

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, 01

April

2019

DECISION

ZSOŚS.440.28.2018

Based on Article. 104 § 1 of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), art. 12 point 2, 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. 100 of the Act of December 14, 2018 on the protection of personal data processed in connection with the prevention and combating of crime (Journal of Laws of 2019, item 125), after conducting administrative proceedings regarding the complaint of Mr. J. T., residing in in W., for the processing of his personal data by the Chief Road Transport Inspector,

I refuse to accept the application

Justification

The Office of the Inspector General for Personal Data Protection (currently: the Office for Personal Data Protection) received a complaint by Mr. J. T., residing in in W. (hereinafter the "Complainant"), concerning the processing of the Complainant's personal data by the Chief Road Transport Inspector (hereinafter "GITD").

In the complaint, the Complainant indicated that GITD processed his personal data without the Complainant's knowledge and consent. In response to the complaint, the Inspector General for Personal Data Protection called the Complainant in a letter of [...] May 2018 to remedy its formal defects by:

- indication of what is the breach by GITD of the right to the protection of the complainant's personal data and to what extent the breach occurred, - clarification of what actions to be taken, based on the provisions of law, the complainant expects from the Inspector General for Personal Data Protection.

In a letter of [...] May 2018, the complainant questioned the right of GITD to process his personal data.

In the course of the proceedings initiated as a result of the complaint, the President of the Personal Data Protection Office (hereinafter "the President of the Personal Data Protection Office") obtained explanations regarding the circumstances of the

case, read the evidence and made the following findings.

The complainant [...] committed a traffic offense in [...] March 2018, and the complainant's personal data are processed by the General Inspectorate of Road Transport in connection with the proceedings under the provisions of the Act of August 24, 2001, Code of Conduct in Petty Offenses (Journal of Laws of 2018, item 475 as amended).

In a letter of [...] October 2018, GITD explained that "the complainant's personal data had been collected pursuant to Art. 129g and 129h of the Road Traffic Act of June 20, 1997 (Journal of Laws of 2017, item 1260, as amended). The basis for the processing of this data is also the provisions of art. 55a-55c of the Act of 6 September 2001 on road transport (Journal of Laws of 2017, item 2200, as amended) ". GITD also indicated that in the case in question it conducted explanatory activities pursuant to Art. 54 of the Act of August 24, 2001, Code of Procedure in cases of petty offenses, during which, on the basis of the vehicle registration number recorded in the image from the speed camera, it obtained the complainant's personal data from the Central Vehicle Register (Article 129h (3) of the Road Traffic Act) . The General Inspectorate of Road Transport also argued that, in accordance with the provisions, in the case at hand, the consent of the vehicle owner is not required to process the personal data of the vehicle owner, and the inquiry to the Central Vehicle Register is sent without the need to notify the vehicle owner, pursuant to Art. 129 h of paragraph 1. 4 of the Road Traffic Act. In addition, GITD indicated the categories of personal data processed in connection with the case, i.e. name, surname, address, PESEL number, brand and registration number of the vehicle belonging to the Complainant and the image of the vehicle driver at the time of the offense.

In such a factual and legal state, the President of the Personal Data Protection Office considered the following:

The aforementioned Act of August 29, 1997 on the Protection of Personal Data (hereinafter referred to as "the Personal Data Protection Act") creates the 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, assessing the status of the case and subsuming, 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 art. 23 sec. 1 of the PDA and depending on the findings in the case - either issues an order or prohibition, or refuses to accept the application, or discontinues the proceedings. The issuing of an order to remedy deficiencies in the processing of personal data takes place when the personal data protection authority states that there has been a violation of legal norms in the field of

personal data processing.

Pursuant to Art. 1 of the Personal Data Protection Act, everyone has the right to the protection of personal data concerning him, and the processing of such data, as referred to in art. 7 point 2 of the Personal Data Protection Act, it is allowed only for specific goods, i.e. the public good, the good of the data subject or the good of a third party, and only to the extent and in the manner specified by the Act. Bearing in mind the above, therefore, when applying the provisions of the Personal Data Protection Act, it is necessary to weigh the underlying goods each time.

In this case, the content of Art. 23 sec. 1 point 2 of the PDPA, which states that data processing is permissible when it is necessary to exercise the right or fulfill an obligation resulting from a legal provision. The legal basis for the processing by GITD of personal data of persons who have breached the provisions of the Road Traffic Act are primarily the provisions of the Road Traffic Act of June 20, 1997 (Journal of Laws of 2018, item 1990, as amended) and the Act of 6 September 2001 on road transport (Journal of Laws of 2019, item 58, as amended). Pursuant to Art. 129 g of paragraph 1. 1 of the Road Traffic Act, revealing the following violations of road traffic regulations using stationary recording devices installed in the road lane of public roads:

exceeding the speed limit,

non-compliance with the light signals

- belongs to the Road Transport Inspection.

In addition, by performing the tasks referred to above, in accordance with Art. 129 g of paragraph 1. 2 points 1 and 2 of the Road Traffic Act, Road Transport Inspection:

records images of violations of road traffic regulations and processes, for the purposes specified in this Act, the image of the vehicle, which has been violated the traffic regulations, and the image of the vehicle driver, if it has been registered, and data including:

the registration number of the infringed vehicle,

the date, time and location of the infringement,

type of infringement,

data of the owner or holder of the vehicle or the vehicle driver,

recording equipment identification number;

in proceedings in cases of offenses referred to in para. 1, conducts explanatory activities, submits motions for punishment to the court, accuses before the court and lodges appeals - in the manner and scope specified in the Act of August 24, 2001 - Code of Procedure for Petty Offenses (Journal of Laws of 2018, . items 475, 1039, 1387, 1467 and 1481).

Bearing in mind the above, it should be stated that GITD has the legal basis for the processing of the Complainant's personal data.

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

Pursuant to Art. 9 sec. 2 of the Act of December 14, 2018 on the protection of personal data processed in connection with the prevention and combating of crime (Journal of Laws of 2019, item 125), 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 to the party. The complaint is lodged through the President of the Office (address: ul. Stawki 2, 00-193 Warsaw). The 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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