

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, day 24

July

2019

DECISION

ZSOŚS.440.39.2018

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), art. 12 point 2, art. 22, art. 23 sec. 1 point 2, art. 27 sec. 1 and 2 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, item 1000, as amended), following administrative proceedings regarding a complaint from Mr. ML, residing in W., against unauthorized disclosure of his personal data by the Court District in G.,

I refuse to accept the application

Justification

The Office of the Inspector General for Personal Data Protection (currently the President of the Office for Personal Data Protection) received a complaint from Mr. ML, residing in W., hereinafter referred to as the "Complainant", about disclosure of his personal data by publication on the list of court experts kept by the District Court in G. , home address and telephone number.

In the content of the above-mentioned of the complaint The complainant indicated that the notification concerns the publication of personal data in the list of experts, for the publication of which the complainant did not consent.

It should be noted here that on the date of entry into force of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws, item 1000, as amended), i.e. on May 25, 2018, the Office of the Inspector General for Personal Data Protection became the Office for Personal Data Protection. Pursuant to Art. 160 of this Act, the proceedings conducted by the Inspector General for Personal Data Protection, initiated and not completed before May 25, 2018, are conducted by the President of the Personal Data Protection Office pursuant to the Act of August 29, 1997 on the Protection of Personal Data in accordance with the principles set out in the Code of Civil Procedure. In the course of the proceedings initiated by the

above-mentioned through the complaint, the President of the Personal Data Protection Office obtained explanations regarding the circumstances of the case, familiarized himself with the evidence and made the following arrangements.

In a letter of [...] October 2018, the President of the Personal Data Protection Office informed the Complainant about the initiation of proceedings in the case and asked the President of the District Court in G. (hereinafter: the "President of the Court") to submit written explanations. On [...] October 2018, the Office for Personal Data Protection received a letter from the President of the Court (letter number: [...]), explaining that expert ML lived to see the District Court in G. with a statement of [...] July 2017, in which he stipulated not to publish his personal data on the Court's website in the form of his home address and telephone number, which he provided in the statement. As the President of the Court further pointed out, this request was partially granted because the website of the Regional Court in G. had not published the applicant's address. Another correspondence in the case in question was received by the Court from the District Police Headquarters [...] Investigation and Investigation Department [...] on September 2018, due to the complainant's notification regarding the publication of his address and telephone number by the abovementioned Court, which resulted in the initiation of preparatory proceedings. As emphasized by the President of the Court, the applicant's address was never published on the list of experts available on the Court's website, and from [...] October 2018, the mobile phone number was also not published.

As a result of the inspection of the website of the District Court in G., conducted [...] on May 2019, it was found that the abovementioned the website contains a list of experts, including an entry concerning the Complainant, however, the list does not disclose the Complainant's personal data in the form of his home address and mobile phone number.

In view of the above, the President of the Personal Data Protection Office considered the following. The above-mentioned Act on the Protection of Personal Data of August 29, 1997 provides legal grounds for applying state protection in situations of illegal processing of citizens' personal data by both public law entities and private law entities. In order to implement it, the personal data protection authority has been equipped with powers to sanction any irregularities found in the processing of personal data. This means that the personal data protection authority, when assessing the state of the case and performing subsumption, determines whether the questioned processing of personal data is based on at least one of the premises legalizing the processing of personal data, indicated in itrt. 23 sec. 1 above of the Act on the Protection of Personal Data and depending on the findings in the case - either issues an order or prohibition, or refuses to accept the request, or discontinues the proceedings. The issuing of an order to remove deficiencies in the processing of personal data or to cease processing of

personal data takes place when the personal data protection authority states that there has been a violation of legal standards in the field of personal data processing.

The collected evidence shows that the complainant's personal data in the form of his mobile phone number were processed by the District Court in G. by including this data in the list of experts available on the website of the abovementioned Court, and, what is equally important, their processing was discontinued during the conducted administrative proceedings.

The procedure conducted by the President of the Office is aimed at issuing an administrative decision pursuant to Art. 18 sec. 1 of the Personal Data Protection Act. According to this provision, in the event of a breach of the provisions on the protection of personal data, the President of the Office ex officio or at the request of the person concerned, by way of an administrative decision, orders the restoration of the legal status, and in particular:

1) removing deficiencies, 2) supplementing, updating, rectifying, disclosing or not disclosing personal data, 3) applying additional security measures for the collected personal data, 4) suspending the transfer of personal data to a third country, 5) securing data or transferring it to other entities, 6) deletion of personal data. The condition for issuing by the authority the decision referred to in the above-mentioned provision, is the existence of a breach of the right to the protection of personal data at the time of issuing the administrative decision.

In a situation where the President of the District Court in G. removed the complainant's personal data from the publicly available list of experts, the legality examination in the context of determining the possible existence of premises for the formulation of the order referred to in Art. 18 sec. 1 point 6 of the Act, as requested by the complainant, would be obviously pointless.

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

Based on Article. 127 § 3 of the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2018, item 2096), from this decision, the party has the right to submit an application for reconsideration within 14 days from the date of delivery of the decision to the party . If a party does not want to exercise the right to submit an application for reconsideration, 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 delivery of its pages. The complaint is lodged through the President of the Personal Data Protection Office. 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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