OFFICE FOR PERSONAL DATA PROTECTION

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Ref. UOOU-06702 / 17-47

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., Administrative Procedure Code, decided on 1 June 2018 according to § 152 par. 6 let. b) of Act No. 500/2004 Coll. thus:

Disintegration of the accused, the company

, based

against the corrective decision of the Office for Protection personal data ref. UOOU-06702 / 17-39 of March 14, 2018, is rejected and challenged the decision is confirmed.

Justification

By order no. UOOU-06702 / 17-4 of 4 July 2017 sent to the company

based

(hereinafter referred to as the “accused”), infringement proceedings were initiated pursuant to Section 15 (1) letter a) of Act No. 255/2012 Coll., on control (control rules), in connection with non-provision cooperation within the control conducted by the Office for Personal Data Protection (hereinafter referred to as the "Office") at the accused. The accused filed a timely opposition against the order and the first-instance administrative body continued the proceedings. By communication of 18 August 2017, the accused was informed that that all the documents for issuing the decision have been collected and has been informed of their rights according to Act No. 500/2004 Coll., Administrative Procedure Code.

By decision of the Office ref. UOOU-06702 / 17-17 of October 11, 2017 was found to be accused guilty of committing an offense under § 15 para. (a) of the Rules of Procedure, since the ongoing inspections did not provide the inspector with the necessary cooperation by failing to send required answers to the questions set out in the letter of 12 June 2017, thereby infringing the obligation to create conditions for the performance of control, to enable the controller to perform his authorizations stipulated by law and to provide the necessary co-operation in accordance with provisions of § 10 paragraph 2 of Act No. 255/2012 Coll. The accused was charged for the conduct a fine of CZK 50,000.

Accused against the decision no. UOOU-06702 / 17-17 lodged an ordinary appeal, which the President Rejected by the Office by decision no. UOOU-06702 / 17-37 of 2 February 2018.

Given that the written copy of the first instance decision ref. UOOU-06702 / 17-17 contained in the statement the incorrect number of the account on which the imposed fine is due, the administrative body first instance issued a corrective decision on 14 March 2018 pursuant to Section 70 of the Administrative Procedure Code Ref. UOOU-06702 / 17-39. The decision in question was delivered to the accused on 26 March 2018.

Against the corrective decision ref. UOOU-06702 / 17-39 accused filed on April 10, 2018 decomposition. She did not substantiate it in any way and only stated that she would justify it by 23 April 2018.

Subsequently, on 11 April 2018, the administrative body summoned the accused in accordance with Section 37 (3) of the Administrative Procedure Code to eliminate defects in filing and set a deadline of 23 April 2018. Accused it did not react in any way and did not complete the decomposition. The appellate body is thus obliged to review the decision only in terms of legality. It assesses the correctness of the decision only if it requires it public interest.

The appellate body examined the contested decision in its entirety, including the process which preceded its publication, and reached the following conclusions.

First, the appellate body dealt with the legality of the procedural procedure. In view of the fact that the ground of appeal is an obligatory requirement of an appeal pursuant to Section 87 (2) and Section 152 (5) of the Administrative Procedure Code

of the Rules of Procedure, the administrative body of the first instance was obliged to call on the accused to supplement the appeal, which

duly done. At the same time, the administrative body of the first instance set a time limit of

23 April 2018. In the light of the present case and in the light of the fact that it was established

the same period, which the accused himself stated in the dissolution as the period within which he

can be considered as a completely sufficient and reasonable time to rectify the defects of the submission.

Next, the appellate body dealt with the contested decision itself. Wrong account number in

the statement of reasons for the written decision constitutes a manifest error which is necessary

rectified in accordance with Section 70 of the Administrative Procedure Code, with the issuance of this decision being the first

repair action. The administrative body of the first instance thus proceeded in full compliance with

Administrative Code.

The appellate body summarizes that neither the contested decision nor the procedure prior to its issuance

did not find it illegal or incorrect and, in view of the above, ruled as it is

stated in the operative part 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, June 1, 2018

For correctness of execution:

official stamp imprint

JUDr. Ivana Janů, v. R.

chairwoman