OFFICE FOR PERSONAL DATA PROTECTION

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DECISION

* UOOUX00ELOPR *

Ref. UOOU-02022 / 20-24

Chairman of the Office for Personal Data Protection as an appellate body competent pursuant to § 10 and § 152

paragraph 2 of Act No. 500/2004 Coll., the Administrative Procedure Code, decided pursuant to the provisions of § 152 para.

b)

Act No. 500/2004 Coll., Administrative Procedure Code, as follows:

Appeal of the accused, XXXXXX, established XXXXXX against the decision of the Office for Personal Protection

data ref. UOOU-02022 / 20-11 of 4 August 2020, is rejected and the contested decision is annulled

confirms.

Justification

Definition of things

[1] The basis for proceedings in the matter of suspicion of committing an offense pursuant to Section 62 (1)

letter b) of Act No. 110/2019 Coll., on the processing of personal data, in connection with the unauthorized

by publishing personal data on websites available at

XXXXXX was file material collected on the basis of complaints received by the Office for Protection

personal data (hereinafter referred to as the "Office") concerning possible breaches of processing obligations

personal data to the accused, XXXXXX, with its registered office at XXXXXX (hereinafter referred to as the “accused”).

[2] It was clear from the file that the accused was on the website in question

at an unspecified time, but at least from 11 May 2020, at least until

On 23 June 2020, he published documents containing the personal data of thirty data subjects in various

range consisting mostly of name, surname, title, birth number, birth surname, date

birth address, permanent residence address and other information provided in the individual documents without this processing being evidenced by any of the legal titles provided for in the Regulation Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of persons with regard to the processing of personal data and on the free movement of such data and on cancellation Directive 95/46 / EC (hereinafter "the General Regulation").

[3] For this reason, the administrative body of the first instance issued an order no. UOOU-02022 / 20-5 of 23 June 2020, by which the conduct of the accused was classified as offense according to § 62 par. 1 let. b) of Act No. 110/2019 Coll. and at the same time she was accused a fine of CZK 150,000 was imposed. However, the order was subsequently revoked on the basis of opposition accused.

[4] The result of the ongoing infringement proceedings was the issuance of decision no. UOOU-02022 / 20-11 of 4 August 2020 (hereinafter "the decision"), which, however, again accused the accused found guilty of committing an offense under § 62 para. b) of Act No. 110/2019 Coll. and was he was fined CZK 150,000 for violating some of the basic principles of processing of personal data pursuant to Articles 5 to 7 or 9 of the General Regulation, which is the controller personal data has been committed by at least 11 May 2020, at least until On June 23, 2020, thirty published documents containing the personal data of the decision listed data subjects to varying degrees, consisting mainly of first name, last name, title, birth number, maiden name, date of birth, permanent residence address and other information contained in the individual documents mentioned in the operative part of the decision, without this the processing was evidenced by one of the legal titles provided for in Article 6 (1) of the General Regulation. To be complete It should be added that obvious inaccuracies in the statement and the justification of the written copy decisions were corrected in accordance with the provisions of § 70 of the Administrative Procedure Code through issuance of decision no. UOOU-02022 / 20-18 of 11 September 2020 and decision no. UOOU-02022 / 20-19 of 14 October 2020.

[5] However, the accused objected to the decision on several occasions.

Decomposition content

[6] In the dissolution, the accused primarily recalled an unspecified resolution
the supervising public prosecutor XXXXXX, according to which the entire server of the accused should be
as a result of a serious mental disorder and therefore no sanctions can be imposed on the accused or on
no deletions of information can be requested and no disclosure should take place.

[7] Furthermore, as the accused stated, the Office adjusts the reasoning not according to legal claims,
but above all according to the accused's stylistic arguments. It was supposed to happen first
"For some incidental information which, however, is part of the fundamental right to a public trial".
However, the moment the accused used an argument about the dissemination of all personal data by
cadastral offices, the Office should have argued that "this is all information about anything",
which would lead to the abolition of public service news, including the Internet.

[8] The accused also pointed out that he had been successful in one proceeding with the Office
compensation proceedings. Therefore, the accused asks that the Office no longer bother him by leading others
processes.

[9] The decomposition then contains a number of vulgarities, which, however, have none in the present proceedings
relevance.

[10] The accused therefore proposed that the contested decision be annulled in its entirety.

Applicable law

[11] Article 6 (1) of the General Regulation reads: "Processing is lawful only if
at least one of the following conditions is met and only to the extent appropriate:
(a) the data subject has given his or her consent to the processing of his or her personal data for one or more
specific purposes;
(b) processing is necessary for performance of a contract to which the data subject is a party; or
to carry out pre-contractual measures at the request of that data subject;

(c) processing is necessary for compliance with a legal obligation applicable to the controller;

(d) processing is necessary in order to protect the vital interests of the data subject or otherwise

Individuals;

(e) processing is necessary for the performance of a task carried out in the public interest; or

the exercise of official authority vested in the administrator;

f) processing is necessary for the purposes of the legitimate interests of the relevant controller or third party,

except where those interests take precedence over interests or fundamental rights and freedoms

data subject requiring the protection of personal data, in particular if he is a data subject

child."

[12] Provisions of § 62 par. 1 let. b) of Act No. 110/2019 Coll. reads: "Administrator or processor

under Title II, it commits an offense by:. (b) infringes any of the basic principles for

processing of personal data pursuant to Articles 5 to 7 or 9 of the Regulation of the European Parliament and of the Council

(EU)

2016/679 “.

Assessment by a second instance body

[13] The appellate body reviewed the contested decision on the basis of the appeal

in its entirety, including the process that preceded its release, and first dealt with it

arguments of the accused.

[14] In particular, he found that the defendant's arguments in the appeal were missing

logical consistency and also, as mentioned above, contains a number of vulgarities with which to appeal

the authority also does not intend to deal in any way due to their irrelevance.

[15] Despite the above, the Appellate Body found that the defendant's arguments concerning

The adjustment of reasoning and mental disorder has not been documented and has not been documented

no support in the file. In the same way, as follows mainly from the official record

Ref. UOOU-02022 / 20-3 of 11 May 2020 issued by a first instance administrative authority,

there is no doubt that the personal data in question were disclosed to the accused.

[16] As for the published extracts from the real estate cadastre, it is a public list.

However, it is also necessary to recall § 53 of Act No. 256/2013 Coll., On Real Estate Cadastre,

according to which the data in question can be used in accordance with § 1 paragraph 2 of the Act

No. 256/2013 Coll., ie to protect real estate rights, for the purposes of taxes, fees and others

similar pecuniary benefits, for the protection of the environment, for the protection of mineral wealth,

to protect the interests of state monument care, for territorial development, for real estate valuation and for

scientific, economic and statistical purposes, including the development of related information systems,

the defendant clearly exceeded this framework. Furthermore, it would be possible according to § 53 of the Act

No. 256/2013 Coll. disseminate data from the cadastre under the conditions of the implementing regulation and

with the consent of the Czech Surveying and Cadastre Office, however, none was charged

he did not provide such consent.

[17] The Appellate Body also recalls that the previous or other proceedings conducted by the Office

they have no direct influence on the accused in these proceedings. Accused in addition for annulment

one of the statements of the decision no. UOOU-09787 / 18-11 of 19 December 2018 erroneously

concludes that it was entirely successful in the present proceedings.

[18] Overall, the Appellate Body did not find, in agreement with the first instance administrative body

no relevant legal title attesting to the processing in question. Accused primarily

has not substantiated any consent of the data subject. The disclosure of personal data in question is also not possible

qualify in accordance with Article 6 (1) (a) (c) and (e) of the General Regulation as processing which is

necessary for the performance of tasks imposed by law or for the performance of a task performed in

public interest or the exercise of official authority. Such processing would have to be established

another supplementary legal title. It is also § 17 of Act No. 110/2019 Coll. enabling

process personal data for journalistic purposes (or the latter provision

represents a legal title for public intelligence, including the Internet), if possible

conclude that there is a legitimate interest in the data being included in the case

public debate. This is especially true when public officials are involved

its public activities. However, nothing like this can be proved or treated in the treated cases

deduce. In addition, processing under Article 6 (1) (a) would be possible. (f) general

Regulation if necessary to protect certain relevant interests. However, they cannot be protected

through the disclosure of personal data as practiced by the accused, but exclusively

through the relevant procedures. The use of the personal data in question purely within these

proceedings, ie in the context of a proper criminal or civil case, would then

it was primarily in accordance with the general regulation, which was also stated by the administrative body

first degree.

[19] Furthermore, after an overall examination, the Appellate Body did not find any administrative action

first instance, no errors rendering the decision illegal. It seems to him in particular

as a reasonable amount of the fine imposed at the very lower limit of the rate.

[20] For all the above reasons, the Appellate Body therefore ruled as set out in

opinion of this Decision.

Lessons learned:

Pursuant to the provisions of Section 91 (1) of the Act, this decision shall be challenged

No. 500/2004 Coll., Administrative Procedure Code, cannot be revoked.

Prague, March 4, 2021

official stamp imprint

Mgr. Jiří Kaucký

chairman

(electronically signed)