

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, day 17

June

2019

DECISION

ZSZZS.440.108.2019

Based on Article. 104 § 1 of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2017, item 1257 and of 2018, item 149) and art. art. 6 sec. 1 and art. 58 sec. 2 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 (Official Journal of the European Union , L 119, May 4, 2016), after conducting administrative proceedings regarding the complaint of Mr.KB for failure by the President of the Office of Electronic Communications, based in Warsaw at ul. Geldowa 7/9, personal data in the scope of information about the possession of license No. [...] with the call sign [...] and valid until [...] October 2024 by one of the persons indicated by him, President of the Office for Personal Data Protection refuses to accept the request.

JUSTIFICATION

The Office for Personal Data Protection received a complaint by Mr. Geldowa 7/9, hereinafter: the President of UAE, personal data regarding the possession of license No. [...] with a call sign [...] and valid until [...] October 2024 by one of the persons indicated by him.

In the content of the complaint, the complainant indicated that since 2014 he had been conducting research at the Institute of National Remembrance on the issue of [...].

In the course of the administrative proceedings, the President of the Personal Data Protection Office established the following facts.

The complainant has been conducting research on [...] since [...] June 2014. On the basis of the submitted application, archival materials are made available to him at the Institute of National Remembrance.

On [...] February 2019, the Complainant requested the President of UAE to disclose his personal data as regards information

on the possession of license No. [...] with a call sign [...] and valid until [...] October 2024 by one of the persons indicated by him people.

On [...] February 2019, the Complainant received a message via e-mail informing that his request for disclosure of data had been rejected. In the justification, as well as in the submitted explanations, it was indicated that the application was rejected due to the applicable provisions on the protection of personal 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 applicant, in the course of the research carried out at the Institute of National Remembrance, used the resources [...].

During these meetings, he obtained personal data of two people (in the scope of: names, surnames, dates of birth and names of fathers) and information about the license [...] No. [...] with a call sign [...] valid until [...] October 2024. these data, he asked UKE to provide him with information, and if so, which of the persons he indicated had the license. It should be pointed out that the possession of a license by a person [...] falls within the scope of ordinary data.

First of all, it should be noted that 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 / WE (Official Journal of the European Union, L 119, May 4, 2016), hereinafter referred to as: GDPR, in principle allows the possibility of disclosing personal data for the benefit of scientific research. According to Recital 50, "further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes should be considered as processing operations that are lawful and lawful for the original purposes" and therefore to re-use for scientific research data collected for another purpose, no additional legal basis is required. However, in order to be able to request the disclosure of data, it is necessary to demonstrate the conditions legalizing the processing of data, i.e. in the case in question, at least one of the conditions contained in Art. 6 sec. 1 GDPR. Moreover, pursuant to Art. 89 paragraph. 1 of the GDPR, data processed for the purposes of scientific research are subject to protection and safeguards resulting from the Regulation, in particular the principle of data minimization. Data processing for scientific research purposes must respect the rights and freedoms of data subjects. Moreover, the last sentence of Art. 89 paragraph. 1 GDPR indicates that, if possible, scientific research should be carried out through the processing of data that does not allow the identification of a specific person.

In view of the above, it should be noted that, as a rule, the processing of personal data for the purpose of carrying out scientific research is consistent with the original purpose for which the data was collected and processed. However, this does not mean that this provision allows data to be processed without any safeguards or restrictions. The provisions on the protection of personal data should also be applied when processing data for the purposes of scientific research. Article 89 (1) 1 and 2 of the GDPR unequivocally indicates that the controller who processes data for scientific research purposes is obliged to secure and protect data, as well as to undertake processing activities, respecting the right to the protection of personal data of persons whose data is processed. The above means that a situation in which personal data processed for the purposes of scientific research are in an identifiable form is a special situation. The request for disclosure of data should therefore be exhaustively argued, so that it indicates the necessity to obtain it by the person conducting the research in a form that allows identification. What is equally important, the person conducting the research should make every effort to ensure that the data is secure by using appropriate technical and organizational measures. Due to the special nature of the situation in which the shared data allows the identification of persons, it is necessary to include such information in the application.

The application addressed to the data administrator should contain elements allowing the administrator to assess whether the acquisition of personal data and their disclosure will not violate the law. Therefore, the request should be justified, i.e. indicate the legal basis, the scope of the requested personal data and credibly justify the need to obtain them. It is the personal data controller that has specific obligations related to the processing of personal data, such as obligations under Art. 24 sec. 1 and art. 5 sec. 1 GDPR, regarding the exercise of special care to protect the interests of data subjects and ensuring that these data are processed in accordance with the law (Article 5 (1) (a)) and factually correct (Article 5 (1) (a)). d) and adequate (Article 5 (1) (c) in relation to the purposes for which they are processed. Therefore, since the administrator of personal data must ensure the purpose for which the data is processed, and thus also made available, the purpose of obtaining data by the entity requesting the disclosure of data must be specified in the request for their disclosure.

In the present case, the application submitted to UKE by the complainant contained only an indication that he was conducting research at the Institute of National Remembrance and the title of the research. In the opinion of the authority, the justification of the legal interest and the need to obtain data was not sufficient. With such a limited scope of information, it is not possible to determine the above-mentioned elements, such as whether the processing of this personal data is necessary for the effective conduct of scientific research or establishing that further processing of this data will be lawful. It should be pointed out that it is

in the interest of the complainant to indicate the circumstances that support the approval of his application. The decision to refuse disclosure of data taken by UKE, due to the lack of justification of the relationship presented by the Complainant, should be considered correct.

The administrative procedure conducted by the President of the Personal Data Protection Office serves to control the compliance of data processing with the provisions on the protection of personal data and is aimed at issuing an administrative decision pursuant to Art. 58 of the GDPR, based on which the supervisory authority may, inter alia, order the controller or the processor to comply with the data subject's request (Article 58 (2) (c)).

In this factual and legal state, the President of the Personal Data Protection Office adjudicated as in the sentence.

Caution: The decision is final. Based on Article. 7 sec. 2 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000) and in connection with joke. 13 § 2, art. 53 § 1 and article. 54 of the Act of August 30, 2002, Law on Administrative Court Proceedings (Journal of Laws of 2017, item 1369, as amended), the party has the right to lodge a complaint against this decision with the Provincial Administrative Court in Warsaw, in within 30 days from the date of delivery of this decision, via the President of the Office for Personal Data Protection (address: Office for Personal Data Protection, ul. Stawki 2, 00-193 Warsaw). The entry fee for the complaint is PLN 200. The party has the right to apply for the right to assistance, including exemption from court costs.

2019-06-19