

OFFICE FOR PERSONAL DATA PROTECTION

Lt. Col. Sochora 27, 170 00 Prague 7

tel .: 234 665 111, fax: 234 665 444

posta@uouu.cz, www.uouu.cz

* UOOUX00D5MLY *

Ref. UOOU-09787 / 18-20

DECISION

Chairwoman of the Office for Personal Data Protection as an appellate body competent pursuant to § 2, § 29 and § 32 of Act No. 101/2000 Coll., on the protection of personal data and on the amendment of certain acts and according to § 10 and § 152 paragraph 2 of Act No. 500/2004 Coll., The Administrative Procedure Code decided on 5 April 2019 according to provisions of § 152 para. 6, § 152 para. 5 and § 90 para. b) of Act No. 500/2004 Coll., Administrative order, as follows:

Statement I. 3. Decision of the Office for Personal Data Protection Ref. UOOU-09787 / 18-11 of

On 19 December 2018, on the basis of the dissolution of the party to the proceedings, XXXXX, with its registered office, XXXXX is canceled

and in this part the matter is referred back to the administrative authority of the first instance; in the rest the contested decision is upheld.

Justification

The party to the proceedings, XXXXX, with its registered office at XXXXX ('the party to the proceedings'), is an association formed

inter alia in order to protect human rights, gather evidence of human rights violations

and the publication of specific cases of human rights violations. It is also an operator

XXXXX websites, through which information about specific

cases of human rights violations, in the form of publishing file documentation with

adequate commentary for the public. The party to the proceedings thus in relation to a specific

in this case, make all communications available (in particular letters sent and received, including proof of delivery). The basic purpose of this is to put pressure on violators human rights.

In connection with the operation of the website, the Office for Personal Protection was data (hereinafter referred to as the "Office") through the initiative of the Police of the Czech Republic (hereinafter referred to as the "Police of the Czech Republic")

notified of the disclosure of personal data XXXXX relating to criminal proceedings conducted with it.

Another complaint concerning the Office's website in question was sent by XXXXX, which complained for the publication of personal data in the form of documents from misdemeanor proceedings.

Subsequently, after the Office, in accordance with the provisions of Section 3 of Act No. 255/2012 Coll., On provided other relevant documents made available on the XXXXX website and issued an order

1/4

of 31 October 2018, ordering the party to take compliance measures

processing of personal data with a Regulation of the European Parliament and of the Council (EU)

2016/679 of 27 April 2016 on the protection of individuals with regard to processing

personal data and on the free movement of such data and repealing Directive 95/46 / EC

"Regulation (EU) 2016/679").

The party to the proceedings filed a proper opposition, which annulled the contested order

and the Office continued the proceedings. On its basis, a decision was issued no. UOOU-09787 / 18-

11 of 19 December 2018 (hereinafter "the decision") by which the Office of the party to the proceedings in connection

with the processing of personal data through the XXXXX website

terminate the disclosure of the specified personal data XXXXX and beyond

inform data subjects on the XXXXX website in accordance with Article 14 of Regulation (EU) 2016/679

on the processing of personal data to which through the said websites

occurs.

However, the party to the proceedings objected to the appeal filed in due time, which is attached

list of best paid heads of office. In it, he demanded the annulment of the decision and at the same time stated that he would not modify any information, taking all reasons including legal adjustments should be included in earlier documentation. The Office then, in the opinion of the party to the proceedings, had to deal with their own imaginary unlawful deduction while violating the rule of law. Then in general, the party to the proceedings referred to XXXXX, resp. Office for violations of the Civil Code, Administrative Code, the Constitution and international conventions. Specifically, he stated that after the so-called pre-inspection has not been opened and therefore the whole subsequent procedure should be illegal. Furthermore, the party to the proceedings stated that the public has the right to information, such as how the Police of the Czech Republic handles an attack case. In criminal proceedings, neither the life nor the life of a neighbor or doctor. The regulations mentioned in the decision do not apply to the party to the proceedings, because he is registered by the court to publish specific cases of human rights violations as well does not collect or process any information. Anonymizing the data would mean breach of the party's articles of association and would also lead to further complaints as it would occur to confuse persons. In addition, XXXXX, including others, should be interested in publishing their information, the party to the proceedings also publishing the views of the other party. The party supplemented its appeal by filing on 14 January 2019 and on 17 January 2019. In both submissions, in addition to the arguments already mentioned, on the one hand, pursuant to Act No. 106/1999 Coll., on free access to information, he asked for information on whether he had granted XXXXX Policewoman XXXXX, who is to request the deletion of his data, has a power of attorney to deal with him matters before the Office, which, however, was a request dealt with outside the scope of this proceeding and beyond in the event that he does not have a power of attorney, the party to the proceedings has expressed suspicion of it infringement. The appellate body reviewed the decision in its entirety, including the previous process its issue and first dealt with the arguments of the party to the proceedings.

In that regard, the Appellate Body states, in particular, that the party to the proceedings, through its

The website also publishes information that is personal in nature. Is therefore

a personal data controller who is subject to the legislation governing the processing of personal data

data, in particular Regulation (EU) 2016/679.

2/4

Furthermore, as the appellate body found, the party to the proceedings in the appeal filed on the merits of the case, ie

on the issue of processing personal data without a legal title, does not mention any new ones

facts and, in principle, merely repeats the arguments of its previous observations. Appeal

the institution therefore concludes, in general, that it has agreed with the arguments set out above

in the statement of reasons for the decision that the processing of the personal data in question, in particular

disclosure of XXXXX personal data, no legal title found. Neither registration of the participant

proceedings in the relevant register, nor that in the context of criminal proceedings, resp. based on some

legislation really does limit the right of privacy of a party to the proceedings in any way

does not relieve the obligation to respect the relevant regulations when processing personal data, ie

also Regulation (EU) 2016/679. The interest of XXXXX, or others, assumed by the party to the proceedings

persons, the publication of his information is then his mere presumption. Such an interest would be moreover

it had to be expressed in the form of a duly expressed consent to the processing of personal data.

In addition, it is possible to recall the judgment of the Municipal Court in Prague ref. 6 Ca 378/2008 of 16.

October 2012, according to which it is even excluded to consider as consent under § 4 letter n) of the Act

No. 101/2000 Coll. mere non-expression of the data subject's disagreement with the processing of personal data

data.

The procedural objections of the party to the proceedings, which are intended to prove the illegality of the entire proceedings,

the appeal body states that enforcement of the administrator's obligations under Regulation (EU)

2016/679 in the form of appropriate remedial measures is fully within the competence of the Office pursuant to Article 58 (2)

of this Regulation. The cited regulation and other legal regulations do not impose an obligation on the Office

to carry out an inspection in accordance with Act No. 255/2012 Coll.

Finger pointing at the Office and XXXXX for violations of applicable law, including international conventions generally considered by the Appellate Body to be completely irrelevant, as well as attached list of best paid heads of office. Finally, it should be recalled that in this

In this case, the proceedings were conducted ex officio and therefore did not need to be conducted by XXXXX gave Officer XXXXX any authority. In addition, the said policewoman in the performance of her of the duty of the Police of the Czech Republic, only the Office sent a motion to investigate the matter without requested the deletion of personal data XXXXX.

The appellant therefore rejected the party's arguments. At the same time, however, the appellate body after overall examination, found that the administrative authority of first instance in the statement of reasons

The decision stated that it was clear from the party's website that it was collecting and beyond publishes information in other specific cases, taking on such personal processing all the conclusions of the administrative authority of first instance set out in the statement of reasons shall apply.

From this point of view, the statement of the I. 3. decision, by being limited to the fulfillment of the information obligation pursuant to Article 14 of Regulation (EU) 2016/679, does not correspond to the statement of reasons. In addition, it imposes fulfillment

the obligations in question exclusively through the XXXXX website, without justified why other forms should be eliminated. It should also be noted that the subject

procedure, as can be deduced from the memo no. UOOU-09787 / 18-6 of 9 November 2018, should deal with the overall level of processing of personal data through the XXXXX website,

there was no comprehensive status and the decision focused only on

some partial aspects of the processing in question. The administrative authority of the first instance therefore duly did not consider the overall framework of EU Regulation 2016/679. The appellate body thus found the operative part of the first decision

as incorrect and in breach of the law. For these reasons, it considers it necessary

that the administrative authority of the first instance carry out an overall control of the processing of personal data

through the website XXXXX in the sense of Act No. 255/2012 Coll., focused primarily to verify the existence of a legal title and then, if necessary, to fulfill others obligations under EU Regulation 2016/679, in particular Articles 5, 12 to 23 and 32 thereof subsequently decided to proceed.

The appellate body did not find any other errors in the procedure of the administrative body of the first instance.

On the basis of all the above facts, he therefore decided as stated in the statement of this Decision.

Lessons learned:

Pursuant to the provisions of Section 91 (1) of the Act, this decision shall be challenged

No. 500/2004 Coll., Administrative Procedure Code, cannot be revoked.

Prague, April 5, 2019

official stamp imprint

JUDr. Ivana Janů, v. R.

chairwoman