

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, on 18

April

2019

DECISION

ZSPU.440.435.2018

Based on Article. 104 § 1 of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), art. 7 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000, as amended) and art. 57 sec. 1 lit. a) and f) and Art. 6 sec. 1 letter e) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46 / EC (general data protection regulation) (Journal of Laws UE.L.2016.119.1 and Journal of Laws UE.L.2018.127.2) after conducting administrative proceedings regarding the complaint of Mr. X, res. in R. and Mrs. E. C., residing in in R., for irregularities in the processing of their personal data by the Director of the Regional Directorate of State Forests in K. with headquarters in K., President of the Office for Personal Data Protection refuses to accept the request.

JUSTIFICATION

The Office for Personal Data Protection received a complaint from Mr. X, residing in in R. and Mrs. E. C., residing in in R., hereinafter referred to as the Complainants, for irregularities in the processing of their personal data by the Director of the Regional Directorate of State Forests in K., based in K., hereinafter referred to as the Director. In the content of the above-mentioned of the complaint The complainant submitted that the Director's attorney served on the Chamber of Tax Administration in Y, which was the place of employment of the Complainant, a complaint against the decision of the Director of the Tax Administration Chamber in Y, to which he attached decision no. [...] of [...] May 2018, and in for whom only the first name and surname of the complainant and the registration number of the recreational plot were anonymized, providing all other data, including the complainant's data on the real estate and the circumstances related to the evidentiary proceedings in this case.

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

following facts.

The Director conducted administrative proceedings against the Complainants regarding the exclusion of forest land from production, which ended with the administrative decision No. [...] of [...] May 2018 - the Director's letter of [...] December 2018 to the President of the Data Protection Office Personal - in the case file.

Mr. X is the Second Deputy Director of the Tax Administration Chamber in Y - public information available on the Internet at the link [http: // \[...\]](http://[...].).

At the same time, the Director was a party to the enforcement proceedings conducted by the Head of the First Tax Office in R. On [...] March 2018, the Head of the First Tax Office in R. issued a decision in these proceedings, against which the Director lodged a complaint with the Director of the Tax Administration Chamber in Y. As a result of considering the above-mentioned complaints The Director of the Tax Administration Chamber in Y issued a decision of [...] May 2018, which was signed by the Complainant, acting as the Second Deputy Director of the Tax Administration Chamber in Y. Then, the Director of the above-mentioned of the decision of [...] May 2018, he appealed to the Provincial Administrative Court in R. the decision of [...] May 2018 was attended by a person (the Complainant), who should be excluded under Art. 24 § 3 of the Act of June 14, 1960, Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), hereinafter referred to as the Code of Administrative Procedure. In support of this allegation, evidence was submitted in the form of a copy of the above-mentioned administrative decision No. [...] of [...] May 2018. The purpose of the evidence was to prove that Mr. X Second Deputy Director of the Tax Administration Chamber in Y was a party to the proceedings conducted by the same administration body, which was also the creditor lodging the complaint against the decision The Head of the First Tax Office in R. - a letter from the Director of [...] December 2018 to the President of the Personal Data Protection Office - in the case files.

As stated by the Director in the above-mentioned a letter of [...] December 2018 addressed to the citation authority: "(...) in the content of the excerpt, the data on the parties' address of residence and the registration number of the plot owned by them were anonymised (...). The data including the name and surname of Mrs. E. C., the address of residence of Mr. and Mrs. E. and X, the number of the registration plot on which forest land was excluded from production was anonymized (...) ”.

By a judgment of [...] August 2018 (file ref. [...]), the Provincial Administrative Court in R. decision of the Director of the Tax Administration Chamber in Y of [...] May 2018 and its preceding decision of the Head of the I Tax Office in R. of [...] March 2018, however, no violation of Art. 24 § 3 of the Code of Administrative Procedure - judgment in the case files.

After reviewing the entirety of the evidence collected in the case, the President of the Office for Personal Data Protection considered the following.

Pursuant to Art. 57 sec. 1 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46 / EC (general regulation on the protection of data) (Journal of Laws EU.L.2016.119.1 and Journal of Laws EU.L.2018.127.2), hereinafter referred to as the GDPR, without prejudice to other tasks set out in this Regulation, each supervisory authority on its territory monitors and enforces the application of this Regulation (point a) and handles complaints lodged by the data subject or by a body, organization or association in accordance with Art. 80, to the extent appropriate, conducts proceedings on these complaints and informs the complainant about the progress and the results of these proceedings within a reasonable time, in particular if it is necessary to continue investigations or coordinate actions with another supervisory authority (point f).

Pursuant to Art. 5 sec. 1 GDPR, personal data must be: a) processed lawfully, fairly and in a transparent manner for the data subject ("lawfulness, fairness and transparency"); b) collected for specific, explicit and legitimate purposes and not further processed in a manner inconsistent with these purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes is not recognized in accordance with Art. 89 paragraph. 1 to be incompatible with the original objectives ("purpose limitation").

In turn, according to art. 6 sec. 1 GDPR, processing is lawful only in cases where - and to the extent that - at least one of the following conditions is met: a) the data subject has consented to the processing of his personal data in one or more specific purposes; b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; c) processing is necessary to fulfill the legal obligation incumbent on the controller; d) processing is necessary to protect the vital interests of the data subject or of another natural person; e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller; f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where these interests are overridden by the interests or fundamental rights and freedoms of the data subject, which require protection of personal data, in particular when the data subject is a child.

Therefore, referring to the Complainants' allegation that the Director disclosed their personal data contained in the

above-mentioned Decision No. [...] of [...] of May 2018 for the benefit of the Tax Administration Chamber in Y, it should be noted that the Director's action should be considered as authorized in the light of Art. 6 sec. 1 letter e) of the GDPR. The action questioned by the Complainants was the Director's action taken to ensure the protection of the party's rights in administrative proceedings conducted by the Director of the Tax Administration Chamber in Y in the exercise of public authority. The questioned decision was forwarded together with the complaint to the Provincial Administrative Court in R. through the Director of the Tax Administration Chamber in Y solely to support the allegation of violation of Art. 24 § 3 of the Code of Administrative Procedure. If the Director believed that, in the proceedings to which he was a party, his rights as a state authority were violated by violation of Art. 24 § 3 of the Code of Administrative Procedure, his right and official duty was to challenge the above-mentioned the decision of the Director of the Tax Administration Chamber in Y of [...] May 2018 to the court and raising the above-mentioned plea. Thus, the director finally carried out his official activities, which he documented. In order to prove the legitimacy of the presented position, he submitted the questioned above-mentioned an administrative decision concerning the Applicants. However, it is irrelevant whether the allegation was justified or not, as it is a secondary issue, subject to the court's assessment.

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

The decision is final. Based on Article. 7 sec. 2 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000, as amended) in connection with Art. 13 § 2, art. 53 § 1 and article. 54 § 1 of the Act of August 30, 2002 - Law on proceedings before administrative courts (Journal of Laws of 2018, item 1302, as amended), from this decision, the party has the right to lodge a complaint against the decision with the Provincial Administrative Court in Warsaw, within 30 days from the date of its delivery to the party. The complaint is lodged through the President of the Personal Data Protection Office. The fee for the complaint is PLN 200. The party has the right to apply for the right to assistance, including exemption from court costs.

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