

# THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, day 15

February

2019

## DECISION

ZSOŚS.440.68.2018

Based on Article. 104 § 1 of the Act of June 14, 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), art. 12 point 2, art. 22, art. 23 sec. 1 point 2, art. 27 sec. 1 and 2 point 2 of the Act of August 29, 1997 on the Protection of Personal Data (Journal of Laws of 2016, item 922, as amended) in connection with Art. 100 sec. 1 and 2 of the Act of December 14, 2018 on the protection of personal data processed in connection with the prevention and combating of crime (Journal of Laws of 2019, item 125), after conducting administrative proceedings regarding the complaint of Mr. PN, staying in the Detention Center Investigators in S., for failure to disclose the personal data of officers employed in S. Remand Center by the Director of the Remand Center in S.

I refuse to accept the application

### Justification

The Office of the Inspector General for Personal Data Protection (currently: the Office for Personal Data Protection) received a complaint from Mr. PN, staying in the Remand Center in S., hereinafter referred to as "the Complainant", about the failure to disclose the personal data of officers employed in the Remand Center in S. by the Director of the Remand Center in S., hereinafter referred to as the "Director".

In the course of the administrative procedure conducted in this case, the President of the Personal Data Protection Office determined the following.

The applicant brought an action against the State Treasury - S. Remand Center. In the course of the proceedings before the District Court in S., the court ordered the applicant to provide the addresses of the witnesses' place of residence, i.e. the officer and employee of the Remand Center, under pain of omitting evidence from these testimonies. The complainant asked the Director to provide the data concerning the place of residence of the witnesses in the pending proceedings in the form of addresses of their place of residence. The Director refused to provide the requested data, referring, inter alia, to the fact that

he did not have the current addresses of former officers and employees of the Remand Center, as well as stressing the need to ensure the protection of personal data of officers and employees of the Prison Service, as well as the right to privacy, inviolability of the apartment and the right to safety of loved ones. Moreover, it indicated to the Complainant that the current data should be included in the register of residents and the PESEL register.

It should be noted here that on the date of entry into force of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000, as amended), i.e. May 25, 2018, the General Office The Personal Data Protection Inspector has become the Office for Personal Data Protection. Pursuant to Art. 160 of this Act, the proceedings conducted by the Inspector General for Personal Data Protection, initiated and not completed before May 25, 2018, are conducted by the President of the Personal Data Protection Office pursuant to the Act of August 29, 1997 on the Protection of Personal Data in accordance with the principles set out in the Code of Civil Procedure. All activities undertaken by the Inspector General for Personal Data Protection before May 25, 2018 remain effective.

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. 7 point 2 of the Act of August 29, 1997 on the Protection of Personal Data (Journal of Laws of 2016, item 922, as amended), hereinafter referred to as the "Act", data processing shall mean any operations performed on personal data, such as collecting, recording, storing, developing, changing, sharing and deleting, especially those that are performed in IT systems. Providing personal data as one of the methods of their processing may be considered lawful only if the data controller demonstrates that at least one of the material conditions for data processing is met. The conditions for ordinary personal data are set out in Art. 23 sec. 1, and regarding the so-called sensitive personal data in art. 27 sec. 2 of the Act on the Protection of Personal Data.

According to the evidence collected in the case, the Director of the Remand Center refused to disclose the personal data of the former officer and employee of the Remand Center to the applicant due to the fact that the above-mentioned persons are no longer employees of the Remand Center and they do not have data on their current place of residence.

Due to the above, in the present case there was no breach of the provisions on the protection of personal data by refusing to disclose personal data of former officers and employees of the Remand Center in S. the complainant.

At the same time, it should be noted that on February 6, 2019, the Act of December 14, 2018 on the protection of personal

data processed in connection with the prevention and combating of crime (Journal of Laws of 2019, item 125) entered into force, which in art. 82 points 2 amends the content of the Act of April 9, 2010 on the Prison Service (Journal of Laws of 2018, item 1542, as amended) by, inter alia, adding Art. 24b, which in sec. 3 provides that information on the personal data of officers and employees is not provided at the request of persons deprived of liberty or other entities.

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

The party has the right to lodge a complaint against the decision to 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 Office (address: ul. Stawki 2, 00-193 Warsaw). The party has the right to apply for the right to assistance, including exemption from court costs.

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