathered in the case, the President of the Personal Data Protection Office considered the following: The President of the Personal Data Protection Office is the competent authority for the protection of personal data (Article 34 of the Act) and the supervisory authority within the meaning of the provisions of the GDPR (Article 34 (2) of the Act). I. The administrator (in this case the mayor) is obliged to implement appropriate organizational and technical measures that will ensure that personal data will be processed in accordance with the law, factually correct, adequate for the purpose of obtaining and properly secured so that their processing does not violate the rights and freedoms natural persons. It is also important that the administrator processes personal data only for the time necessary to achieve the purposes of obtaining data or for the time resulting from generally applicable provisions of law. In the absence of provisions regulating the processing time, the controller should define the procedures governing the moment when the data deemed unnecessary are deleted by him. 4 point 2 of the General Data Protection Regulation, "processing" means an operation or a set of operations performed on personal data or sets of personal data in an automated or non-automated manner, such as collecting, recording, organizing, organizing, storing, adapting or modifying, downloading, viewing , use, disclosure by sending, distributing or otherwise sharing, adjusting or combining, limiting, deleting or destroying. And the lawfulness of data processing can be said if one of the conditions set out in

Art. 6 of the General Data Protection Regulation (ordinary data), or in art. 9 of the General Data Protection Regulation (data of special categories). First of all, pay attention to the principles set out in Art. 5 of the General Data Protection Regulation, which are basic in relation to the entire regulation. These principles should be treated as having overriding power and setting the direction of the administrator's actions in the performance of his tasks under the law. The basic principle in the General Data Protection Regulation is the "principle of accountability" referred to in Art. 5 sec. 2 of the General Data Protection Regulation. According to this provision, the data controller is responsible for and must be able to demonstrate compliance with all rules when processing personal data (as set out in Article 5 (1) GDPR. The accountability principle therefore places the burden of proof on the data controller. , consisting in the necessity for him to prove, both to the supervisory authority and to the data subject, evidence that all data processing rules have been complied with. The controller may process the data on its own or entrust its processing to another entity (the processor - Article 4 (8) of the General Data Protection Regulation) data). Pursuant to Art. 28 sec. 3 of the General Data Protection Regulation, processing by the processor takes place on the basis of a contract or other legal instrument, which are governed by Union law or the law of a Member State and are binding on the processor and the controller, define the subject and duration of processing, nature and purpose of processing, type of data personal data and categories of data subjects, obligations and rights of the controller. Importantly, in such a case, the controller may only use the services of such processors that provide sufficient guarantees to implement appropriate technical and organizational measures so that the processing complies with the requirements of this Regulation and protects the rights of data subjects (Article 28 (1) of the General Regulation on data protection). Referring the above to the subject matter, it should be noted that the inspection carried out showed that the Mayor did not conclude data processing entrustment agreements with entities participating in the data processing process under BIP. As it was established, the BIP resources of the Municipal Office in Aleksandrów Kujawski are located on the server of an external entity, located in T. in T., which provides technical parameters for the maintenance of the BIP website of entities covered by the contract, including the Municipal Office in Aleksandrów Kujawski, on the basis of a lease agreement concluded between Kujawsko - Pomorskie Voivodeship and T. Sp. z o.o. based in T. During the inspection, contract No. ABC of [...] July 2016, valid from [...] January to [...] December 2017, Annex No. 1 of [...] March 2018 to contract No. CDE on the period from [...] January to [...] December 2018. The current agreement between the Kujawsko-Pomorskie Province and T. Sp. z o.o. based in T. The presented contract and Annex No. 1 did not contain provisions regarding the processing of personal data in connection with the use of the server of an external entity by the City Hall in Aleksandrów

Kujawski. During the inspection, it was found that in connection with the delivery of the software for the creation of the regional public information bulletin, on [...] January 2015, contract No. XYZ was concluded between the Kujawsko-Pomorskie Voivodeship and the consortium of entities: W. S.A. with headquarters in G. and C. S.A. with its seat in K. The concluded contract does not include provisions on the protection of personal data, and no contract has been concluded on entrusting the processing of personal data related to the provision of maintenance services to the City Office in Aleksandrów Kujawski.

During the inspection, no contract was presented between the Kujawsko-Pomorskie Voivodeship and the Mayor of the City of Aleksandrów Kujawski, and no other legal instrument was shown which would indicate that the provision of the server and the provision of software for the creation of a regional public information bulletin is carried out by the Kujawsko-Pomorskie Voivodeship for the benefit of Town Hall in Aleksandrów Kujawski. It should therefore be concluded that the Mayor of the City of Aleksandrów Kujawski, in connection with the use of the server of an external entity, ie T. Sp. z o.o. based in T., where the resources of BIP of the Municipal Office in Aleksandrów Kujawski are located and from the services of an external entity in the field of servicing the BIP website, i.e. a consortium of entities: W. S.A. with headquarters in G. and C. S.A. with its seat in K., has not concluded a personal data processing agreement with these entities, and thus breached Art. 28 sec. 3 of the General Data Protection Regulation. If personal data is made available without a legal basis (without a previously concluded entrustment agreement), the principle of compliance with the law (Article 5 (1) (a) of the General Data Protection Regulation) and the principle of confidentiality (Article 5 (1) (f) of the General Data Protection Regulation). The mayor did not comply with the above rules by commissioning the BIP with the above-mentioned entities without the prior conclusion of data entrustment agreements. Thus, it allowed for the lack of control over the correctness of the data processing process contained in the BIP and did not prove that it takes place in compliance with the requirements resulting from the provisions of the General Data Protection Regulation. As a consequence, it should also be considered that the Mayor in this respect also violated the principle of accountability resulting from Art. 5 sec. 2 of the General Data Protection Regulation Pursuant to Art. 24 sec. 1 of the General Data Protection Regulation, taking into account the nature, scope, context and purposes of processing as well as the risk of violating the rights or freedoms of natural persons of varying probability and seriousness, the controller implements appropriate technical and organizational measures to ensure that the processing is carried out in accordance with this Regulation and to be able to do so demonstrate (paragraph 1). If it is proportionate to the processing activities, the measures referred to in para. 1, include the administrator's implementation of appropriate data protection policies (section 2). Moreover,

pursuant to Art. 5 sec. 1 lit. e) of the General Data Protection Regulation, personal data must be kept in a form which permits identification of the data subject for no longer than is necessary for the purposes for which the data are processed; personal data may be stored for a longer period as long as they are processed exclusively for archiving purposes in the public interest, for scientific or historical research purposes or for statistical purposes pursuant to Art. 89 paragraph. 1, subject to the implementation of the appropriate technical and organizational measures required by this Regulation to protect the rights and freedoms of data subjects ("storage limitation"). Public information is made available in BIP of the Municipal Office in Aleksandrów Kujawski on the basis of the obligation incumbent on the Mayor of Aleksandrów Kujawski, resulting from Art. 8 sec. 2 u.d.p. The provisions of the Act on access to public information, as well as the provisions of the Regulation of the Minister of Internal Affairs and Administration of 18 January 2007 on the Public Information Bulletin (Journal of Laws of 2007, No. 10, item 68), do not specify the period of disclosure of information in BIP, both minimum and maximum. However, the lack of periods of processing of the disclosed information (containing personal data) specified by law does not mean that such information can be processed indefinitely. In view of the above, the controller, in accordance with the principle of limited storage, resulting from Art. 5 sec. 1 lit. e) of the general regulation on data protection, should in this respect be guided by the provisions resulting from other legal acts, which indicate the time during which personal data may be processed, and in cases where the law does not regulate the data retention period, after conducting analyzes, specify this period so that the data processing is consistent with the purposes for which it was obtained. Such a position was also presented in the justification of the judgment of the Provincial Administrative Court in Lublin of March 1, 2016, file ref. no. II SA / Lu 876/15, "[z] Art. 26 sec. 1 point 4 of the Act on the Protection of Personal Data results in the principle of limiting the temporary disclosure of personal data in the Public Information Bulletin. This principle means that even if certain data correspond to the purpose for which they are collected, they should not be processed, including made available to other entities ad finitum. The achievement of the purpose of processing should be a temporal determinant. " It should be emphasized that the above-mentioned the judgment remains valid also with the current provisions on the protection of personal data. As a result of inspection of the website of the Public Information Bulletin of the Municipal Office in Aleksandrów Kujawski, it was found that the documents included therein include personal data, i.e. property declarations and information on the results of recruitment for vacancies. The oldest information concerns the recruitment conducted in 2012 and contains information about selected candidates in the scope of: name and surname and place of residence within the meaning of the provisions of the Act of 23 April 1964 of the Civil Code

(Journal of Laws of 2019, item 1145), i.e. the place where the person is staying with the intention of permanent residence. The oldest property declarations on the archival website of the Municipal Office in Aleksandrów Kujawski relate to 2010, pursuant to Art. 24i of the Act of March 8, 1990 on the commune self-government (Journal of Laws of 2019, item 506), the information contained in the property declarations of councilors is public, with the exception of information about the address of residence of the person submitting the declaration and the location of the real estate. Pursuant to Art. 24h paragraph 6 above of the Act, the declaration of assets is kept for 6 years. These provisions determine the lawfulness of processing, both in terms of the collection and publication of personal data contained in asset declarations. This position is also confirmed in the literature. "Pursuant to Art. 24h paragraph 6 u.s.g., art. 25 c of paragraph 1. 6 u.s.p. and art. 27c of paragraph 1. 6 u.s.w. the declaration of assets is kept for six years. Given the open nature of these statements and their classification as public information, it can be assumed that they should be made available for six years. It does not matter whether the person who made the declaration still performs its function. The legislator did not provide for a period shorter than 6 years, therefore it seems that a declaration once submitted remains public throughout this period "(K. Janaczek, Publication of asset declarations [in:] (ed.) B. Dolnicki Jawność w local government [online] LEX, 2019-08-15 17:49 [access: 2019-08-23 15:31] Available on the Internet: <https://sip.lex.pl/#/monograph/369356174/275075>). The publication of recruitment notices is regulated by Art. 13 sec. 1 of the Act of 21 November 2008 on local government employees (Journal of Laws of 2019, item 1282), according to which the advertisement for a vacant clerical position, including a managerial clerical position, and the recruitment of candidates for this position is placed in the Public Information Bulletin. Moreover, pursuant to Art. 15 sec. 1 above of the Act, immediately after the recruitment, information about the recruitment result is disseminated by placing on the information board in the unit where the recruitment was carried out, and publishing in the Bulletin for a period of at least three months. Thus, the legislator indicated the minimum deadline for the publication of the selection results, without specifying a maximum period, and the legislator left the definition of the maximum date, i.e. the date after which he should remove these data from the BIP, to the administrator (the entity obliged to disclose the information). When determining the period of data processing in BIP, the controller should take into account the legal provisions regulating the processing time, and in the absence of legal regulations specifying the publication period, the achievement of the purpose of processing and the principle of limiting storage. does not result from legal provisions, they should be assessed in accordance with the formal procedure (introduced by the administrator), ensuring a systematic formation of the BIP, so that all information for which the purpose of processing has been achieved is removed

from the BIP. As it was established in the course of the inspection, an internal procedure was implemented in the City Hall in Aleksandrów Kujawski regarding the operation of BIP, however, it does not contain rules regarding the review of data published in BIP in terms of ensuring their processing in accordance with the principle of limited storage. The mayor of Aleksandrów Kujawski thus violated the disposition contained in Art. 5 sec. 1 lit. e) and art. 24 sec. 2 of the General Data Protection Regulation. At this point, it should be noted that the Mayor, in a letter of [...] June 2019, ref. [...], informed the President of the Office about the submission of an application to the Minister of Digitization for the interpretation of the provisions of the DIP and requested the suspension of the proceedings until receipt of the above-mentioned interpretation. Referring to the Mayor's request to suspend these proceedings until obtaining a response from the Minister of Digitization regarding the interpretation of the provisions of the Act on access to public information in terms of periods of disclosure of public information, it should be noted that the President of the Office did not accede to the above-mentioned the request. In the opinion of the President of the Office, the Minister of Digitization, as the entity responsible for creating the main page of the Public Information Bulletin, is not the entity competent to interpret the provisions of the Act on access to public information, and the guidelines issued by him are not legally binding. It should be emphasized that the Mayor is the administrator, and therefore he is responsible for ensuring that the processing of data contained in the BIP complies with the provisions of the General Data Protection Regulation, thus in accordance with the principle of limitation of storage, set out in Art. 5 sec. lit. e of the General Data Protection Regulation. The mayor should develop and implement procedures from which the deadlines for deleting information containing personal data from the BIP and the rules for reviewing the content of the BIP in order to verify that the deadlines for deleting personal data specified in this way are complied with (Article 24 of the General Data Protection Regulation) . The evidence collected in the case shows that the Mayor of the City of Aleksandrów Kujawski did not specify in internal procedures the deadline for deleting data published in the Public Information Bulletin, and did not develop procedures for reviewing data resources in the materials published in BIP in terms of ensuring data processing in accordance with the principle of limiting storage. Due to the lack of such procedures, as found during the inspection, documents containing personal data are published on the BIP website of the Municipal Office in Aleksandrów Kujawski for a longer period than is necessary for the purposes for which the data are processed, and even for a longer period than it results from the legal provisions specifying the period of storage of documents containing personal data, as is the case with property declarations. At this point, it should be emphasized that the effect of the above is to enable access to data for an unlimited number of Internet

users. Anyone who has access to the Internet, at any time and without any limitations, can browse the BIP resources of the Municipal Office in Aleksandrów Kujawski, and consequently have access to the personal data contained in these resources. Thus, the Mayor of the City of Aleksandrów Kujawski violated Art. 5 sec. 1 lit. e) general data protection regulation. In addition, due to the fact that the procedure in question is to regulate activities that are important for the processing of personal data in order to ensure the implementation of the principle of limitation of storage, it should be treated as a data protection policy referred to in Art. 24 sec. 2 of the General Data Protection Regulation. Consequently, in the absence of this procedure, it should be stated that the Mayor also violated this provision of the General Data Protection Regulation in the context of the principle of accountability expressed in Art. 5 sec. 2 of the General Data Protection Regulation, while referring to the processing of personal data in connection with the publication of recordings of the sessions of the city council, it should be noted that pursuant to Art. 20 paragraph 1b of the act on commune self-government, the sessions of the commune council are transmitted and recorded by means of video and sound recording devices. Recordings of the proceedings are made available in the Public Information Bulletin and on the website of the commune and in other customary manner. The mayor, as the administrator, deciding to choose tools for data transmission on the Internet and recording them with image and sound recording devices is responsible for the processing of this data and the implementation of the principles resulting from the provisions of the General Data Protection Regulation, including demonstrating them compliance (accountability). Therefore, the Mayor is obliged to ensure the security of data processed along with the implementation of the right to access public information pursuant to art. 8 udi. Attention should be paid again to Art. 24 sec. 1 of the General Data Protection Regulation and the resulting obligation for the administrator (and therefore by the Mayor) to implement appropriate technical and organizational measures so that the processing takes place in accordance with this regulation and to be able to demonstrate it. Pursuant to Art. 32 sec. 1 GDPR, taking into account the state of technical knowledge, the cost of implementation and the nature, scope, context and purposes of processing as well as the risk of violating the rights or freedoms of natural persons with different probabilities and severity, the controller and the processor implement appropriate technical and organizational measures to ensure a level of security corresponding to this risk, including the ability to continuously ensure the confidentiality, integrity, availability and resilience of processing systems and services and the ability to quickly restore the availability and access to personal data in the event of a physical or technical incident referred to in art. 32 sec. 1 lit. b) and lit. c) of the General Data Protection Regulation. provisions of the General Data Protection Regulation, the controller is obliged to

implement adequate technical and organizational measures, the selection of which is at the discretion of the controller and should be preceded by an analysis of the risk of violating the rights or freedoms of natural persons. As indicated in the literature, "these measures should be appropriate, which should be understood as striving for the measures to be effective, and thus allowing the prevention of data protection breaches or minimizing the risk of their occurrence, bearing in mind that the complete elimination of the risk may not be real "(P. Fajgielski, Commentary to Article 32 [in:] ed. P. Fajgielski, General Data Protection Regulation. Personal Data Protection Act. Commentary. Wolters Kluwer Polska, 2018). In the course of the inspection, it was found that due to the obligation to transmit and publish the sessions of the Aleksandrów Kujawski City Council, a YouTube channel was created in BIP and an agreement was concluded with an external entity for the transmission of meetings of Aleksandrów Kujawski City authorities on the Internet via the YouTube.com platform. The publication of personal data processed in connection with the recording and publication of the sessions of the Aleksandrów Kujawski City Council session is carried out using the YouTube channel. There is a link to a dedicated YouTube channel on the BIP website of the Municipal Office in Aleksandrów Kujawski. The findings of the inspection show that as soon as the recording of the session is finished, the recording is automatically saved on the YouTube website, and no copy of the recording is left at the Aleksandrów Kujawski City Hall. Due to the lack of a copy of the session recording, in the event of loss of data posted on the YouTube website, the Mayor of Aleksandrów Kujawski will lose access to the recording, and without the appropriate technical and organizational measures corresponding to this risk, it is not possible to ensure the confidentiality, integrity, availability and resilience of the systems and processing services and the ability to quickly restore the availability and access to personal data in the event of a physical or technical incident referred to in art. 32 sec. 1 lit. b) and lit. c) General Data Protection Regulation. As evidenced by the evidence, the Mayor did not indicate that there are procedures that would guarantee the protection of personal data processed on the YouTube channel. The decision to use the YouTube channel was not preceded by an analysis of the possible risks arising from the use of this tool when processing the personal data of participants of the City Council session . In particular, when deciding to use the YouTube channel, it was not taken into account that the administrator's use of resources and tools offered by external entities, in this case by the entity operating the YouTube channel, may be associated with a higher risk of breach of personal data protection due to the fact that the organizational and technical measures used to protect personal data published on YouTube have been defined and implemented by Google LLC (based in the USA), the owner of YouTube. The risk analysis for the processing of personal data in connection with their publication in BIP is

particularly important due to the fact that the Mayor of Aleksandrów Kujawski uses the YouTube channel both for the purpose of transmitting data on YouTube from the City Council session and for the further storage of session recordings only for YouTube servers (it does not have its own backup copies of recordings - which may also violate the principle of process continuity). The lack of risk analysis and the lack of procedures led to a breach of the accountability principle - Art. 5 sec. 2 of the General Data Protection Regulation, it should therefore be considered that the Mayor of the City of Aleksandrów Kujawski, in connection with the obligation to transmit and publish the recordings of the City Council session in the Public Information Bulletin, did not implement appropriate security measures referred to in Art. 32 of the General Data Protection Regulation, corresponding to the risk of violating the rights or freedoms of natural persons. It should be pointed out that the administrator's duty during data processing is to determine the risk taking into account the nature, scope and context of the data being processed, which results from Art. 24 sec. 1 of the General Data Regulation. It does not appear from the findings of the inspection that organizational and technical measures were taken to protect the data of natural persons in connection with the storage of recordings of the City Council sessions only on YouTube servers by making backup copies of these recordings and storing them in the City Hall's own resources. in Aleksandrów Kujawski. Thus, the administrator did not implement the appropriate organizational and technical measures referred to in the above-mentioned Art. 32 of the General Data Protection Regulation. The inspection also revealed deficiencies in the keeping of the register of personal data processing activities. Pursuant to Art. 30 sec. 1 of the General Data Protection Regulation, each administrator and - where applicable - the administrator's representative keep a register of personal data processing activities for which they are responsible. This register shall include all the following information: a) the name and contact details of the controller and any joint controllers, and, where applicable, the representative of the controller and the data protection officer; b) the purposes of the processing; c) a description of the categories of persons whose the data concern and the categories of personal data; d) the categories of recipients to whom the personal data have been or will be disclosed, including recipients in third countries or in international organizations; e) where applicable, the transfer of personal data to a third country or an international organization, including the name of that third country or international organization, and in the case of transfers referred to in Art. 49 sec. The second subparagraph of paragraph 1, documentation of appropriate safeguards; (f) if possible, the planned time limits for the deletion of each category of data; (g) if possible, a general description of the technical and organizational security measures referred to in Art. 32 sec. 1 of the General Data Protection Regulation. During the inspection, it was found that a register of processing

activities had been prepared at the City Office in Aleksandrów Kujawski, which included 54 processing activities. However, this register did not indicate the planned date of deletion of personal data by indicating a specific storage period, the register only referred to the uniform material list of files for communes. In a letter of [...] February 2019, ref. [...], the Mayor sent to the Office for Personal Data Protection sample cards from the register of activities, including a card regarding processing activities related to the publication of property declarations in the BIP. As it results from this card, the planned date of deletion of data from BIP has been specified by the Mayor for 5 years, which in the case of asset declarations is inconsistent with the content of Art. 24h paragraph 6 of the act on municipal self-government. In addition, in a letter of [...] June 2019, sign: [...], the Mayor sent explanations, from which it follows that "the Act on access to public information clearly shows that the disclosure of data concerns persons exercising power, not those who were in power. In connection with the above, property declarations may be made available only by councilors exercising power for a period of 5 years, and therefore during the term of office, and after this period, they should be removed from the beep and stored in paper form, for a period of 6 years in relation to the deadlines from the date of their submission and made available upon request in accordance with the principle of openness. " The above position of the mayor is incorrect, because, as indicated above, the provisions of the act on municipal self-government indicate that the period of storing such information is 6 years. Moreover, the position of the literature should be quoted again in this respect: "(...) [it does not matter whether the person who made the declaration still performs its function. The legislator did not provide for a period shorter than 6 years, therefore it seems that a declaration once submitted remains public throughout this period "(K. Janaczek, Publication of asset declarations [in:] (ed.) B. Dolnicki Jawność w local government [online] LEX, 2019-08-15 17:49 [access: 2019-08-23 15:31] Available on the Internet: <https://sip.lex.pl/monograph/369356174/275075>). In connection with the above, it should be emphasized here that the obligation to keep the Public Information Bulletin and make public information available therein results from the provisions of the Udi. Therefore, since the legislator has decided that property declarations are public (with the exception of information about the residence address of the person submitting the declaration and the location of the real estate), it should be considered that they constitute public information that is subject to publication in the Public Information Bulletin for the period resulting from the provisions of the act on municipal self-government. , i.e. for a period of 6 years, regardless of whether the person is still a councilor or has ceased to be one. As a consequence, it is the 6-year period that should be indicated in the register of personal data processing activities kept by the Mayor as the planned date for the deletion of personal data contained in the property declaration. when in the course of the

inspection contracts were presented with entities providing the service of providing the server on which BIP resources are stored and the guarantee service in connection with the creation of a regional public information bulletin, which involves access by these entities to personal data processed by the Mayor in connection with the BEEP. In addition, the register of processing activities does not indicate the entity running the YouTube channel on which the recordings of the sessions of the Aleksandrów Kujawski City Council are available. It should be noted here that pursuant to Art. 4 (9) first sentence of GDPR, "recipient" means a natural or legal person, public authority, agency or other body to whom personal data is disclosed, whether or not it is a third party. As indicated in the literature, "the recipient of data within the meaning of the commented provision should be considered, inter alia, an entity processing data on behalf of the administrator to whom the administrator discloses personal data "(Fajgielski Paweł, Commentary to Regulation 2016/679 on the protection of individuals 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), [in:] General Data Protection Regulation. Personal Data Protection Act. Comment.). It should also be pointed out that under Art. 30 sec. 1 lit. d) of the General Data Protection Regulation, there is an obligation to list all recipients of data in the register of processing activities, regardless of whether they are established in a Member State of the European Union or in a third country. It should therefore be concluded that the Mayor did not indicate all recipients of data in the register of personal data processing activities and did not indicate the planned date of data deletion for all processing activities, and thus violated art. 30 sec. 1 lit. d) and f) of the General Data Protection Regulation and Art. 5 sec. 2 of the General Data Protection Regulation, i.e. the principle of accountability. Summing up, it should be noted that the above violations prove that the Mayor does not process personal data in accordance with the principles resulting from Art. 5 sec. 1 lit. a), e) and f) of the General Data Protection Regulation. As a consequence, this means a breach of the principle of accountability referred to in Art. 5 sec. 2 of the General Data Protection Regulation, according to which the controller is responsible for compliance with the provisions of para. 1 and must be able to demonstrate compliance with them ("accountability"). It should be emphasized here that the principles set out in Art. 5 sec. 1 of the General Data Protection Regulation are the starting point for the performance of the administrator's obligations and the rights of data subjects, as well as for the assessment of the legality of these processes. II. Based on Article. 58 sec. 2 lit. and the General Data Protection Regulation, each supervisory authority has the power to apply, in addition to or instead of other remedies provided for in Art. 58 sec. 2 lit. a) - h) and lit. (j) of that Regulation, an administrative fine pursuant to Art. 83 of the Regulation, depending on the circumstances of a particular case. Bearing in mind the above

findings, the President of the Personal Data Protection Office, using his right specified in the indicated provision of the General Data Protection Regulation, stated that in the case under consideration there were premises justifying the imposition of an administrative fine on the Mayor. the following circumstances of the case, read to the disadvantage of the Mayor and aggravating the size of the imposed financial penalty: 1. Duration of violations covered by the order specified in this decision - the irregularities found were not removed during the inspection carried out at the Mayor's office, or in the course of administrative proceedings. It should be emphasized that the inspection showed that the oldest information in the BIP about recruitment for vacant positions relate to recruitment carried out in 2012, and the oldest property declarations concern 2010. 2. Any relevant previous violations by the administrator - the Mayor's disclosure of PIT forms -11 and PIT-37 in a non-anonymised version on the BIP website (the President of the Office issued a decision reprimanding the Mayor of 6 December 2018, reference number: ZSPU.440.46.2018. [...], and a decision maintaining it in force with on May 7, 2019, reference number: ZSPU. 440.46.2018. [...]. II). 3. Intentional nature of the violation - the mayor, in connection with the violation indicated in point 2 and the administrative procedure conducted in this regard by the President of the Personal Data Protection Office, did not implement any solutions to counteract such violations in the future, including the procedure for reviewing data resources in the materials published in BIP. Therefore, consciously and purposefully, the Mayor provided data in the BIP without introducing appropriate procedures in this respect, recognizing that he was not obliged to do so (which is also indicated by the Mayor's request to the Minister of Digitization for the interpretation of the provisions of the Udip). 4. The violations found in the course of the inspection concern persons whose data are included in the content of materials constituting public information, published in the BIP of the Municipal Office in Aleksandrów Kujawski. It should be emphasized again that the inspection showed that the oldest information in the BIP about recruitment for vacant positions relates to recruitment carried out in 2012, and the oldest property declarations concern 2010. The scope of the data processed above people within the framework of the indicated materials includes the so-called "normal" data. The scope of this data is wide and includes, in particular, detailed information on the financial status of a specific person. 5. The high degree of administrator's responsibility - due to the Mayor's lack of actions aimed at ensuring an adequate level of data security and failure to implement appropriate data protection policies. As a result of the above, it is possible to access data to an unlimited number of Internet users. 6. Lack of cooperation of the administrator after the initiation of the procedure - the administrator, in response to the notification about the initiation of administrative proceedings, did not refer to the violations indicated therein, except for the

issue related to the retention period of data available on the BIP website. grounds for considering that there were any mitigating circumstances affecting the final sentence. The fact that there was no evidence that the Mayor obtained financial benefits and that losses were avoided in connection with the violation had no influence on the sentence. In the case at hand, the authority did not consider the circumstances referred to in Art. 83 sec. 2 lit. j) the general regulation on data protection, due to the fact that the administrator does not apply the codes of conduct and approved certification mechanisms. When deciding whether to impose an administrative fine, as well as determining its amount, the President of the Personal Data Protection Office considered the most important the serious nature of the breach resulting from the disclosure of personal data without legal basis to other entities and breach of the principle of accountability. In addition, the President of the Office took into account that the assessed body is a public sector entity, and when estimating the amount of the fine, he also took into account the amount of its budget for 2018, the manner of its implementation and the budget for 2019. . 102 of the Act on the Protection of Personal Data, which results in the limitation of the amount (up to PLN 100,000) of the fine that may be imposed on a public sector entity. In the opinion of the President of the Personal Data Protection Office, the administrative fine of PLN 40,000 complies with the established circumstances of this case the functions referred to in art. 83 sec. 1 of the General Data Protection Regulation, i.e. it is effective, proportionate and dissuasive in this individual case. It should be considered that the penalty will be effective if its imposition leads to the security corresponding to the risk of violation of the rights and freedoms of persons and the importance of threats accompanying the processing of these personal data. resulting from the General Data Protection Regulation and the duration of the breach (the breaches covered by the order were not removed during the inspection). The dissuasive nature of a financial penalty is related to the prevention of future infringements and the greater importance attached to the performance of the administrator's tasks. The penalty is intended to deter both the administrator from repeated breach and other entities. By imposing an administrative fine for violating the provisions on the protection of personal data, the President of the Personal Data Protection Office took into account both aspects: other administrators will be effectively discouraged from violating the law on personal data protection in the future, while exercising greater diligence in the implementation of their obligations under the General Data Protection Regulation. 5 sec. 1 lit. a), e) and f), Art. 5 sec. 2, art. 24 sec. 1 and 2, art. 28 sec. 3, art. 30 sec. 1 lit. d) and f) and art. 32 sec. 1 of the General Data Protection Regulation, and, consequently, to conduct data processing processes in accordance with applicable law. Therefore, the President of the Office for Personal Data Protection resolved as in the sentence. The decision is final. The party has the right to lodge a complaint

against the decision with the Provincial Administrative Court in Warsaw, within 30 days from the date of its delivery, via the President of the Office for Personal Data Protection (address: ul. Stawki 2, 00-193 Warsaw). A proportional fee should be filed against the complaint, in accordance with Art. 231 in connection with Art. 233 of the Act of August 30, 2002, Law on proceedings before administrative courts (Journal of Laws of 2018, item 1302, as amended). 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 assistance may be granted at the request of a party submitted before the commencement of the proceedings or in the course of the proceedings. The request is free of court fees. Pursuant to Art. 74 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2019, item 1781), the submission of a complaint by a party to the administrative court suspends the execution of the decision on the administrative fine. Pursuant to Art. 105 paragraph. 1 on the protection of personal data, the administrative fine must be paid within 14 days from the date of the expiry of the deadline for lodging a complaint to the Provincial Administrative Court, or from the date of the final decision of the administrative court, to the bank account of the Office for Personal Data Protection at NBP, O / O Warsaw No. 28 1010 1010 0028 8622 3100 0000.

2019-10-30