

# THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, day 11

March

2019

## DECISION

DEP. 405.85.2018

Based on Article. 105 § 1 of the Act of June 14, 1960, Code of Administrative Procedure (Journal of Laws of 2017, item 1257, as amended), hereinafter referred to as "the Code of Administrative Procedure", in connection with Art. 58 sec. 2 lit. e Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46 / EC (Journal of Laws No. UE.L.2016.119.1), hereinafter referred to as the "General Data Protection Regulation" or "GDPR", following an administrative proceeding regarding failure by YSA to notify a person affected by a personal data breach, contrary to Art. 34 sec. 2 GDPR, President of the Personal Data Protection Office discontinues the proceedings in this case in its entirety.

### Justification

On [...] July 2018, Y. S.A., hereinafter also referred to as "T." or "Y. S.A. ", submitted a notification of a personal data breach to the President of the Personal Data Protection Office (date of finding: [...] July 2018, [...]). The breach consisted in sending the insurance documentation by traditional mail, as a result of which the client's personal data was made available to an unauthorized person. In the notification, the administrator stated that the breach concerned such data as: name, surname, registered address, PESEL number, telephone number, e-mail address, bank account number, parents' names, ID card number and expiry date, date of birth, gender, personal data on the health status in relation to the reported damage, height, eye color, date of issue of the evidence and the claim number. The administrator assessed the risk of violating the rights and freedoms of the data subject as medium and refrained from notifying this person about the event.

On [...] August 2018, the President of the Personal Data Protection Office pursuant to Art. 52 sec. 1 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws 2018.1000 of 2018.05.24 as amended), hereinafter referred to as the "Personal Data Protection Act", and Art. 34 sec. 4 GDPR, sent to Y. S.A. the occurrence - in which, due to the high risk of

violation of the rights and freedoms of the data subject, he called for notifying this person about the breach of personal data protection and providing him with recommendations on minimizing the potential negative effects of the breach.

In response to the above request, Y. S.A. in a letter of [...] September 2018, it indicated that the documentation with the data was sent to a law office dealing with assistance to victims of accidents, with which the administrator has been cooperating for many years and has a very good opinion about the entity.

[...] February 2019 pursuant to Art. 61 § 1 and 4 of the Code of Administrative Procedure in connection with Art. 58 sec. 2 lit. e) GDPR, administrative proceedings were initiated regarding the failure to notify by Y. S.A. the data subject about the breach of personal data protection in accordance with art. 34 GDPR.

Then, in a letter of [...] February 2019 (reference number [...]), T. informed the President of the Personal Data Protection Office that the data subject had been notified by correspondence of the breach of personal data protection on [...] February 2019. T. also provided the anonymised content of the notification, according to which the data subject was provided with the following information:

what was the breach of personal data protection;

what are its possible negative consequences;

what measures can be taken by the data subject to minimize the possible negative effects of the breach of personal data protection;

what measures has the administrator applied to remedy the breach of personal data protection;

name and surname and e-mail address of the personal data protection officer.

In these facts, the President of the Personal Data Protection Office considered the following.

Pursuant to the provision of Art. 105 § 1 of the Code of Administrative Procedure, when the proceedings for any reason have become redundant, the public administration authority issues a decision to discontinue the proceedings. Therefore, it follows from the above-mentioned provision that administrative proceedings may not be conducted in a situation where during the proceedings its subject ceased to exist, or when the subject matter no longer existed before the commencement of the proceedings.

Taking into account the fact that the controller has notified the data subject of a breach of personal data protection in accordance with art. 34 sec. 2 GDPR and the above-mentioned legal regulations, it should be stated that the proceedings in

this case have become redundant and, consequently, it is necessary, pursuant to art. 105 § 1 of the Code of Administrative Procedure, issuing a decision on its redemption in full.

In view of the above, the President of the Personal Data Protection Office resolved as in the sentence.

The decision is final. The party has the right to lodge a complaint against the decision with the Provincial Administrative Court in Warsaw, within 30 days from the date of its delivery, via the President of the Office for Personal Data Protection (address: Office for Personal Data Protection, ul. Stawki 2, 00-193 Warsaw). A proportional fee should be filed against the complaint, in accordance with Art. 231 in connection with Art. 233 of the Act of August 30, 2002, Law on proceedings before administrative courts (Journal of Laws of 2018 1302, i.e. of 2018.07.05). The party has the right to apply for the right of assistance, which includes exemption from court costs and the appointment of an attorney, legal advisor, tax advisor or patent attorney. The right to assistance may be granted at the request of a party submitted prior to the initiation of the proceedings or in the course of the proceedings. The application is free of court fees.

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