

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, 07

January

2019

DECISION

ZSOŚS.440.22.2018

Based on Article. 104 § 1 of the Act of June 14, 1960 - Code of Administrative Procedure (Journal of Laws of 2018, item 2096) and art. 22 and art. 23 sec. 1 point 2 of the Act of August 29, 1997 on the Protection of Personal Data (Journal of Laws of 2016, item 922, as amended) in connection with Art. 160 sec. 1 and 2 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000), after administrative proceedings regarding a complaint by Ms BL ([...]), to disclose her data personal data by the District Court in O. for Mr. JH and DB

I refuse to accept the application

JUSTIFICATION

The Office of the Inspector General for Personal Data Protection (currently: the President of the Personal Data Protection Office) received a complaint from Ms BL ([...]) (hereinafter: the Complainant) about disclosure of her personal data by the District Court in O. (hereinafter: the President of the Court) to Mr. JH and Mr. DB

In the course of the proceedings initiated by the complaint, the President of the Personal Data Protection Office obtained explanations regarding the circumstances of the case, read the evidence and made the following findings.

In response to the complainant's request, on [...] September 2014 the Inspector General for Personal Data Protection called on the complainant to supplement the formal deficiencies in the complaint.

In reply by letter of [...] September 2014, the applicant complained that she was lodging a complaint against the Regional Court in O. in connection with the disclosure of her personal data to an unauthorized person.

On [...] January 2015, the President of the District Court in O. sent a letter stating that the applicant's personal data had been collected in a file understood as the files of the case with the reference number [...], in which the applicant appeared as the claimant. The processing of the complainant's personal data was carried out on the basis of the Code of Civil Procedure in connection with Art. 23 section 1 point 5 of the Act of August 29, 1997 on the protection of personal data. The President of the

Court also emphasized that there had been no unauthorized disclosure by the Court of the complainant's personal data, in particular to Mr. J. H. He also pointed out that the complainant's personal data could have reached a greater number of people due to the public hearing or as a result of their transfer by the parties to the proceedings.

In a letter of [...] July 2015, the complainant asked the Inspector General for Personal Data Protection to extend the proceedings to disclose her personal data by the District Court in O. for the benefit of Mr. D. B.

On [...] July 2017 the Vice President of the District Court in O., in connection with the applicant's request to extend the proceedings, explained that the District Court in O. did not disclose the applicant's personal data to Mr. DB, also mentioned that in the District Court explanatory proceedings were conducted in O. and joined the above-mentioned the letters from Mr D. B. as well as letters to the applicant.

The Act of August 29, 1997 on the protection of personal data defines the rules of conduct in the processing of personal data and the rights of natural persons whose personal data is or may be processed in data files (Article 2 (1) of the Act). Pursuant to the wording of art. 7 point 2 of the Act, data processing should be understood as any operations performed on personal data, such as collecting, recording, storing, developing, changing, sharing and deleting, especially those performed in IT systems. Each of the ones indicated in Art. 7 point 2 of the Act, the forms of personal data processing should be based on one of the prerequisites for the legality of the processing of personal data, enumerated in art. 23 sec. 1 of the Act on the Protection of Personal Data. Due to the wording of Art. 7 of the Constitution of the Republic of Poland of April 2, 1997, according to which organs of public authority operate on the basis and within the limits of the law, the content of Art. 23 sec. 1 point 2 of the Act on the Protection of Personal Data, which states that the processing of data is permissible when it is necessary to exercise the right or fulfill the obligation resulting from the law. The legal basis for the processing of the Complainants' personal data by the Court in court proceedings, i.e. their names, surnames, address, PESEL numbers is, inter alia, art. 187 § 1 of the Code of Civil Procedure, which states that the statement of claim should satisfy the conditions of a pleading. On the other hand, pursuant to Art. 126 of the Code of Civil Procedure each pleading should contain, inter alia, designation of the court to which it is addressed, name and surname or name of the parties, their statutory representatives and proxies. Moreover, pursuant to Art. 126 § 2 of the Code of Civil Procedure, when the pleading is the first letter in the case, it should contain, inter alia, designation of the subject of the dispute, place of residence or seat of the parties, their statutory representatives and proxies, PESEL number or NIP number. In the case file reference [...], the applicant acts as the plaintiff. In connection with the above, it should

be pointed out that the processing of the complainant's personal data by the District Court in O. 23 sec. 1 point 2 and art. 27 sec. 2 point 5 of the Personal Data Protection Act.

Regarding the disclosure of the complainants' data by the District Court in O., it should be noted that the explanations of the President of the District Court in O. and the Vice President of that Court show that there was no unauthorized disclosure of the complainant's personal data to Mr. JH and Mr. DB. In addition, as explained by the Vice President of the Court District Court in the case of reference number [...] that the letter of the Deputy Disciplinary Spokesman at the District Court in O. was made available to Mr. D. B. there was an explanatory proceeding which did not show that the data had been made available by the District Court in O.

In connection with the above, it cannot be safely assumed that the above-mentioned The complainant's personal data was made available to Mr. J. H. and Mr. D. B. by the District Court in O., thus the President of the Personal Data Protection Office cannot exercise the rights provided for in Art. 18 sec. 1 of the Personal Data Protection Act.

Access to court files is governed by the relevant procedural provisions of the Code of Civil Procedure, in particular Art. 9 and art. 525 and the provisions of the Act of July 27, 2001, Law on the System of Common Courts and the Regulation of the Minister of Justice of December 23, 2015 issued on its basis. The Rules of Procedure of Common Courts (hereinafter: "Regulations") - section III, chapter 9 entitled "Provision of information, access to court records and file documents, transmission of files" (§ 103 et seq.).

However, when it comes to the public hearing, it should be noted that pursuant to Art. 9 § 1 of the Code of Civil Procedure cases are heard openly, unless a specific law provides otherwise. The parties and participants in the proceedings have the right to view the case files and receive copies, copies or excerpts from these files. Similarly, Art. 525 of the Code of Civil Procedure, which refers to non-contentious proceedings, stipulates that the case files are available to participants in the proceedings and, with the consent of the chairman, to anyone who will sufficiently justify the need for review. On the same principles, it is permissible to prepare and receive copies of and extracts from the case files, as well as to receive audio or video and audio recordings from the case files. Moreover, pursuant to § 103 of the Regulations, disclosing files and the documents contained therein for the purpose of reviewing or recording their image on their own, as well as issuing items or documents submitted in the case, or issuing documents on the basis of files to a party or participant in non-litigious proceedings, may take place after they show their identity. , and as for other persons - after proving the existence of a right

resulting from legal provisions (section 1). Viewing the case files and recording their image on your own takes place in the presence of a court employee, and the files to which a will was submitted under his control (section 2) In the previous Regulations of February 23, 2007, the above issue was regulated in § 92.

The applicant also indicated that she demanded that the guilty persons be punished and that a notification of the possibility of committing a crime be sent to the relevant authorities. It should be pointed out that in the light of the provisions of Art. 18 sec. 1 and art. 19 of the Act on the Protection of Personal Data, the interested party may request the Inspector General for Personal Data Protection (currently the President of the Personal Data Protection Office) to issue an administrative decision only, while the notification of a crime is within the discretion of the administrative authority. The cited art. 18 sec. 1 provides that in the event of a breach of the provisions on the protection of personal data, the General Inspector (currently the President of the Personal Data Protection Office) ex officio or at the request of the person concerned orders the data controller, by way of an administrative decision, to restore the legal status.

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

Based on Article. 127 § 3 of the Code of Administrative Procedure, the party has the right to file an application for reconsideration of the case within 14 days from the date of its delivery to the party. The party has the right to waive the right to request a retrial. The waiver of the right to submit an application for reconsideration makes the decision final and binding. If a party does not want to exercise the right to submit an application for reconsideration of the case, he 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 to the party. The complaint is lodged through the President of the Office (address: 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.

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