TIETOSUOJAVALTUUTETUN TOIMISTO

21.4.2021

ID number 2477/161/21

Decision of the Sanctions Board

Asia **The registered person's rights according to the General Data Protection Regulation, etc.**

Registrar **ParkkiPate Oy**

Matters subject to the Sanctions Board's decision

In the period 27.3.2017–20.5.2020, the office of the Data Protection Commissioner has initiated several matters concerning the processing of personal data by the data controller. In a large number of cases, the applicant has requested to have access to the information (the so-called inspection right) and/or requested that his personal information be deleted. In the case, there has also been a question about what information the data controller can request from the data subject in order to exercise these rights. The registered person has to provide the data controller with information about, among other things, his social security number and address. In addition, the issue has been whether the data controller can require the registrant to use a certain form in order to exercise his rights. Also questioned is the fact that the data controller has not agreed to process complaints made without information about the address of the person making the complaint. The issue has also been that, according to some applicants, the controller had not provided the applicants with information about where their information was obtained. Moreover, the registrar had not responded at all to one request regarding the data subject's rights made to it in accordance with the registrar's instructions. In addition, there has been an issue in the case that the data controller has refused to delete the applicants' data.

1077/452/2017

On March 27, 2017, the applicant initiated a case at the data protection commissioner's office, which involved both the data subject's right to access data and the right to delete data. According to the applicant, the data controller has failed to respond to the aforementioned requests.

3361/182/2018

On June 18, 2018, the applicant initiated a case at the data protection commissioner's office, which involved both the data subject's right to access data and the right to delete data. According to the applicant, he had since received paper copies of the e-mail correspondence between him and the data controller, as well as pictures related to the most recent cases at that time. In the end, according to what he said, the applicant had also received the information electronically. However, according to what he said, the applicant had not been able to find out about the elders. According to the applicant, he had not received confirmation of the data deletion.

The applicant has also questioned the fact that the data subject must fill out a certain form in order to exercise his rights. According to the applicant, the form asks for information that the registrar does not already have.

3609/154/2018

On June 25, 2018, the applicant initiated a case at the data protection commissioner's office, which involved the data subject's right to delete data. The registrar does not

had implemented the applicant's request. The applicant has also questioned the fact that the registrant must provide the data controller with information about his personal identification number in order to exercise his aforementioned right.

4959/182/2018

On August 14, 2018, the applicant initiated a case at the data protection commissioner's office, which involved both the data subject's right to access data and the right to delete data. The applicant has also questioned the fact that the data controller Kiel should have handled the complaint made by the applicant and the wrong requests concerning the rights of the data subject, if the applicant did not provide the data controller with the address and personal identification number.

5373/182/2018

On August 27, 2018, the applicant initiated a case at the data protection commissioner's office, in which the issue was that the data controller had refused to process the complaint made by the applicant, if the applicant did not provide the data controller with information about his address.

6175/154/2018

On September 17, 2018, the applicant initiated a case at the data protection commissioner's office, where the issue was, among other things, the data subject's right to access data. The applicant had asked the controller for information about where his personal data had been obtained. According to the applicant, the data controller had not responded to his request for access to the data submitted on June 11, 2018. The applicant had made the request using the form available on the controller's website. Since the applicant had not received an answer to his request, he had called the data controller's customer service on August 3, 2018, despite which the applicant had not been given information about where his information had been obtained.

6569/182/2018

On September 26, 2018, the applicant initiated a case at the data protection commissioner's office, which involved both the data subject's right to access data and the right to delete data. The applicant has also questioned the fact that the registered person must provide the data controller with information about his personal identification number in order to exercise his aforementioned rights.

8321/154/2018

On 21 November 2018, the applicant has initiated a case at the data protection commissioner's office, in which the data subject's right to delete data has been in question. The registrar has not processed the applicant's request. The registrar had demanded that the applicant fill out a standard form found on your website, where the personal identification number is required as mandatory information. The registrar had not justified his claim.

2669/154/2019

On March 28, 2019, the applicant initiated a case at the data protection commissioner's office in which the data subject's right to delete data was in question. The registrar had not implemented the applicant's request.

5390/152/2019

On July 10, 2019, the applicant, through his agent, initiated a case at the data protection commissioner's office, which, among other things, involved both the data subject's right to access data and the right to delete data. The applicant has said that the data controller had not given him access to the requested information. Despite the fact that the applicant had already provided the registrar with all the necessary information, the registrar demanded that the applicant fill in the form. The applicant had asked the registrar for information about where his personal data had been obtained. The registrar had not answered the question posed by the applicant.

4035/182/2020

On May 20, 2020, the applicant has initiated a case at the data protection commissioner's office, in which the data subject's right to delete data has been in question. The registrar had not implemented the applicant's request. The applicant had also requested information from the controller about where his personal data had been obtained. According to the applicant, the applicant's e-mail complaint was not accepted. The applicant has questioned the fact that information about his address was requested on the Rekla application form.

Statement received from the registrar

The controller has been asked to clarify each of the matters listed above. The registrar has issued his report between 28 April 2020 and 9 June 2020.

Applicants' requests for access to information

In the reports provided, it has been established that the data controller has not fulfilled the requests of all applicants to get access to the data. The justification given is that the data controller has the right to refuse to provide information if it cannot sufficiently identify the data subject. The reason for denying the request had been insufficient identification of the requester. Most of the requests made revealed only the name of the registered person and the case number of the supervision fee. The controller has not considered this information sufficient to identify the requester.

It has also been established that if the controller has reason to doubt the identity of the person making the request, it can ask the person making the inspection request to provide the additional information necessary for identification. The registrar has asked applicants to provide additional information. The registrar has a standard form, which the registrant is asked to fill in to access their information. With the form, the registrant is asked to provide all the information that the data controller has deemed necessary for sufficient identification. In the vast majority of cases, the applicants have not filled out the form or given the information necessary for identification in any other way, despite the request of the registrar. If necessary, additional information can also be sent by post. The registrar has stated that it can implement the applicants' requests now, if the applicants properly fill out the aforementioned form or otherwise provide the appropriate information to the registrar.

Information required by the controller

In the report given, it has been established that the controller has a standard second form at his disposal for both complaints and requests for inspection of register data. The form asks you to provide all the information that the controller has deemed necessary for sufficient identification. The address information has been deemed sufficient

necessary for identification. The registrar has stated that it considers it very important that it can confirm the identity of the requester and thus avoid the information ending up in the hands of external parties. According to the data controller, the address information (email address and postal address) is necessary so that the data controller can deliver its response to the data subject's request.

In the reports provided, it has also been stated that the controller requests information about the applicant's personal identification number from the applicant for inspection of the registration information, so that it can sufficiently confirm the applicant's identity. The registrant has the right to refuse to provide information if it cannot sufficiently identify the registrant. If the controller has reason to doubt the identity of the person making the request, it can ask the person making the inspection request to provide additional information necessary for identification.

The form requests the following information from the person making the inspection request: control fee case number, first name, last name, social security number, address (local address, zip code and post office) and e-mail address. The form asks for all the information that the controller has deemed necessary for sufficient identification.
Address information (e-mail address and postal address) is necessary so that the controller can deliver his response to the data subject's request.

In connection with the complaint, the person making the complaint must also state the registration number of the vehicle to which the complaint applies. This is necessary so that the registrar can make sure that the complaint is assigned to the correct monitoring fee. The registrar has considered that it could not sufficiently identify which control fee it is based on the case number alone (a series of seven or ten digits long). The registration number is information that the registrar already has. When performing parking enforcement, the registrar receives information about the registration number of an incorrectly parked vehicle. Vehicles parked incorrectly in a certain private area will be photographed.

In connection with the request for inspection of the register data, the controller may also obtain information that it does not already have. The registrar does not acquire vehicle owner information. The identification of owner information has been outsourced to a third party (XX Oy, engaged in debt collection). Personal data may also come to the controller's attention through possible complaint processing, if the party making the complaint discloses such information to the controller. The data controller needs the above-mentioned information in order to repatriate his legal claims (mainly KKO:2010:23) and to secure the proper execution of the complaint processing. The controller has considered that this information is necessary so that it can identify the requester in a sufficient way and ensure the realization of the rights.

Both the request for inspection of the register data and the information regarding the complaint can also be sent by post if necessary. The registrar has stated that it considers that by requiring the submission of information on a form, it can ensure that all information necessary for the processing of a complaint or a request for inspection of the register information is submitted to it.

If the supervisory authority considers that there would be a more efficient way to verify the identity of the contact person, the controller has requested guidance on this issue in its report, so that it can specify its current practices to better comply with data protection regulations.

Data origin and processing

In the reports given, it has been established that the background of the data processing has mainly been the unpaid so-called private law supervision fee. The processing of personal data has been reported to be based on Article 6, Paragraph 1, Subsections b and f of the General Data Protection Regulation.

When performing parking enforcement, the registrar receives information about the registration number of the wrongly parked vehicle. Vehicles illegally parked in a certain private area will be photographed. The personal data of the registrar's customers may also come to the registrar's knowledge through possible complaint processing, if the entity making the complaint discloses such information to the registrar. The data controller needs the information in order to repatriate the aforementioned legal claims (mainly KKO:2010:23) and to secure the proper implementation of the complaint processing.

The registrar does not acquire the vehicle's owner information, but the investigation of the owner's information is outsourced to a third party (XX Oy, which carries out collection activities). The registrar does not have access to such information. The registrar hands over the registration number information of wrongly parked vehicles (i.e. those vehicles for which the monitoring fee has not been paid) to XX Oy. Otherwise, the data controller will hand over the personal data of its customers only in situations specifically defined by the applicable law.

In the reports given, it has also been stated that the basis for data processing is mainly the implementation of the company's legitimate interests, more specifically the need to prepare, present or defend a legal claim. In the reports given, it is still stated that the data subject does not have the right to have his data deleted. It has been found that the data processing is also based on the fulfillment of the statutory accounting obligations of the controller.

In the reports given, it has been further stated that the origin of the data is publicly available in the data controller's privacy statement, which the registered users have the opportunity to familiarize themselves with on the controller's website. In section 5 (Regular sources of information) of the data protection statement, it is stated as follows: "Information regarding the private enforcement fee received from parking supervisors belonging to ParkkiPate Oy's personnel (including digital images taken from vehicles) is entered into the register." In addition, information is obtained from those making complaints who sign up to be registered".

Data Retention

The applicants' requests for data deletion have not been implemented because the data controller has considered that 1) the data controller's statutory obligations (such as the Accounting Act) and/or possible legal follow-up actions have prevented data deletion. It has been said that the applicants' data will be kept as long as possible and proportionate (see especially Article 5, Paragraph 1, Subsection e of the General Data Protection Regulation).

Applicants' data will be retained for monitoring fees regardless of the applicants' request to delete their data based on the Accounting Act (see General Data Protection Regulation, Article 17, Section 3, Subsection b). According to section 10, subsection 2 of the Accounting Act, accounting material must be kept for at least six years from the end of the year in which the accounting period ended. The nature of the so-called receivables as private monitoring fees based on a real contract leads to the fact that the data controller keeps it himself

surveillance photos taken from the defendant's vehicle for accounting purposes, as well as copies of the surveillance payment forms delivered to the registrants.

In addition to the above-mentioned, in some cases it is possible that the controller will have to process the sub-right of the control fee receivable in question (Article 17, paragraph 3, subparagraph e of the General Data Protection Regulation). In such matters, the registrar considers the applicant in question liable to pay the monitoring fee in question based on established jurisprudence, and the facts brought out by the applicant in his complaints do not change the registrar's opinion. The registrar has stated that the fact that the monitoring fee was paid by a third party does not change the registrar's opinion either. The controller will resort to court proceedings when it deems such proceedings appropriate from the point of view of the use of time and the issue of costs (note the negative side of the so-called Access to Court principle).

The registrar has announced that the expiration of the claim will be prevented.

Hearing

On June 26, 2020, the registry keeper has been reserved the opportunity referred to in § 34 of the Administrative Act (434/2003) to be heard and to express his opinion on the matter, as well as to give his explanation of such demands and explanations that may affect the resolution of the matter. At the same time, the registrar is given the opportunity to bring forward such matters as referred to in Article 83, Paragraph 2 of the General Data Protection Regulation, which, in the registrar's opinion, should be taken into account when making a decision. The registrar has given his answer on 28 July 2020. The questions presented to the data controller in the consultation request and the data controller's answers to them are presented below. For the sake of clarity, it must be stated that the subject of the hearing request was a total of 11 complaints made to the Office of the Data Protection Commissioner between March 27, 2017 and May 20, 2020. Not all complaints have involved the same legal issues. However, as stipulated in Chapter 5, Section 25 of the Administrative Law, the matters have been prepared together and resolved at the same time.

In what way does the data controller provide data subjects with the information referred to in Article 14 of the General Data Protection Regulation?

When an incorrect parking event is detected and the so-called private law control fee with payment information is left under the windshield wiper of an incorrectly parked vehicle, the registrar's representative takes a photo of the incorrectly parked vehicle, in which case the registrar obtains the registration number of the registered vehicle as the only personal data concerning the registrant. At the time of photography, each individual wrong parking case is also given its own separate control fee
his sea.

XX Oy, which implements the invoicing and collection service on behalf of the registrar, will find out from the Finnish Transport and Communications Agency Traficom the holders/and/or owners of the vehicles with the registration numbers in question, to whom the collection actions for unpaid control fees will be targeted. In the response to the consultation request, it has been stated that the registrar does not get hold of such holder information, in which case it only has surveillance photos of each wrongly parked vehicle (including the vehicle's registration number) and possibly personal data submitted to the registrar in connection with subsequent complaint handling / data protection inquiries.

In the response to the consultation request, it has been stated that the data controller provides the information required in Article 14 of the General Data Protection Regulation as follows: 1) the vehicle

with the supervision fee form to be left under the windshield wiper (appendix 1 of the response to the consultation request), 2) with the information available on the website of the data controller (for example, the *data protection website, the Privacy Statement* and *contact information)* and 3) in the case of unpaid supervision fees, with letters delivered by XX Oy (appendix 2 of the response to the consultation request) .

In the response to the consultation request, it is further stated that when a person registering to be registered turns to the data controller in connection with his rights based on the general data protection regulation or to complain about the supervision fee he has received, the data controller has focused the processing on the complaint system found on its website and the data protection inquiry form. In the given answer, it is stated that the complaint system enables the person considering a complaint to have access to all information about a specific control fee through the complaint system, if he has the control fee number and the vehicle's registration number.

Finally, in this regard, it has been noted that it is common for individuals to claim that they did not park a certain vehicle or, similarly, for another person to state that they are responsible for parking another person's vehicle. The registrar has presented that this brings greater than usual challenges to the proper handling of data protection issues and complaints.

If the information referred to above is delivered to the data subjects via the data protection statement found on your website, how and when will the data subjects be informed about the statement?

In the response to the consultation request, it has been stated that a person claiming to be registered will receive information from the register statement when this person invokes his or her rights stipulated in the general data protection regulation. In this case, the data controller provides the inquirer with a so-called data protection response, which provides information about the data subject's rights and mentions, among other things, the Data Protection Statement (appendix 3 of the response to the consultation request). In addition, it has been stated in the response that a mention of the rights related to data protection can be included in the monitoring payment form and/or XX Oy's collection letters, if the data protection commissioner deems it appropriate.

How many data subjects have expressed their willingness to get access to their own information without giving you their personal ID or any other required information. In other words, how many data subjects have not gained access to their own data because you have not agreed to process a request without the required data (as of 25 May 2018ÿ)?

In response, the registrar has stated that there are a total of 11 such cases.

How many requests for inspection rights have you agreed to process by 25 May 2018 ÿ?

In response, the registrar has stated that there are a total of 236 such cases.

How many data erasure requests have you left unprocessed on the grounds that you were not provided with the information you requested?

In response, the registrar has stated that there are a total of 28 such cases.

How many complaints have you left unprocessed on the basis that you have not been given the information you required (May 25, 2018 ÿ)?

In the given answer, it has been stated that the available means do not make it possible to answer the question.

How many such complained-about private parking enforcement fees have finally been paid, concerning which you have not agreed to handle the complaint (May 25, 2018 ÿ)?

In the given answer, it has been stated that the available means do not make it possible to answer the question. In addition, the controller has presented his opinion that invoking data protection rights does not release its potential debtors from the obligation based on the decision KKO:2010:23 to pay the controller's open claim.

How many different people have you given private parking control fees to since May 25, 2018?

In the given answer, it has been stated that the available means do not make it possible to answer the question. According to what it has announced, the registry keeper does not keep statistics on the persons subject to supervision fees at any given time, but on the number of copies of supervision fees. Certain vehicles may be charged more than one monitoring fee and certain persons may receive monitoring fees for several different vehicles. According to what he said, the registrar only has the registration numbers of the vehicles and no statistics like the one requested has been done.

The controller is also given the opportunity to report on the potential financial benefits directly or indirectly obtained from the violations of the General Data Protection Regulation assessed in the consultation request, or the losses avoided by the violations.

In his view, the controller has not violated the general data protection regulation. However, should the supervisory authority consider that this has been done, the data controller has stated that he is of the firm opinion that no financial benefit of any kind has been obtained from the possible violation. In the response to the consultation request, it is further stated that strict compliance with the General Data Protection Regulation has rather tied up resources and caused significant costs for the company.

The registrar has stated that it considers that all its claims are justified and secured by the protection of property guaranteed by the constitution. The registrar has continued to present his opinion that using the so-called right of inspection or deleting data does not invalidate the registrar's open claims in one way or another.

Information on the combined annual turnover of the companies belonging to the same group as Tieto ParkkiPate Oy for 2019 (if 2019 information is not available, an estimate of such information and information on the corresponding figure for 2018).

APV Alueellinen Py säköintivalvonta Oy (2333789-6) and Suomen Aluevalvonta Oy (2328319-7) belong to the same group as ParkkiPate Oy (2707938-8). Of those mentioned

the combined annual turnover of the companies for 2019 is EUR 12,367,668.07 in total.

The registrar's other response to the consultation request

In its response to the consultation request, the data controller has stated that it has no interest whatsoever in acting contrary to data protection legislation. If the supervisory authority considers that there would be a way to verify the identity of each person who contacted the data controller that would better protect data protection, the controller has announced that it will request relevant instructions from the supervisory authority in order to specify its current practices.

For the sake of clarity, the registrar has emphasized that, in principle, it only has the registration numbers of the vehicles of persons who have parked their vehicles incorrectly. The controller has continued to emphasize that it obtains other personal data through advertisements and data protection requests. The controller has also stated that the relationship of such contacts to the contractual relationship between the controller and its customer is uncertain. The registrar has referred to the Supreme Court's decision KKO:2010:23 and stated that according to this decision, the contractual partner of the registrar is the person who parked a certain vehicle incorrectly.

The registrar has presented its opinion that it has proceeded in the matters in question now appropriately and in the manner required by the current data protection legislation. The controller has said that it has responded to all data protection requests appropriately made to it.

The right to access information

In the response to the consultation request, reference is made to Article 12, paragraph 2 of the General Data Protection Regulation, which stipulates that the data controller must facilitate the exercise of the data subject's rights according to Articles 15–22. It is further stipulated that in the cases referred to in Article 11, Section 2, the data controller may not refuse to act at the data subject's request in order to exercise the rights according to Articles 15–22 unless the data controller proves that it is unable to identify the data subject. According to paragraph 6 of the same article, on the other hand, if the data controller has reasonable grounds to suspect the identity of the natural person who made the request in accordance with Articles 15–21, the data controller may request the delivery of additional information that is necessary to confirm the identity of the registered person, without prejudice to the application of Article 11. According to Article 5(1)(c) of the General Data Protection Regulation, on the other hand, personal data must be appropriate and essential and limited to what is necessary in relation to the purposes for which they are processed ("data minimization").

The controller has presented its opinion that it has the right to refuse to provide information if it cannot sufficiently identify the data subject. The registrar has announced that the reason for denying the request for the right of inspection has been insufficient identification of the requester in each case. In cases where access to the data is not allowed, the name of the data subject and the case number of the monitoring fee have been disclosed up to the time of the data subject's request. The registrar has not considered this information sufficient to identify the requester. The data protection form has requested, among other things, personal identification number and address information. According to the view presented by the controller, the requested information corresponds to what was previously valid

early practice of the Personal Data Act. In the complaints system, the control payment number and the vehicle's registration number have been requested, and the personal identification number is not required. This is due to the fact that from the point of view of data security, it is not really important who complains to the controller at any given time, but third parties' personal data cannot be given to outsiders through data protection surveys. The registrar has submitted that by asking for a personal identification number, an effort has been made to ensure that the requests are genuine, and that their appropriateness can at least be checked afterwards using the declared personal identification number, if, for example, the supervisory authority were to find out if the data had possibly fallen into the wrong hands.

It has been reported that there are thousands of monitoring fee cases, which is why, in the controller's view, the mere name and control fee issue number do not guarantee that a request regarding the rights of the registered person can be directed to the correct and sufficiently identified contracting party of the controller. It has also been suggested that the name of the person claiming to be registered can be very general in nature ("Matti Virtanen") and the control payment form contained in the case number could have been obtained from under the windshield wiper of a certain vehicle for vandalism. The registrant has stated that he has a contract with the person who parked a specific vehicle (see

KKO:2010:23), in which case the controller must deal with this person. There is no ready-made contract documentation or anything similar, on the basis of which the data controller could connect the person who made the data protection request with the (almost always unknown) person responsible for parking the vehicle. When this special nature of the contractual relationship between the parties is taken into account, the information requested by the data controller in the processing of data protection issues can, according to the view presented by the data controller, be considered proportionate and necessary so that the purposes of the General Data Protection Regulation are not jeopardized, and that the data is not disclosed to anyone other than those entitled to it.

The controller has considered its procedure to be the only possible way to ensure its own legal protection as well. The controller has expressed his opinion that the online form should be broad enough in terms of information content that only and only data protection requests based on a real legal relationship will be processed, and the controller will not release personal data in connection with false requests or inadvertently to parties other than its registered contract parties. The controller has further stated that it considers address information (e-mail address and postal address) necessary so that it can, if necessary, deliver its response to the data protection request of the data subject by post.

In connection with the complaint, the registration number of the vehicle to which the complaint applies must also be indicated. The registrar has deemed this necessary in order to assign the complaint to the correct monitoring fee. The registrar has considered that it would not be able to sufficiently identify which supervision fee it is on the basis of the case number alone. Information about the registration number is information that the controller already has in his possession. The registrar has also announced in the complaint processing that it requires the address information to be provided, so that it can sufficiently verify the identity of the person making the complaint. According to the controller, it may also be necessary to deliver the complaint response to the customer by mail.

Finally, the controller has announced that it does not require information about the personal identification number in the complaint processing. The registrant has now announced that he will waive the required personal identification number in his data protection form. The registrar has expressed in this connection

concerns about whether the information can always be delivered only to those entitled to it in each individual case.

Limitation of data storage and deletion of data

In the response to the consultation request, it is further stated that the request of the registered persons to restrict or delete personal data has not been implemented, because according to the view presented by the register controller, its obligations (such as the Accounting Act) and possible legal follow-up actions have prevented the deletion of the data. The controller has announced that it will keep the personal data of the registered as long as possible and proportionate. In this context, the data controller has specifically referred to Article 5, paragraph 1, subparagraph e of the General Data Protection Regulation.

In the given answer, it has also been stated that the data of the data subjects will be kept with regard to the monitoring fee, despite the requests made by the data subjects, based on the Book Keeping Act. In this context, the data controller has referred to Article 17, Section 3, Subsection b of the General Data Protection Regulation. The registrar has also referred to Chapter 2, Section 10, Subsection 2 of the Book Keeping Act. The nature of the receivables as private monitoring fees based on a real contract leads to the fact that the registrar keeps surveillance photos taken of the registered vehicles for accounting purposes, as well as copies of the monitoring payment forms delivered to the registered users. The registrar has announced that the stored data will be deleted when there are no accounting grounds for keeping the data.

The registrar has also announced that it is possible that it will send po. supervision fees are brought before a lower court. In this context, reference has been made to Article 17, Section 3, Subsection (e) of the General Data Protection Regulation. It has also been established that, based on established legal practice, the registrar considers the applicants to be liable for payment of the control fee receivables in question. According to the registrar, the facts brought out by the applicants in their advertisements do not change its above-mentioned perception. The registrar has announced that it will resort to court proceedings when it deems such processing appropriate from the point of view of time and costs. In recent years, the registry keeper has announced that he has brought thousands of cases to be dealt with by subordinate rights. It has also been reported that the practical realities and the ambiguity of the previously prevailing legal situation have led to the fact that not all outstanding receivables have yet been brought into legal collection, but according to the registrar, they will be brought into action continuously within the framework of the resources available at any given time.

The controller has expressed his opinion that the Access to Court principle and the requirement of the existence of effective legal remedies guarantee that the controller cannot be bound by any kind of deadline regarding the time in which it has to bring the case concerning its claim to court (as long as the claim has not expired). The registrar has further presented its opinion that it has a fully justified right not to delete the data of the data subjects related to a certain monitoring fee, if such data will be used as part of the litigation of a dispute, among other things, when clarifying the identity of the person who drove a certain vehicle. The registrant has continued to present his opinion that restricting data processing is also out of the question in such cases. Finally, it has also been established that the information is needed for the activities of the legal representatives used by the controller.

The principle of data minimization

The registrar has emphasized that it only processes information that is necessary and essential for its operations. The registrar has also pointed out that, according to the view presented by the registrar, the registrar's operating model, assessed as incorrect, concerns a very limited group of registered users.

Sanction statement

In its response to the consultation request, the data controller has announced without undue delay that it will bring its current procedures into compliance with valid data protection regulations, if such procedures are deemed to be in violation of data protection legislation in one way or another. The registrar has stated that it has no financial or other interest in not complying with the existing legislation. The registrar has believed that it complies with the current regulation, and according to what it has said, it has tried to be careful in matters concerning data protection.

The registrar has announced that it opposes the use of corrective powers against it, and especially the imposition of a so-called administrative fine. In the given answer, it has been stated that the registrar is a Finnish small company, which mainly holds the registration numbers of wrongly parked vehicles needed for its core operations. The controller has expressed his opinion that the rights possibly related to the aforementioned cannot be considered a matter belonging to the core area of data protection legislation. It has also been stated that the personal data collected in connection with complaint processing or in the form of rights provided by data protection legislation are not related to the core business of the data controller. However, the controller has considered such information in its current form to be necessary both for the controller's own legal protection and for the legal protection of private individuals and third parties connected to it.

Finally, the controller has presented his view that it is generally known that the supervisory authority initially approaches the controllers with guidance and, in the event of possible violations, in the form of milder sanctions. The registrar has stated that the case at hand is the first related control case under the General Data Protection Regulation, which is why the registrar considers the threat of an administrative fine to be unreasonable and unpredictable.

On applicable legislation

The General Data Protection Regulation (EU) 2016/679 of the European Parliament and the Council (data protection regulation) has been applied since May 25, 2018. As a regulation, the legislation is immediately applicable law in the member states. The Data Protection Regulation contains national leeway, on the basis of which national legislation can be used to supplement and specify matters specifically defined in the regulation. The general data protection regulation is specified by the national data protection act (1050/2018), which has been applied since January 1, 2019. The Data Protection Act repealed the previously valid Personal Data Act (523/1999).

Legal issues in the decisions of the data protection commissioner

The Data Protection Commissioner has evaluated and resolved the above-mentioned issues of the applicants based on the General Data Protection Regulation (EU) 2016/679 and the Data Protection Act (1050/2018).

The following legal questions have been resolved in the applicants' cases:

1) has the data controller complied with the data minimization principle stipulated in Article 5(1)(c) and Article 25(2) of the General Data Protection Regulation in connection with the processing of personal data carried out in connection with complaints;

2) whether the controller's procedures for identifying the data subject in the exercise of the data subject's rights are in accordance with the provisions of Article 12, paragraph 2 and 6, Article 5, paragraph 1, letter c, and Article 25, paragraph 2 of the General Data Protection Regulation;

3) whether the data controller had an acceptable reason to deny the applicants' requests for access to the data and/or whether the data controller implemented the applicants' right to access the data in accordance with Article 12, Section 3 and Article 15 of the General Data Protection Regulation;

4) has the data controller had the basis set out in Article 17, Paragraph 3 of the General Data Protection Regulation to deny applicants' requests for the right to delete data; and

5) has the data controller provided the applicants with Article 14 of the General Data Protection Regulation the information referred to in Article 14, Section 3 of the General Data Protection Regulation.

In addition, the Data Protection Commissioner has assessed whether the data controller has had to be given an order according to Article 58, paragraph 2, subparagraph d of the General Data Protection Regulation to bring its processing operations into compliance with the provisions of the General Data Protection Regulation. The Data Protection Authority has also had to assess whether other remedial powers stipulated in Article 58 of the General Data Protection Regulation have been used in the case.

Decisions of the Data Protection Commissioner

In the processing of personal data in connection with complaints, the controller has not complied with the data minimization requirement set forth in Article 5(1)(c) of the General Data Protection Regulation and Article 25(2) of the General Data Protection Regulation.

The controller has not complied with the following sections of the General Data Protection Regulation: 1) Sections 3, 4 and 6 of Article 12; 2) Article 5(1)(c) and Article 25(2); 3) Article 15; 4) Article 5 paragraph 1 letter e and Article 14 paragraph 2 letter a; 5) paragraph 3 of Article 14; and 6) Article 17(1)(a).

Regulation

1) The Data Protection Commissioner has given the data controller an order in accordance with Article 58(2)(d) of the General Data Protection Regulation to bring the processing of personal data in connection with complaints in accordance with Article 5(1)(c) and Article 25(2) of the General Data Protection Regulation.

2) The Data Protection Commissioner has given the data controller an order according to Article 58, paragraph 2, subparagraph d of the General Data Protection Regulation to change its practice regarding the identification of the data subject to the one stipulated in the General Data Protection Regulation.

3) The Data Protection Commissioner has given the data controller an order pursuant to Article 58, paragraph 2, subparagraph c of the General Data Protection Regulation to comply with the applicant's request for the right to access data (cases 5390/152/19, 4959/182/2018 and 1077/452/17)

4) The Data Protection Commissioner has given the data controller an order according to Article 58, paragraph 2, subsection c of the General Data Protection Regulation to comply with the applicant's request to have such personal data related to the paid private parking enforcement fees deleted, on the basis of which no entries in accordance with the accounting obligations of the data controller have been made. If such entries have been made, the data must be deleted six years after the end of the year in which the accounting period ended (case 3609/154/18, 6175/154/18 and 8321/154/18 and 4035/182/20)

The Data Protection Commissioner has given the data controller an order according to Article 58, paragraph 2, subparagraph c of the General Data Protection Regulation to comply with the applicant's request to have his personal data deleted (cases 6569/182/18 and 2669/154/19).

In addition, the Data Protection Commissioner has given the data controller an order in accordance with Article 58, paragraph 2, subparagraph d of the General Data Protection Regulation to change its data storage practices in accordance with the provisions of the General Data Protection Regulation.

5) The Data Protection Commissioner has given the data controller an order in accordance with Article 58, paragraph 2, subparagraph d of the General Data Protection Regulation to change its practices regarding the delivery of data in accordance with the provisions of Article 14, paragraphs 1–3 of the General Data Protection Regulation.

The data protection commissioner has left the appropriate measures to the discretion of the data controller, but has ordered a report on the measures taken to be submitted to the data protection commissioner's office by May 17, 2021 [correction June 30, 2021].

Note

The Data Protection Commissioner has given the data controller a notice in accordance with Article 58, Section 2, Subsection b of the General Data Protection Regulation. The Data Protection Commissioner has considered that, in addition to the notice, the imposition of an administrative penalty fee on the data controller must be assessed. The issue has been a regular violation of the General Data Protection Regulation.

DECISION OF THE PENALTIES COLLEGE

Taking into account the data protection commissioner's decisions in cases 1077/452/2017, 3361/182/2018, 3609/154/2018, 4959/182/2018, 5373/182/2018, 6175/154/2018, 6569/182/2018, 8321/ 154/2018, 2669/154/2019, 5390/152/2019 and 4035/182/2020, the sanctioning panel of the Data Protection Commissioner's office has deemed that an administrative penalty must be imposed in the case at hand. The controller has not complied with the following regulations in accordance with Article 83, Paragraph 5 of the General Data Protection Regulation, the violation of which is subject to an administrative fine: 1) Article 12, Paragraphs 3, 4 and 6; 2) Article 5(1) (c) and Article 25(2); 3) Article 15; 4) Article 5 paragraph 1 letter e and Article 14 paragraph 2 letter a; 5) paragraph 3 of Article 14; and 6) Article 17(1)(a). The amount and quality of complaints made to the supervisory authority also supports the imposition of the penalty fee. It's about

is not about individual complaints and related disagreements, but about an established way of operating.

In terms of effectiveness, proportionality and warning, it must be stated that, in the case being discussed now, the provisions of Article 58, paragraph 2, subparagraphs b, c and d of the General Data Protection Regulation of the Data Protection Commissioner are not a sufficient sanction, taking into account the provisions of Article 83, paragraph 2 of the General Data Protection Regulation.

In addition to the above-mentioned remedial powers and measures, the Sanctions Board orders the data controller to pay an administrative sanction fee of 75,000 (seventy-five thousand) euros to the state based on Article 58(2)(i) and Article 83(5)(a) and (b) of the General Data Protection Regulation. When assessing the amount of the administrative fine, the above-mentioned decisions of the Data Protection Commissioner as a whole and the aggravating and mitigating factors according to Article 83, paragraph 2 of the General Data Protection Regulation have been taken into account.

Reasons for imposing an administrative penalty

Article 83 of the General Data Protection Regulation lays down the general conditions for determining administrative fines. First, the imposition of administrative fines must be effective, proportionate and dissuasive in each individual case.
Secondly, administrative fines are imposed according to the circumstances of each individual case in addition to or instead of the remedial powers provided for in Article 58. When deciding on the imposition of an administrative fine and the amount of the administrative fine, the factors listed in Article 83, Paragraph 2 of the General Data Protection Regulation must be taken into account in each individual case.

When evaluating the matter, the instructions of the data protection working group in accordance with Article 29 on the application and imposition of administrative fines have also been taken into account1 .

The nature, severity and duration of the breach, taking into account the nature, scope or purpose of the data processing in question, as well as the number of data subjects affected by the breach and the extent of the damage caused to them

When assessing the nature of the breach, Article 83 Sections 4 and 5 of the General Data Protection Regulation must be taken into account. In the General Data Protection Regulation, two maximum amounts of the administrative penalty fee have been established, which shows that the violation of some provisions of the regulation can be more serious than others. In the case at hand, the violations of the data controller, as is apparent from the decisions of the data protection officer, have been aimed at the basic principles laid down in Article 5 of the General Data Protection Regulation, as well as non-implementation and negligence of the data subject's rights according to 12–22. Since the controller's violation has specifically concerned the provisions of Article 83, paragraph 5, sub-paragraphs a and b, the controller's violations must be considered to have been serious in nature.

In the hearing, the controller has told that it has not implemented the right of 11 registered users to access information that the registered users have not provided the controller with all the required information. The registrar has further stated that it did not process 28 requests for the deletion of registered data,

1 Guidelines on the application and setting of administrative fines for the purposes of the Regulation 2016/679, WP 253, annettu 3.10.2017.

whose data subjects have not provided the controller with all the information required by this. In addition, the controller has regularly processed data in violation of Article 12, Section 6 of the General Data Protection Regulation (see Data Protection Commissioner's decisions 1077/452/2017, 3361/182/2018, 3609/154/2018, 4959/182/2018, kaisut 6569/182/2018 , 8321/154/2018 and 5390/152/2019). As can be seen from the solutions mentioned above, the controller has, among other things, regularly demanded information about the social security number in order to identify the data subject. So the question has not been that the registry keeper would have demanded information about the personal identification number on the basis of a case-by-case consideration. The information has been required from all registered users who have wanted to use their rights referred to above. In addition, the controller has processed a wider set of personal data in order to identify the data subject than is or would be necessary to identify the data subject and has thus acted contrary to the principle of data minimization laid down in Article 5(1)(c) of the General Data Protection Regulation. The controller has still neglected to set such retention periods for the storage of data or the criteria for determining such periods, based on which it would be possible for the data subject to understand how long certain personal data is stored. In addition, the controller has neglected to provide the data subjects with the information referred to in Article 14 of the General Data Protection Regulation as required by law.

The Sanctions Board draws attention to the fact that if the data subject pays the given private-law parking enforcement fee, he or she will not be provided with the information referred to in Article 14 of the General Data Protection Regulation, with the exception of the identity and contact information of the data controller. The registrar has thus neglected to deliver the information in question to these registrants. It can be further emphasized that in order to assess, for example, whether the processing of personal data is appropriate, the person must have the information referred to in Article 14. It is therefore a question of an informed right, which enables, for example, the use of the rights of the registered person provided for in the decree.

Violations have occurred repeatedly for several years. The applicants have evidently been in contact with the data controller from the activation documents and the decisions of the data protection commissioner and brought to the data controller's attention that the data controller has either not implemented certain of their rights and that the data controller's activities have not been in accordance with the provisions of the General Data Protection Regulation in all respects. On the basis of the reports received and the documents submitted by the applicants to the data protection commissioner's office, it is clear that despite the applicants' contacts, the data controller has still continued the activities and procedures described in the data protection commissioner's decisions to the son. Taking into account the numerous contacts of the applicants, the controller should have identified the problem areas related to the processing of personal data and corrected its operations. In its reports, the controller has not brought forward measures by which it would have in any way tried to correct its deficient and contrary to the General Data Protection Regulation operating procedures in order to implement the data subject's rights. Such indifference manifests the intentionality of the controller's actions. The sanctions panel considers that the violation of the provisions of the General Data Protection Regulation by the data controller was not momentary or due to human error.

The Sanctions Board draws attention to the fact that only in connection with the hearing on July 28, 2020, the data controller has announced that it will waive the required personal identification number in its data protection form. The data controller has still not proposed any other concrete changes, despite the data protection commissioner's request for clarification.

Regarding the duration of the breach, let's also refer to the decision given in case 1077/452/2017, where it has been stated that the provisions of the Personal Data Act regarding the inspection of data and the provisions of the General Data Protection Regulation on the data subject's right to access the data overlap with each other and have almost the same content. Seuraa muskollegio also notes that the data protection working group in accordance with Article 29 has issued practical instructions2 ("instructions regarding transparency"), for example on the principle of transparency. In these instructions, the requirement to limit storage is explained in more detail, among other things. These instructions were last revised and approved on April 11, 2018. The user's instructions on the principle of transparency according to the General Data Protection Regulation have therefore already been issued before the application of the General Data Protection Regulation began. Although official guidelines have been available, the controller has not followed these guidelines in its operations.

As stated above, the principle of data minimization has also been a question in the matters to be resolved by the Data Protection Commissioner. The European Data Protection Board has issued practical instructions on the aforementioned principle in the guidelines for built-in data protection.3 These instructions were issued on 13 November 2019. In the main cases, as mentioned above, there is also the question of the identification of the data subject, which issue the predecessor of the European Data Protection Board, the data protection working group according to Article 29, has dealt with in connection with the guidelines it gave on the portability of data4 . These instructions were last revised and approved on December 5, 2017. Guidance on this issue has already been issued before the application of the General Data Protection Regulation began. Even though official instructions have been available, the controller has not followed these instructions in action.

In summary, let's state that the violations in question cannot be considered short-term in duration. The controller should have brought the processing of personal data in accordance with the provisions of the General Data Protection Regulation by 25 May 2018.

The processing of personal data is a key prerequisite for the data controller's business operations, despite which the data controller has acted contrary to the provisions of the General Data Protection Regulation. Contrary to what the controller has considered, the rights in question in the General Data Protection Regulation explicitly belong to the core area of data protection legislation.

The number of registrants affected by the violation is also important. In its response to the hearing, the registrar has stated that it is not possible for the registrar to inform how many people it has given private parking control fees to as of May 25, 2018. Therefore, being a sanctioning colleague does not have an exact number as the basis for its assessment. However, it can be stated that at least the violation regarding the storage of data has affected all those registered to whom the registrar has issued a private law parking enforcement fee. According to the information received from the registrar, there are thousands of control payment cases in each case. Thus, even with a cautious estimate, it could be concluded that the violation affected at least thousands of registrants. In addition, it must be taken into account that

2 Guidelines on transparency according to Regulation 2016/679, WP260 rev.01 (issued on 29.11.2017, last revised and approved on 11.4.2018).
3 Guidelines 4/2019 on Article 25 Data Protection by Design and by Default (annettu 13.11.2019).
4 Instructions regarding the right to transfer data from one system to another, WP 242 rev.01 (approved 13.12.2016, Last revised and approved 5.12.2017.

the controller processes large amounts of personal data. It has not been a question of an individual or individual events.

The breach is also not the result of human error, but rather a systematic breach of the General Data Protection Regulation. As stated above, violations have occurred repeatedly over several years. The applicants have evidently been in contact with the data controller regarding the initiation document and the data protection commissioner's decisions and have brought the data controller to the knowledge that the data controller has either not implemented certain of their rights and that the data controller's activities have not been in full compliance with the provisions of the General Data Protection Regulation. In this context, it can be stated that, in the period 9 July 2018–20 August 2019, nine matters corresponding to the complaint in question have also been initiated in the Data Protection Commissioner's office. In these cases, however, the applicants have since announced that their case does not need to be further investigated. In the period from 13.12.2019 to 27.1.2021, seven cases corresponding to the complaint in question have been initiated. In addition, between 26.9.2018 and 30.12.2019, two cases corresponding to the complaint in question have been initiated, concerning YY Oy, which belongs to the same group as ParkkiPate Oy. In addition, between 27.11.2019 and 31.12.2020, four cases corresponding to the complaint in question have been initiated, which in themselves concern XX Oy, which carries out debt collection activities on behalf of the data controller, but which, however, mainly concern parking enforcement fees issued by Park kiPate Oy under private law.

With regard to the magnitude of the damage caused, it must also be taken into account that some of the registrants who complained about the private parking control fee will probably eventually pay the claim in order to avoid a possible payment disturbance mark. However, the registrar has not been able to announce the number of such cases. Instead, the controller has presented its view that invoking data protection rights does not release its potential debtors from the obligation based on the decision KKO:2010:23 to pay the controller's open claim. In this regard, it can be stated that the case does not involve the correctness or existence of the controller's possible claim. The data protection commissioner and not the sanctioning board of the data protection commissioner's office is competent to resolve the question of whether or not a person had an obligation to pay a claim. It must be notorious, however, that some persons might easily settle even an unjustified claim in fear of the sanctions caused by non-payment of the claim. It should be noted that the nature of the violation, its duration and the number of registered persons affected by the violation must be considered as factors in favor of imposing an administrative fine in the case.

The evaluation must also take into account the extent of the damage caused to the data subjects. As stated above, the data controller has not complied with the data minimization requirement stipulated in Article 5(1)(c) of the General Data Protection Regulation and the general data protection regulation in Article 25(2) in the processing of personal data carried out in connection with complaints. In those cases where 1) the data subject has not agreed to provide the data controller with information that is not needed to find out whether a parking enforcement fee under private law has been issued on incorrect grounds, and where 2) the data controller has not agreed to process the complaint, and where 3) the data subject has finally paid an unjustified claim , the registered person in question has suffered damage in the amount of the private law parking control fee (60 euros). In such situations, possible costs also include payment reminders and possible late payment interest

costs. Such tangible financial damage that may have occurred to some registered users is taken into account in the evaluation of the case.

The assessment must also take into account the Supreme Court's decision KKO:1998:85, which emphasized informed self-determination and stated that the wording of the personal registration offense referred to in Section 43 of the Personal Registration Act (471/1987), which has since been repealed, showed that violating the protection of privacy corresponded to informed self-determination as a procedure meant causing the damage or inconvenience required by law. This is still true. A mere breach of privacy means causing harm or inconvenience. The condition is not the occurrence of financial or other material damage *per se,* although, as stated above, the occurrence of such damages is generally taken into account in accordance with the provisions of Article 83, paragraph 2, letter a of the Data Protection Regulation, when imposing an administrative penalty fee and deciding on its amount. The section of the article in question does not explicitly refer to financial or other material damage.

The registrar has violated the applicants' rights according to the General Data Protection Regulation, causing damage to the applicants.

Intentional or negligent breach

In the reply submitted to the data protection commissioner, the controller has stated that it has no interest whatsoever in acting contrary to data protection legislation. The controller has presented its opinion that it has proceeded in the matters in question now appropriately and as required by the current data protection legislation. The data controller has said that he has responded to all data protection requests duly made to him. If the supervisory authority considers that there would be a way to verify the identity of each person who contacted the data controller that would better protect the protection of registered personal data, the data controller has announced that it will ask the supervisory authority for guidance on the matter in order to specify its current practices.

As stated above, despite the applicants' contacts and the data protection commissioner's clarification requests, the data controller has continued and mainly still continues the processing of personal data described in the data protection commissioner's decisions. Despite the numerous contacts of the data subjects and the clarification and consultation requests of the Data Protection Commissioner's Office, the data controller has not yet proposed to change the processing of personal data it carries out. The controller has stated its opinion that it has proceeded in the matters in question appropriately and in the manner required by the current data protection legislation. In this regard, the operation of the data controller first of all shows that the data controller is not sufficiently familiar with the current legislation and the requirements arising from it. This, in turn, shows disregard for legislation. For example, in case 8321/154/18, the applicant had asked the data controller to delete his data. In his message, the applicant had specifically asked for instructions on how he could request the deletion of his data without providing the data controller with information that the data controller did not already have. The registrar had only instructed the applicant to fill in the form found on their website. In its response, the registrar had completely ignored the points that the applicant had specifically brought up. The controller had also not justified why it had requested certain information. Likewise, in case 6569/182/18, the applicant had requested the deletion of his data and specifically drew attention to the fact that the data controller had not previously had information about his personal identification number. In this case too, the controller does not

had justified why the information about the applicant's personal identification number had been requested. The registrant had only announced that he would not process such requests that were not made using the website form. In case 4959/182/18, the applicant had requested access to his data and deletion of his data. The controller had again announced that requests regarding the data subject's rights will not be processed if the data subject does not provide it with the required information. In addition, the answer given to the applicant refers to the general data protection regulation. The answer given by the controller to the applicant gives the impression that the general data protection regulation would explicitly oblige the provision of the requested information. In case 5373/182/18, the registrar has informed the applicant that only complaints from complainants who provide their address information will be processed. The registrant has invoked the general data protection regulation in the matter. From the answer given by the controller to the applicant, one gets the impression that the general data protection regulation, by its very name, would oblige the provision of address information. The sanctions panel finds it very burdensome that the activity against the General Data Protection Regulation is justified to the registered person by the General Data Protection Regulation. This easily gives the registered person a false impression of his own rights.

In case 6175/154/18, on June 11, 2018, the applicant had requested access to his data from the controller and at the same time inquired about where the data had been obtained. Since the applicant had not received any kind of response to his request, the applicant had called the company's customer service on August 3, 2018 and told about his request. According to the applicant's memories, the information had only been delivered to him in September 2018. The applicant had not been provided with information about where the information had been obtained. In his report on April 30, 2020, the controller has informed the applicant of the undelivered information immediately. However, according to the applicant, the registrar has still not kept his promise (per 9 Jan

In case 5390/152/19, the applicant, through his representative, has not only requested the data controller to access his data, but also asked him to delete his data and various questions related to data protection. Again, the registrar had replied to the applicant by referring to the form found on their website. The applicant, through his agent, had replied to the message he received from the registrar. In his answer, the applicant had stated, among other things, that the data controller already had all the necessary information in the case. The keeper of the register had no longer responded to the applicant's last message.

In case 1077/452/17, the applicant had first complained about the parking control fee given to him under private law. The registrar had responded to the applicant's complaint. After this, the applicant had, among other things, presented the controller with a request regarding the right of inspection referred to in Section 26 of the Personal Data Act (523/1999), after which the controller had only replied to the applicant that his notice of disputing the matter had been received. The registrar had therefore not reacted in any way to the request made by the applicant.

It is clear that the data controller has been aware of the shortcomings related to its operations, as several data subjects had drawn the data controller's attention to, among other things, the requirement regarding the minimization of data and questions regarding the identification of the data subject. In this situation, a diligent actor could have assumed that he would be better acquainted with both the legislation in force and the relevant official instructions. The controller had not taken any corrective measures, which shows that the controller has deliberately neglected to comply with its obligations.

Taking into account the articles of the General Data Protection Regulation applicable to the case in question, as well as the official guidance, for example the requirements related to limiting storage and minimizing data cannot be considered difficult to interpret. This also applies to the data subject's right to access data and to have their data deleted. It should also be noted that it is the registrar's own responsibility to ensure that it complies with the provisions of the law in its operations. Based on the explanations and answers given in the case, it can be considered that the data controller is not sufficiently familiar with the valid legislation and the relevant interpretation instructions, which partly shows the intentionality of the violations.

It should also be noted that the general data protection regulation is based on the principle of a risk-based approach. The controller must independently assess whether there are risks related to the processing of personal data in its operations. The controller is responsible for ensuring that its operations comply with the provisions of the General Data Protection Regulation.

Actions taken by the controller to mitigate the damage caused to the data subjects, the degree of cooperation with the supervisory authority to correct the breach and to mitigate its possible adverse effects

In the response given in connection with the hearing on 28 July 2020, the data controller has stated that he will waive the required personal identification number in his data protection form. In connection with the investigation of the case, the registrar has not presented any other measures that it would have taken to correct the violations and omissions. However, regarding the identification of the registered person, the controller has requested that the supervisory authority give it instructions, if, in the supervisory authority's opinion, the identification could be implemented in a way that better protects the data protection of the registered persons. Requesting instructions can be considered to indicate openness to cooperation with the supervisory authority. It should be noted, however, that the data controller has only requested guidance on this one set of questions.

The controller has announced that a mention of the rights related to data protection can be included in the supervision payment form and/or XX Oy's collection letters, if the supervisory authority deems it appropriate. This in itself must be considered in the interest of the registrar. However, it must be taken into account that the controller cannot outsource the decision-making regarding the processing of personal data to the supervisory authority. As stated above, the data controller itself is responsible for ensuring that its operations comply with the provisions of the General Data Protection Regulation.

The controller has further announced without undue delay that it will bring its current procedures in line with the current data protection regulations, if such procedures are considered to be in violation of data protection legislation in one way or another. This in itself can also be considered to indicate openness to cooperation with the supervisory authority.

It should be noted that the data controller has since (February 15, 2021) updated the data protection statement. In this context, the explanation has been updated, at least with regard to the storage of personal data. However, the change explained in the solutions of the main cases is not sufficient. What has been said about the retention does not meet the provisions of Article 5, paragraph 1, subparagraph e and Article 14, paragraph 2, subparagraph a of the General Data Protection Regulation. With regard to the storage of personal data, it should also be noted that the data controller has explicitly expressed his opinion in his answer on 28 July 2020 that the Access to Court principle and the requirement for the existence of effective legal remedies would guarantee tha

the data controller cannot be bound by any kind of deadline regarding the time in which it must bring the case concerning its claim to court (as long as the claim has not expired). It should be emphasized that the controller must comply with the general data protection regulation. Article 14(2)(a) of the General Data Protection Regulation clearly states that the data controller must provide the data subjects with the retention period for personal data or, if that is not possible, the criteria for determining this period. For the sake of clarity, it must be stated that in the case it is not, *per se,* a question of the data protection commissioner or the sanctions panel of the data protection commissioner's office ordering the registrar to bring a claim-related matter before the court within a certain deadline. Instead, the question is that the data controller must define the data storage period in such a way that the data subject is able to assess, based on his own situation, how long certain personal data are stored for a specific processing purpose.

As mentioned above, when evaluating the matter, the instructions of the data protection working group on the application and imposition of administrative fines must be taken into account in accordance with Article 29. According to these instructions, the data controller should do everything possible to mitigate the consequences of the violation for the data subjects. According to these instructions, the supervisory authority can take into account such responsible activities of the data controller or the lack of such responsible activities when calculating the penalty fee.5 In the case at hand, the subsequent actions taken by the data controller have had no effect on the processing of personal data carried out before the changes made. On the other hand, the effect of waiving the requirement for a personal identification number in the future on requests regarding the rights of the data subject to the prospectus and the processing of personal data carried out in connection with them is a clear step for the better.

The penalty panel notes that according to Article 83, paragraph 2, subparagraph f of the General Data Protection Regulation, when assessing the imposition of an administrative fine and its amount, the degree of cooperation can also be taken into account. In connection with this, when weighing a reasonable sanction, the supervisory authority has taken into account the fact that the data controller has responded to the authority's clarification requests within the deadline. Despite what has been said, however, it is not appropriate to emphasize the cooperation already required by legislation. Pursuant to Article 58(1) of the General Data Protection Regulation and Section 18 of the Data Protection Act, the controller has had the obligation to deliver the requested information to the supervisory authority, and in this way, it is not appropriate to emphasize the fulfillment of the obligation stipulated in the law as mentioned above.

The degree of responsibility of the controller, taking into account the technical and organizational measures taken by them under Articles 25 and 32

When investigating the matter, the controller has not brought up any facts that would support the fact that it has implemented such organizational measures that correspond to the principles of built-in and default data protection laid down in Article 25 of the General Data Protection Regulation. In Article 25, paragraph 2 of the General Data Protection Regulation, it is specifically stipulated that the controller must implement appropriate technical and organizational measures to ensure that by default only personal data necessary for each specific purpose of the processing is processed. This

5 Guidelines on the application and setting of administrative fines for the purposes of the Regulation 2016/679, WP 253, annettu 3.10.2017, s. 12.

the obligation applies to the amount of personal data collected, the extent of processing, storage time and availability.

In the above-mentioned instructions of the data protection working group according to Article 29, the provision in Article 24 of the General Data Protection Regulation is also explicitly mentioned regarding this point. The controller must implement the appropriate operating principles regarding data protection. 6 The controller must take care of the necessary evaluations and draw appropriate conclusions. Despite several contacts regarding the same issue, the controller has not considered it necessary to assess whether it should take measures to correct the grievances presented in the contacts. The penalty panel considers that such a procedure partly reflects the willfulness of the controller.

Personal data groups affected by the breach

The matter has been about personal data according to Article 4, paragraph 1 of the General Data Protection Regulation, from which a natural person can be identified. The question has mostly been about the identification and contact information of the registered persons, as well as information about their vehicle and, indirectly, possibly also about their transactions. It has not been stated in the case that the subject of processing was personal data belonging to special personal data groups according to Article 9 of the General Data Protection Regulation. However, it must be stated that it cannot be ruled out that photographs taken of parked vehicles in some situations could also indirectly mean the processing of such data.

The manner in which the breach came to the attention of the supervisory authority

The matter has initially been investigated on the basis of eleven different registered contacts. Even later, the data protection commissioner's office has received at least seven new contacts that correspond to the matter currently under consideration. The registrar himself has not reported the violations to the supervisory authority.

Possible other aggravating or mitigating factors applicable to the case, such as possible financial benefits obtained directly or indirectly from the infringement or losses avoided as a result of the infringement

The controller has presented its opinion that it has not violated the general data protection regulation. However, should the supervisory authority consider that this has been done, the controller has stated that he is firmly of the opinion that no financial benefit of any kind has been obtained from the possible violation. Instead, the controller has stated that strict compliance with the General Data Protection Regulation has rather tied up its resources and caused the company significant costs.

It can be stated that the financial benefit of the registrar is greater, the more often the private law parking enforcement fee is paid. In this connection, at least the example described above can be referred to in the case of parking enforcement fees eventually paid under private law, for which the registrar has not agreed to process the Complaints. If, in these situations, one private parking control fee has actually been issued incorrectly,

6 Guidelines on the application and setting of administrative fines for the purposes of the Regulation 2016/679, WP 253, annettu 3.10.2017, s. 13.

but in the end it is carried out, the controller in such situations receives an unjustified financial benefit. This is taken into account when evaluating the matter.

Summary and the amount of the administrative penalty payment

Paragraph 1 of Article 83 of the General Data Protection Regulation stipulates that the imposition of administrative fines for violation of the regulation must be effective, proportionate and warning in each individual case. In the case at hand, in particular, the nature of the violations, their duration and the number of registered persons affected by the violation, as well as the intentionality of the violations, reflect the seriousness of the violation.

The provisions in Article 83, Sections 4 and 5 of the General Data Protection Regulation are also relevant. In the mentioned law, the violations are divided into two different categories based on their severity. The violations at hand mainly belong to the more serious of the mentioned categories.

The disciplinary panel considers, based on the reasons presented above, that the data controller has correctly and regularly failed to comply with the data subject's right to access the data stipulated in Article 15 of the regulation. As a condition for access, the controller has set a requirement to provide personal data, which, considering the basis of processing, cannot be justified by an identification requirement or the accuracy principle, and thus violated the principle of minimization, legality and reasonableness regarding the processing of personal data.

When these processing operations or their neglect can be considered to be related to each other on the basis of Article 83, paragraph 3 of the General Data Protection Regulation, the total amount of the penalty imposed may not exceed the penalty imposed for the most serious violation.

Article 15 of the General Data Protection Regulation and the principles laid down in Article 5, Paragraph 1 are mentioned as the basis for penalty payment in Article 83, Paragraph 5 of the General Data Protection Regulation, which stipulates a higher amount of penalty payment.

In the case at hand, the sanctions panel considers the violation of Article 15 to be the most serious violation, considering that the violation is the intentional prevention of access to information that may be relevant to the legal protection of the person designated as the payer.

According to Article 83, paragraph 5, subparagraph a of the General Data Protection Regulation, an administrative fine of a maximum of 20,000,000 euros is imposed in accordance with paragraph 2, for the violation of the basic principles of processing referred to in Article 5 and the rights registered according to subparagraph b, according to Articles 12-22, or in the case of a company, four percent of the total worldwide net turnover of the preceding financial year, whichever is greater.

The combined annual turnover of the companies belonging to the same group as ParkkiPate Oy for 2019 was 12,367,668.07 euros, of which four percent is 494,706,723 euros.

The right to access information is a right protected by the European Charter of Fundamental Rights. Article 8, paragraph 2 of the Charter of Fundamental Rights of the European Union stipulates that everyone has the right to access the information that has been collected about them. The right to access your own

to their personal data are key elements of European data protection legislation. 7 The sanctions panel emphasizes that when deciding on the amount of the administrative penalty payment, weight must also be given to the fact that the question has been a violation of a right protected by the Charter of Fundamental Rights. It should be noted that the matter is also about the rights of data subjects stipulated in Chapter III of the General Data Protection Regulation, the strengthening of which has been one of the goals of the General Data Protection Regulation. 8

The sanctions panel considers that only three factors can be taken into account as mitigating factors when considering sanctions: 1) the limitation of the personal data groups that are normally the subject of personal data processing; 2) openness to cooperation with the supervisory authority shown by the controller; and 3) the fact that the data controller has indicated that he waives the requirement for a personal identification number in his data protection form. Taking into account the seriousness of the violations (both in general and at the individual level) and the fact that the data controller has only announced that he is open to cooperation when the matter is being investigated by the data protection authorized office, the sanctioning board cannot, however, give significant weight to the first two mentioned.

First of all, the activity of the registrar has been considered to be intentional. Intentionality is manifested by the nature of the violations, their duration and the number of registered persons affected by the violation. Despite the applicants' contacts and the request for clarification from the Data Protection Commissioner's office, the data controller has continued, and in principle still continues, the processing of personal data described in the Data Protection Commissioner's decisions. In this respect, the controller's actions show that the controller's activities are not sufficiently familiar with the current legislation and the requirements arising from it, which in turn shows disregard for what is stipulated in the law. It has not been a question of individual or individual events, but of a systematic violation of its general data protection regulation.

The evaluation has also taken into account the quality of the business in question. The question is about private parking control activities, for which there is no special legislation regarding the industry. It is characteristic of this business that for unauthorized and/or incorrect parking detected in a private area, a control fee is imposed on the person who parked the vehicle. This kind of activity has been considered to be related to the basic 9 This is the characteristics of administrative task referred to in § 124 of the Civil Service Act (731/1999). mio, the public special diligence can be expected from the controller. In this context, it is still necessary to refer to the view presented by the controller that the supervisory authority would initially approach the controllers first by guiding them and, in possible violation situations, in the form of milder sanctions. It must be stated that this perception of the controller is incorrect.

The Sanctions Board draws attention to the fact that a clear distinction should be made between an administrative penalty fee and a threatened fine. A threatened fine is already a means available to the data protection commissioner before the general data protection regulation, which is explicitly set as an effect of the decision and thus requires a previous decision or order. The administrative penalty payment is again of a different nature and a penalty separate from the threatened fine, the imposition of which does not require, for example, previous decisions concerning the same matter to have been shown to the controller. The appellant's point of view is that the owner of the supervisory authority should give an administrative fine before imposing

7 See for example, the combined decisions of the Court of Justice of the European Union C-141/12 and C-372/12 (Minister voor Immigratie, Integratie en Asiel).

8 HE 9/2018 vp, s. 29.

9 See for example HE 223/2010 vp, p. 39 and PeVL 57/2010 vp, revised version 2.0.

detailed guidance or another sanction that is milder than an administrative penalty fee would in practice lead to the administrative penalty fee having an effect similar to a threatened fine. The administrative penalty fee has been created as a penalty separate from the threatened fine in the name itself.

In this regard, the Sanctions Board also draws attention to the fact that, according to Article 83(2) of the Data Protection Regulation, administrative fines are imposed in accordance with the circumstances of each individual case, in addition to or instead of the measures referred to in Article 58(2)(a–h) and (j) . Furthermore, in accordance with paragraph 6 of the same article, failure to comply with the order of the supervisory authority referred to in paragraph 2 of Article 58 is subject to an administrative fine of a maximum of 20,000,000 euros in accordance with paragraph 2 of this article, or, in the case of a company, four percent of the total annual worldwide turnover of the previous financial year also, whichever of these amounts is greater. In other words, failure to comply with the supervisory authority's order is specifically sanctioned in the above-mentioned section of the article. Since it is a serious violation of the General Data Protection Regulation, non-compliance with the authority's decision leads to the application of a higher fine class. Based on the wording of Article 83 of the General Data Protection Regulation, it is thus clear that an administrative fine can be imposed without any prior order or notice.

The Sanctions Board states that the provisions of the General Data Protection Regulation do not require the supervisory authority to have instructed the data controller to change its operations before imposing an administrative penalty fee, and such an obligation cannot be derived from other legislation either. In the previous decision practice of the Sanctions College, it has also not been considered that the imposition of an administrative penalty would require that the data controller had first been directed by the data protection commissioner to change its operations. In this context, the Penalty Board refers to what was stated above about the administrative penalty fee and the threatened fine. Before the application of the General Data Protection Regulation began, it was not possible to impose an administrative penalty fee, which is why the supervisory authority's previous supervision practice has mostly been guiding. It should also be noted that the administrative fine must be a warning in nature. In terms of monetary amount, such penalty payment must therefore be such that its financial impact is not insignificant from the point of view of the data controller's business operations.

The fact that the data controller has announced that he will waive the required personal identification number in his data protection form has been taken into account in the evaluation as a factor that reduces the amount of the administrative fine.

The Sanctions Board considers an administrative sanction payment in the amount of 75,000 (seventy-five thousand) euros to be effective, proportionate and warning.

The decision to impose an administrative fine has been made by the members of the data protection commissioner's council.

Applicable legal provisions

Those mentioned in the justifications.

Appeal

According to Section 25 of the Data Protection Act (1050/2018), this decision can be appealed by appealing to the administrative court in accordance with the provisions of the Act on Trial in Administrative Matters (808/2019). The appeal is made to the Helsinki Administrative Court.

More information about this decision will be provided by the rapporteur

Laura Varjokari, phone 029 56 66771