

# THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, 22

March

2019

## DECISION

ZSZZS.440.660.2018

Based on Article. 104 § 1 of the Act of June 14, 1960 Code of Administrative Procedure (Journal of Laws of 2017, item 1257, as amended), art. 15 sec. 1 and sec. 3 and art. 58 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 (Official Journal of the European Union , L 119, May 4, 2016) after conducting administrative proceedings regarding the complaint of Mr. AK, about irregularities in the processing of his personal data consisting in failure to fulfill the information obligation specified in art. 15 sec. 1 and 3 of GDPR by T. w M., President of the Personal Data Protection Office

refuses to accept the request.

### Justification

The Office for Personal Data Protection received a complaint from Mr. A.K., hereinafter referred to as the Complainant, about irregularities in the processing of his personal data consisting in failure to fulfill the information obligation specified in art. 15 sec. 1 and 3 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 (Official Journal European Union, L 119, May 4, 2016), hereinafter referred to as GDPR, by T. w M., hereinafter referred to as the Facility.

In the content of the complaint, the Complainant indicated that pursuant to Art. 15 GDPR asked the facility to provide information related to the processing of his personal data and to provide a copy of his personal data processed both in paper and electronic form. However, until the date of lodging the complaint, i.e. by [...] September 2018, he did not receive a full reply, let alone all copies of the requested documents containing his personal data. In connection with the above, the Complainant requested that the Facility be ordered to fully comply with his request.

In the course of the administrative proceedings, the President of the Personal Data Protection Office established the following facts:

Until [...] March 2017, the applicant was employed at the [...] facility.

The complainant, on [...] August 2018, pursuant to Art. 15 sec. 1 of the GDPR, asked the Facility via e-mail to provide it with information related to the processing of his personal data regarding the category of personal data processed, the purposes of processing this data, the period of personal data processing, recipients to which this data was provided, sources of personal data and making automated decisions about it. Moreover, the Complainant, pursuant to Art. 15 sec. 3 GDPR, requested a copy of his personal data processed both in paper and electronic form.

In response to the complainant's request, the facility, in a letter of [...] September 2018, indicated that it processes his personal data contained in the personal file as well as in accounting and payroll programs in order to fulfill the legal obligation incumbent on the administrator, i.e. pursuant to art. . 6 sec. 1 letter c of the GDPR. Moreover, in accordance with the Act of 14 July 1983 on the national archival resource and archives (Journal of Laws 2018.217, i.e.), the complainant's personal data will be stored for a period of 50 years. The complainant's personal data was made available to the courts as part of the proceedings to which the complainant is a party, the Inspector General for Personal Data Protection, the Disciplinary Commissioner [...], the Ministry of the Environment and [...]. As regards the sources of the personal data, the Institution indicated that they had been provided by the Complainant. Moreover, the facility explained that it did not take automated decisions with regard to the Complainant.

On the other hand, as regards the disclosure of a copy of the Complainant's personal data subject to processing, on [...] September 2018, the Facility sent to his e-mail address an encrypted file consisting of 138 pages containing the Complainant's personal data from the personal files and the payroll and HR system. The above-mentioned documents were also sent to the Complainant by post.

In a letter of [...] September 2018, the complainant asked the Facility to comply with his request and provide him with all copies of his personal data subject to processing. He indicated that the facility did not provide him with a copy of his personal data contained in the following documents: a letter of [...] November 2017 to [...], an official memo of [...] February 2018, submitted to the Ministry of Environment, a letter of [...] November 2017 to the Inspector General for Personal Data Protection and a letter of [...] February 2018 to the Control and Internal Audit Office of the Ministry of Environment. In response to the above-mentioned request of the Complainant, the Facility, in a letter of [...] September 2018, indicated that the Complainant

had received all the information contained in his personal file.

In a letter of [...] October 2018, the facility indicated that it had decided to provide the Complainant with the anonymised documents for which it had requested in the application of [...] September 2018.

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

Referring to the complainant's allegation that the Facility did not fulfill the information obligation set out in Art. 15 sec. 1 and 3 GDPR requires the indication that pursuant to Art. 15 sec. 1 of the GDPR, the data subject has the right to obtain from the controller a confirmation as to whether personal data concerning him or her are being processed, and if this is the case, he is entitled to obtain access to them and information regarding: the purposes of processing (Article 15 (1) point a) of the GDPR), categories of personal data (Article 15 (1) (b) of the GDPR), recipients or categories of recipients to whom the personal data has been or will be disclosed (Article 15 (1) (c) of the GDPR), the planned period of storage of personal data, and if it is not possible, the criteria for determining this period (Article 15 (1) (d) of the GDPR), the right to request the controller to rectify, delete or limit the processing of personal data relating to the data subject, and the right to object to such processing (Article 15 (1) (e) of the GDPR), the right to lodge a complaint with the supervisory authority (Article 15 (1) (f) of the GDPR), if the personal data has not been collected from the data subject - all available information about their source (Art. 15 sec. 1 lit. g) GDPR) and automated decision making, including profiling (Article 15 (1) (h) of the GDPR). Moreover, pursuant to Art. 15 sec. 3 GDPR, the controller provides the data subject with a copy of the personal data being processed. For any subsequent copies requested by the data subject, the controller may charge a reasonable fee based on administrative costs. If the data subject requests a copy by electronic means and, unless otherwise indicated, the information is provided in a commonly used electronic form.

In the course of the investigation, it was found that, pursuant to Art. 15 sec. 1 GDPR provided the Complainant with information related to the processing of his personal data. In the letter of [...] September 2018, the facility indicated the categories of personal data processed, the purpose of personal data processing and the period of their storage, entities to whom the Complainant's personal data were made available, the method of obtaining such data and information on refraining from taking automated decisions towards the Complainant. In addition, the facility, in accordance with Art. 15 sec. 3 GDPR, on [...] September 2018, sent to the complainant's e-mail address an encrypted file consisting of 138 pages containing his personal

data from his personal files and the payroll and HR system. The above-mentioned documents were also sent to the Complainant by post. Moreover, in a letter of [...] October 2018, the Institution stated that it had decided to provide the Complainant with the documents it had requested in the request of [...] September 2018.

It should be emphasized that providing copies of data contained in documents (e.g. in official letters), in accordance with Art. 15 sec. 3 GDPR, is not tantamount to the obligation to provide copies of documents. The administrator is not obliged to provide the interested person with a medium on which personal data are processed and data that do not constitute personal data within the meaning of art. 4 point 1 of the GDPR and do not apply to the applicant. Fulfilling the obligation resulting from art. 15 sec. 3 of the GDPR, the controller may merely indicate the content of the data relating to the person, excluding other information contained on the medium. Fulfillment of the obligation specified in Art. 15 sec. 3 GDPR can therefore be implemented both by making a copy or a copy of a document (medium) containing personal data and other data, and by providing the entitled person with the content of his personal data, excluding information contained in the medium, which is not personal data within the meaning of art. 4 point 1 of the GDPR. Therefore, it is not necessary to provide access to each of the documents held, if the scope of data contained therein is the same. It should also be emphasized that if the administrator asks for a copy of the personal data being processed, the administrator each time decides how to exercise this right. The administrator can choose whether to provide a copy of the documents or to provide a copy of the data contained in these documents. Bearing in mind the above, it should be stated that the facility correctly fulfilled the information obligation specified in Art. 15 sec. 1 and sec. 3 GDPR.

It should be noted here that the administrative procedure conducted by the President of the Personal Data Protection Office serves to control the compliance of data processing with the provisions on the protection of personal data and is aimed at issuing an administrative decision restoring the legal status pursuant to Art. 58 sec. 2 GDPR.

The assessment made by the President of the Office in each case serves the purpose of examining the legitimacy of referring a warrant to a specific subject corresponding to the disposition of Art. 58 sec. 2 of the GDPR, aimed at restoring the lawful state in the data processing process - it is therefore justified and necessary only insofar as there are irregularities in the processing of personal data. In the opinion of the President of the Personal Data Protection Office, there are no grounds to conclude that such irregularities exist in the present case, because the facility, as the complainant's personal data administrator, fulfilled the information obligation under Art. 15 sec. 1 and sec. 3 GDPR.

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

The decision is final. Based on Article. 7 sec. 2 and sec. 4 of the Act of May 10, 2018 on the Protection of Personal Data

(Journal of Laws of 2018, item 1000) in connection with joke. 13 § 2, art. 53 § 1 and art. 54 of the Act of August 30, 2002, Law

on Administrative Court Proceedings (Journal of Laws of 2018, item 1302), the party dissatisfied with this decision has the right

to lodge a complaint with the Provincial Administrative Court in Warsaw within 30 days from the date of delivery to her side.

The complaint is lodged through the President of the Office for Personal Data Protection (address: Office for Personal Data

Protection, ul. Stawki 2, 00-193 Warsaw). The entry fee for the complaint is PLN 200. The party has the right to apply for an

exemption from court costs or the right to assistance.

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