

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, day 10

April

2019

DECISION

DEP. 405.1981.2018

Based on Article. 105 § 1 of the Act of June 14, 1960, Code of Administrative Procedure (Journal of Laws of 2018, item 2096), 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 119 of 04/05/2016, p. 1, as amended) after conducting administrative proceedings regarding the failure by the School Complex in W. 34 sec. 2 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 (OJ. UE L 119 of 04/05/2016, p. 1, as amended), President of the Office for Personal Data Protection discontinues the proceedings in this case in its entirety.

JUSTIFICATION

The Office for Personal Data Protection, on [...] December 2018, received a notification of a personal data breach sent by the School Complex in W., hereinafter referred to as the "School Complex", pursuant to Art. 33 paragraph 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 (Journal of Laws No. UE L 119 of 04/05/2016, p. 1, as amended), hereinafter referred to as "Regulation 2016/679".

According to the report sent by the director of the School Complex, the breach of personal data protection consisted in the loss of a data carrier, USB flash drive containing the following personal data of the School Complex employees: name and surname, parents' names, date of birth, address of residence or stay, PESEL number, mother's maiden name, series and number of ID card.

The notification showed that the administrator informed the data subjects about the breach of personal data protection.

However, since the notification did not meet the requirements of Art. 34 sec. 2 in connection with joke. 33 paragraph 3 of Regulation 2016/679, the President of the Office for Personal Data Protection sent an application to the School Complex, calling for correct and correct notification of data subjects.

In response to the request, the School Complex, on [...] January 2019, re-sent the content of the notification, but it did not differ from that sent on [...] December 2018, and consequently, it did not meet the requirements contained in art. 34 sec. 2 of Regulation 2016/679.

Therefore, on [...] February 2019, pursuant to Art. 61 § 1 and 4 of the Act of June 14, 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096), hereinafter referred to as "the Code of Administrative Procedure" in connection with Art. 58 sec. 2 lit. e of Regulation 2016/679, administrative proceedings were initiated regarding the failure by the School Complex in W. to notify persons who were affected by a breach of personal data protection, in accordance with art. 34 sec. 2 of Regulation 2016/679.

In a letter of [...] March 2019, the School Complex stated that due to the discovery of the data carrier on [...] December 2018 at the administrator's seat, i.e. the office of the head of the School Complex, the breach could not lead to unauthorized disclosure or unauthorized access to personal data.

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.

Considering the fact that the data carrier in question was found at the controller's seat and there was no unauthorized disclosure or unauthorized access to personal data, it should be stated that the proceedings in this case have become pointless. 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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