THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, on 30

September

2019

DECISION

ZSOŚS.440.46.2019

Based on Article. 105 of the Act of June 14, 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), art. 7 sec. 1 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2019, item 1781) and art. 57 sec. 1 lit. f) 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 (general regulation on data protection) (Journal of Laws UE L 119 of 4 May 2016, p. 1 and Journal of in K., for the processing of their personal data by the District Court in K.,

I discontinue the proceedings

Justification

The President of the Personal Data Protection Office (hereinafter "the President of the Personal Data Protection Office") received a complaint [...] by Ms M. S., residing in in K., (hereinafter "the complainant"), regarding the processing of her personal data by the President of the District Court in K. (hereinafter the "President of the Court").

The complaint indicated that the applicant was a party (participant) to the court proceedings pending before the District Court in K. (hereinafter the "Court") and that the Court processed the applicant's personal data without any legal basis by "accepting by the Labor Court Secretariat documents in the form of a Personal Questionnaire (telephone, e-mail, bank account and other) and transfer transactions (bank account) from the University [...] in W. ([...]), when both these documents should be sent back to the College [...] in W. (...) ". As the complainant pointed out, justifying the complaint, the processing of personal data by the Secretariat of the Labor Court took place "(...) against the prohibition of disclosing personal data (Article 9 (3) of the GDPR on the protection of personal data) (...)". In connection with the above allegations of the complaint, the complainant is seeking “legal consequences, including financial liability (…)” against the entities named in the complaint.

In the course of the investigation in this case, the President of the Personal Data Protection Office established the following:

In a letter of [...] April 2019 ([...]), the President of UODO asked the President of the Court to provide explanations as to whether, and if so, on what legal basis, for what purpose and to what extent the Court obtained the complainant's personal data from the University of [...] (hereinafter referred to as the "School"). In addition, the President of the Personal Data Protection Office, in a letter of [...] April 2019 ([...]) asked the School to clarify whether, and if so, on what legal basis, for what purpose and scope, the School provided the data the applicant's court.

The President of the Court, referring to the letter of the President of the Personal Data Protection Office of [...] April 2019 ([...]), indicated in his letter of [...] April 2019 ([...]) that "All necessary clarifications are included in the decision of the District Court in K. of [...] November 2018 regarding the exclusion of ASR K.Ł. from adjudication in the case, in particular concerning the legal basis, purpose and scope of obtaining the complainant's personal data by the Court from the School (...) ". The President of the Court also argued that "(…) obtaining the personal data referred to in the complaint is directly related to the administration of justice. Pursuant to Art. 55 sec. 3 of Regulation (EU) 2016/679 of the European Parliament and of the Council (GDPR), the supervisory body - in this case the President of the Personal Data Protection Office - is not competent to supervise processing operations performed by courts as part of their judicial administration. (...) In line with the guidelines set out in recital (20) of the GDPR, the supervision of data processing operations has been entrusted to the relevant authorities in the justice system. This is regulated by Art. 175dd § 1 of the Act of 27 July 2001, Law on the System of Common Courts - the authority supervising the processing of personal data processed in court proceedings as part of the administration of justice by the district court is the president of the district court. ".

To the letter of the President of the Personal Data Protection Office of [...] April 2019 ([...]), the answer on behalf of the School was provided by the rector, who in the letter of [...] May 2019 explained that "Szkoła Wyższa [. ..] has never been in the possession of Mrs. MS's personal data, and thus could not disclose it. It should be noted that the letter to the District Court in K. was submitted by the University [...] in Ł., And not the University [...] These are two independent entities, of which the University [...] in W. (as a legal entity) is the founder of the University [...] in Ł. ".

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

It should be noted that the processing of personal data in common courts takes place in order to administer justice outside the scope of administrative courts, military courts and the Supreme Court, as well as to perform other tasks in the field of legal protection, entrusted by statutes, pursuant to the Act of July 27, 2001, Law on the System of Common Courts (Journal of Laws

of 2019, item 52, as amended). In turn, the judicial activity of the Court, which is a manifestation of its administration of justice, is determined by the provisions contained, inter alia, in the Act of 17 November 1964, the Code of Civil Procedure (Journal of Laws of 2018, item 1360, as amended). It should be noted that the collected evidence in the case, and in particular the explanations of the President of the Court and the copies of documents sent by him, allow the conclusion that the subject of the complaint relates to activities related to the administration of justice by the Court, which also include activities relating to the calling and admitting of evidence. in civil court proceedings. The aforementioned activities are regulated in the above-mentioned Act of November 17, 1964, Code of Civil Procedure (Journal of Laws of 2018, item 1360, as amended), hereinafter referred to as "the Code of Civil Procedure", the provisions of which define the rules of the court procedure to be conducted for the court to issue a ruling, and thus create a detailed legal framework for the administration of justice by the court in matters related to, inter alia, legal and labor relations. Pursuant to Art. 472 of the Code of Civil Procedure, in section III of title VII (Separate proceedings) of this Act, containing regulations on proceedings in matters of labor and social security law, "the court shall request the presentation of personal files and other documents necessary to resolve the case, applying accordingly the provisions of Art. 1491. " The wording of the above-mentioned provision indicates that the Court was obliged to order the applicant's personal files to be delivered to him, and the School was then obliged to deliver these files to the Court, as pursuant to Art. 248. § 1 of the Code of Civil Procedure, "everyone is obliged to present, upon the court's order, at a specified time and place, a document in his possession and constituting evidence of a fact essential for the resolution of the case, unless the document contains classified information." contain such information. Moreover, it should be pointed out that the provision of Art. 9 sec. 3 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 (general regulation on the protection of data) (Journal of Laws UE L 119 of May 4, 2016, p. 1 and Journal of Laws UE L 127 of May 23, 2018, p. 2) refers to the issue of processing the so-called sensitive personal data, including genetic and biometric data. On the other hand, it does not appear from the complaint that the case described therein concerns such data, therefore, the applicant referred to the above-mentioned the provision does not constitute legal grounds for the complaint.

In view of the above, it should therefore be reiterated that since the subject of the complaint relates to the work of the Court in the field of its judicial activity, the reason for the discontinuation of the proceedings in the case in question is the lack of

substantive jurisdiction of the President of the Personal Data Protection Office in the scope of considering cases related to the processing of personal data by courts in the administration of justice. The President of the Court, in a letter of [...] April 2019 ([...]) of Art. 175 dd § 1 of the Act of 27 July 2001, Law on the System of Common Courts (Journal of Laws of 2019, item 52, as amended), according to which the supervisory authority towards the court as the administrator of personal data processed in court proceedings in as part of the administration of justice or the implementation of tasks in the field of legal protection is - in relation to the subordinate district court - the president of the regional court. On the other hand, pursuant to Art. 175 dd § 2 point 1 of the above-mentioned of the Act, under the supervision referred to above, the president of the regional court (in the case of a district court) examines complaints from persons whose personal data is processed unlawfully.

It should be clarified that the main purpose of excluding the competences of the President of the Personal Data Protection Office in the above-mentioned scope is the protection of the constitutional independence of courts. The performance by the President of the Personal Data Protection Office - as the authority competent in data protection matters - of supervision over the processing of data in the scope of judgments by courts, could constitute an unacceptable interference in their judicial activity. The President of the Personal Data Protection Office, within the framework of the powers conferred on him by the Act, cannot therefore interfere in the course of the proceedings or in the manner of its conduct by other authorities authorized under separate provisions, including in particular courts. Thus, the President of the Personal Data Protection Office may not interfere with the rules governing the collection by courts of files of such proceedings, including documents constituting part of the evidence material. The above view is confirmed by the jurisprudence of the Supreme Administrative Court, which in its judgment of March 2, 2001 (file reference number II SA 401/00) stated that the Inspector General for Personal Data Protection (currently: President of the Personal Data Protection Office) is not a controlling or supervising body correct application of substantive and procedural law in matters falling within the competence of other authorities, services or courts whose decisions are subject to review in the course of the instance or otherwise determined by appropriate procedures.

Referring once again to the above argumentation to the established facts of the case, it should be emphasized that the complainant's personal data were processed by the Court only in court proceedings and in connection with the administration of justice. This circumstance determines the lack of competence of the President of UODO to substantive examination of the complaint submitted by the Complainant. In this situation, the proceedings are subject to discontinuation pursuant to Art. 105 § 1 of the Act of June 14, 1960, Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended),

hereinafter referred to as "Kpa", in view of its redundancy. In accordance with the above-mentioned a provision, if the proceedings for any reason have become redundant in whole or in part, the public administration authority shall issue a decision to discontinue the proceedings, respectively, in whole or in part. The wording of the above-mentioned regulation leaves no doubt that in the event that the procedure is deemed groundless, the authority conducting the procedure will obligatorily discontinue it. At the same time, the literature on the subject indicates that the pointlessness of the administrative procedure, as provided for in Art. 105 § 1 of the Code of Administrative Proceedings means that there is no specific material element of the legal relationship, and therefore it is not possible to issue a decision settling the matter by deciding on its substance (B. Adamiak, J. Borkowski "Code of Administrative Procedure. Commentary", 7th edition, Wydawnictwo CH Beck, Warsaw 2005, p. 485). The same position was taken by the Provincial Administrative Court in Kraków in its judgment of 27 February 2008 (III SA / Kr 762/2007). In the literature on the subject and in the jurisprudence of courts, it is assumed that the lack of substantive jurisdiction of the authority determines the pointlessness of the administrative procedure.

The determination by the public authority of the existence of the condition referred to in Art. 105 § 1 of the Code of Administrative Procedure obliged him to discontinue the proceedings, because then there are no grounds for resolving the substance of the case, and further conduct of the proceedings in such a case would make it defective, having a significant impact on the result of the case. Therefore, this proceeding has become redundant, and thus, it should be stated again that the President of the Personal Data Protection Office is not authorized to issue a substantive decision in this case.

It should also be noted that the School indicated by the Complainant as an entity violating the protection of her personal data, according to the explanation of its rector in a letter addressed to the President of the Personal Data Protection Office of [...] May 2019, did not process or process these data, which consider her a party to the proceedings.

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

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 2019, item 1781) 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 2018, item 1302, as amended), the party has the right to lodge a complaint with the Provincial Administrative Court in Warsaw against this decision, 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 fee for the complaint is PLN 200. The party has the right to apply for the right to assistance, including

exemption from court costs.

2019-10-04