THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, 27

September

2019

DECISION

ZSOŚS.440.149.2018

Based on Article. 105 § 1 of the Act of June 14, 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), art. 7 sec. 1 and art. 60 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2019, item 1781), in connection with art. 57 sec. 1 lit. a and f 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 EU L 119 of May 4, 2016, p. 1 and EU Official Journal L 127 of May 23, 2018, p. 2), after conducting administrative proceedings regarding the complaint of Mr. ML, residing in W., to disclose his data personal data by the President of the District Court in S.

I discontinue the proceedings

Justification

The Personal Data Protection Office received a complaint from Mr. ML, residing in W., hereinafter referred to as the "Complainant", about disclosure of his personal data by publication on the list of court experts, published on the website [...] by the District Court in S. (hereinafter referred to as "the Complainant") : "Court"), address of residence / registered address and telephone number, which the complainant did not consent to.

In the course of the proceedings initiated as a result of the complaint, the President of the Personal Data Protection Office (hereinafter: "the President of the Personal Data Protection Office") obtained explanations regarding the circumstances of the case, read the evidence and made the following findings.

In a letter of [...] June 2019, the President of UODO asked the President of the District Court in S. (hereinafter: "the President of the Court") to submit written explanations. On [...] June 2019, the Office for Personal Data Protection received a letter from the President of the Court (letter number: [...]), which explained that the Court's website does not include the complainant's address as to the address on the Court's website. residence / registration and telephone number. The President of the Court

also pointed out that [...] in December 2017 the Complainant had been informed that the Court's website only showed the complainant's e-mail address and that the Court was not the website administrator [...].

In a letter of [...] June 2019, the President of the Personal Data Protection Office (UODO) asked the President of the Court to provide additional explanations, and in particular whether the Court uses or has ever used the [...] website to publish lists of court experts containing the complainant's personal data. On [...] July 2019, the Office for Personal Data Protection received a letter from the President of the Court (letter number: [...]), which informed that the Court did not use and did not use the website [...] to publish the lists court experts or any personal data of the Complainant.

As a result of the inspection of the website [...] where it is possible to search for information about the owners of websites, [...] carried out [...], it was found that the website administrator [...] is a natural person.

In such a factual and legal state, the President of UODO considered the following:

The collected evidence shows that the Complainant's personal data in the form of his residential address and mobile phone number are processed on the website [...] The owner of the website is a natural person, which confirms the explanation of the President of the Court that the Court is not the administrator of the website [. ..], on which the complainant's data is published in the form of his address of residence / registered office and telephone number, about which the complainant was informed by the court.

Thus, pursuant to the provisions of Art. 105 § 1 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, when the proceedings for any reason became redundant in whole or in part, the administration body public issues a decision to discontinue the proceedings, respectively, in whole or in part. The doctrine indicates that: "the redundant nature of administrative proceedings, as provided for in Art. 105 § 1 of the Code of Administrative Procedure, means that there is no element of a material legal relationship, and therefore it is not possible to issue a decision settling the matter by resolving its substance. The prerequisite for discontinuation of the proceedings may exist even before the initiation of the proceedings, which will be revealed only in the pending proceedings, and it may also arise during the proceedings, i.e. in a case already pending before the administrative authority "(B. Adamiak, J. Borkowski," Kodeks administrative procedure. Commentary, 14th edition, CHBeck Publishing House, Warsaw 2016, p. 491). It should also be mentioned the judgment of the Supreme Administrative Court of 21 September 2010, II OSK 1393/09, in which the position was expressed that the pointlessness of the administrative procedure means the lack of

any element of the substantive legal relationship resulting in the fact that it is impossible to settle the case by resolving it. in essence. The discontinuation of administrative proceedings is a formal decision that ends the proceedings, without a substantive decision. Moreover, the Supreme Administrative Court stated in its judgment of 15 January 2010, I OSK 1167/09, that if the procedure is groundless, no decision on its essence can be issued.

The determination by the public authority of the existence of the condition referred to in Art. 105 § 1 of the Code of Administrative Procedure, obliges him, as it is emphasized in the doctrine and jurisprudence, to discontinue the proceedings, because then there are no grounds for resolving the matter as to the substance, and continuing the proceedings in such a situation would make it defective, having a significant impact on the result of the case. . The irrelevance of the proceedings may also result from a change in the facts of the case.

Pursuant to Art. 58 sec. 2 lit. d of the general regulation on the protection of personal data, the powers of the President of the Personal Data Protection Office include ordering the controller or the processor to adjust the processing operations to the provisions of this Regulation, and, where applicable, indication of the method and date.

When assessing the evidence collected in the case in question, the President of the Personal Data Protection Office found that due to the fact that the President of the District Court in S. is not the administrator of the website on which the complainant's personal data are published, there are no grounds for issuing by the personal data protection authority. decisions in the scope of the order referred to in art. 58 sec. 2 lit. d of the general regulation on the protection of personal data.

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

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) and in connection with joke. 13 § 2, art. 53 § 1 and article. 54 of the Act of August 30, 2002, Law on Administrative Court Proceedings (Journal of Laws 2017, item 1369, as amended), the party has the right to lodge a complaint against this decision with the Provincial Administrative Court in Warsaw, in within 30 days from the date of delivery of this decision, via the President of the Office for Personal Data Protection (address: Office for Personal Data Protection, ul. Stawki 2, 00-193 Warsaw). 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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