OFFICE FOR PERSONAL DATA PROTECTION

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Ref. UOOU-08596 / 17-64

DECISION

Chairwoman of the Office for Personal Data Protection as an appellate body competent pursuant to § 2, § 29 and Section 32 of Act No. 101/2000 Coll., on the Protection of Personal Data and on the Amendment of Certain Acts and pursuant to § 10 and § 152 para. 2 of Act No. 500/2004 Coll., the Administrative Procedure Code decided on 27 July 2018 according to the provisions of § 152 par. 6 let. b) of Act No. 500/2004 Coll., Administrative Procedure Code, as follows:

Disintegration of the accused,

, against the decision of the Office for Personal Data Protection ref. UOOU-08596 / 17-56

, flat

of 20 June 2018, is rejected and the contested decision is upheld.

Justification

Proceedings on suspicion of committing an offense against the accused,

(hereinafter "accused"), was

which was the Office for Protection

, flat

launched at the initiative of the statutory city

personal data (hereinafter referred to as the "Office") delivered on 31 August 2017.

The complaint received and its annexes showed that the accused had published on 23 August 2017 via the social network Facebook on your profile post that contained personal

data

employee of the Department of Social Affairs of the City Hall

in the range of name, surname, maiden name and date and place of birth obtained from

file of criminal proceedings and further referred to her as a crooked witness in criminal proceedings, where

she really acted as a witness. In this context, it is necessary

to state that the accused was a verdict

sentenced to a suspended sentence

the accused is transferred to the statutory city

concluded that it is not a criminal offense.

however, it was subsequently a criminal case

Commission for the consideration of offenses,



employee of the Department of Social Affairs of the City Hall

, employee of the Department of Social Affairs of the City Hall

The administrative body of the first instance of the Office first qualified the conduct of the accused as committing an offense

offense pursuant to Section 44a of Act No. 101/2000 Coll., on Personal Data Protection and on Change

certain laws, in the form of indirect intent by disclosing personal data

,

to the extent of the surname, date and place of birth obtained from the criminal proceedings file

sp. zn.

, thereby violating the obligation set out in § 8b paragraph 1 of the Act

No. 141/1961 Coll., on Criminal Procedure (Criminal Procedure Code). According to this provision, the persons to whom

information covered by the ban has been provided by law enforcement authorities

publication pursuant to Section 8a (1), second sentence, of the Criminal Procedure Code for the purposes of criminal

proceedings, or

to exercise the rights or fulfill the obligations stipulated by a special legal regulation, they may not

no longer provided to anyone unless their provision is necessary for those purposes, in which case

these persons must be instructed. Therefore, the order ref. UOOU-08596 / 17-5 of 19 October

2017, the accused was fined CZK 3,000. The accused, however, against this order

he gave due resistance.

In the following proceedings, the accused was found guilty of identical conduct

offense, but this time according to § 44 par. 1 let. c) of Act No. 101/2000 Coll., as he had

violate the duty of confidentiality in the form of indirect intent, by disclosing personal data

to the extent of the surname, date and place of birth obtained from the criminal proceedings file

sp. zn.

. This was to violate the obligation set out in Section 15 (1) of the Act

No. 101/2000 Coll., ie the obligation of a person who, within the framework of fulfilling the rights stipulated by law

and duties comes to the controller's contact with personal data, maintaining confidentiality about these

personal data.

decision

Ref. UOOU-08596 / 17-19 of 6 February 2018, pursuant to § 35 letter b) of the Act

No. 250/2016 Coll., on liability for misdemeanors and proceedings against them and in accordance with § 44 para. 4

Act No. 101/2000 Coll., a fine of CZK 3,000 was imposed.

However, on the basis of the proper dissolution of the accused, the decision no. UOOU-08596 / 17-19 ze

annulled on 6 February 2018 and remitted to the administrative authority of first instance for a hearing.

The decision in question by the President of the Office ref. UOOU-08596 / 17-40 of 26 April 2018

it stated that the administrative authority of the first instance had not established the state of affairs so that they would not arise

doubts, in particular, it has not been clearly established where the data in question comes from.

The administrative authority of the first instance was therefore ordered to take further evidence and then act

re-qualify the accused.

Subsequently issued decision of the administrative body of the first instance ref. UOOU-08596 / 17-56 of

However, on June 20, 2018 (hereinafter referred to as the "decision"), the act of the accused was again found to be

breach of the obligation stipulated in § 15 paragraph 1 of Act No. 101/2000 Coll. and thus as committing

offense according to § 44 par. 1 let. c) of Act No. 101/2000 Coll., for which she was accused

imposed a fine of CZK 3,000.

However, the accused challenged the decision with a proper appeal. In the appeal, he proposed the attacked decision to annul. In support of this, he stated above all that he is not a person who would be bound confidentiality. He then had to obtain the data in question as a participant in the criminal proceedings. Through Facebook only informed the circle of acquaintances who have access to the profile in question.

Access to the criminal file was to be denied to the accused, so that the data published from him they can't come.

but she was heard as a witness at the main trial

the deed was then accused

For the subject



and this information was voiced here without the witness requesting their secrecy. Because it was not excluded public, the data were presented to the public. The allegation that the information in question was obtained from file, as they have not been read, should therefore be a hypothesis and, moreover, legally irrelevant. Idea secrecy, according to which anyone present as a public in court should keep it secret

the facts he heard there are, in the defendant's view, completely absurd. Its decomposition

the accused subsequently supplemented with two e-mail messages, the e-mail of

On July 8, 2018, as part of a personal visit to the seat of the Office, he authorized his signature. This however, as the accused merely refuses to classify his conduct as

offense, denies the legitimacy of the Office, criticizes the Office for delays in the proceedings and refers to certain legal regulations must be considered irrelevant.

The appellate body reviewed the decision in its entirety, including the previous process its issue and in this context also dealt with the arguments of the accused.

In particular, he found that the administrative body of the first instance in accordance with the instructions contained in the decision of the President of the Office ref. UOOU-08596 / 17-40 of April 26, 2018 proceeded for further proof. Based on the request for cooperation then

, Judge

, stated that only the name, surname and title were communicated publicly

District Court in

The court had her ID card only for the purpose

verification of identity and whether the said data agree with the data in the file, while in the positive

In this case, there is no reason to publicize them in the main trial.

This corresponds to the audio recording of the main trial of March 24, 2016, which you

the administrative authority of the first instance also requested. It is clear from it that the judge first spoke

is here. So far, me

at 0:38 a list of witnesses called: “And of the witnesses

don't give anything until you don't like it here ...

…. "

Subsequently, specifically when summoning a witness,

, sounded at 12:48 p.m.

from the judge: "So.

. "The court clerk said:"

to the courtroom. "And then the judge said," Hello, come on, present me

identity card. Civil (note - whisper). So go to court. So

witness heard

, letter number 22. ”The witness's instructions followed

and the interrogation itself, which contained no mention of the witness's personal details

to the extent stated in the operative part of the decision.

It is also clear from the received copies of the documents that a copy was issued to the accused, among other things

official record of the explanation

of 5 May 2015, which

it shall also contain the date, place of birth and surname of the person giving the explanation,

the accused repeatedly inspected his criminal file and made copies

documents and sound recordings which formed part of it.

Furthermore, the administrative body of the first instance stated that the file material did not contain instructions in

pursuant to Section 8b of Act No. 141/1961 Coll.

The appellate body therefore considers that it was reliably established that they were not made public during the main

proceedings

or otherwise disclosed to the personal data of the witness,

stated in the statement

decision, ie her maiden name, date and place of birth. It is therefore completely undecided whether

the public was or was not excluded from the hearing, as well as the fact that the witness did not request it

on the confidentiality of your personal data. Furthermore, as stated above, it was proved that the accused was watching

3/4

to the criminal file, repeatedly. He also repeatedly made copies of him or him

were made on request. The personal data in question thus come from the criminal file,

whose administrator was first the Police of the Czech Republic and then the competent court and for this

the accused is bound by the duty of confidentiality pursuant to Section 15 of Act No. 101/2000 Coll. Claim

regarding the disclosure of the Facebook profile only to a limited circle of known accused

then the very acquisition of the print screen by the first-instance administrative body refuted it.

The appellate body therefore rejected the defendant's arguments. At the same time after a general review

Notes that no reason has been found to render the decision illegal;

in particular, it considers the fine to be reasonable and did not find any errors of procedure

administrative authority of the first instance. On the basis of all the above, he decided

the appeal body as set out in the operative part 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.

official stamp imprint

JUDr. Ivana Janů, v. R.

chairwoman

Prague, July 27, 2018

For correctness of execution: