

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, on 18

October

2018

DECISION

ZSOŚS.440.113.2018

Based on Article. 105 § 1 of the Act of June 14, 1960, Code of Administrative Procedure (Journal of Laws of 2017, item 1257, as amended) and Art. 12 point 2, art. 22, art. 23 sec. 1 point 2, art. 25 of the Act of August 29, 1997 on the Protection of Personal Data (Journal of Laws of 2016, item 922 as amended), art. 160 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000), after conducting administrative proceedings regarding the complaint of Mr. P. N., residing in in R., for the processing of his personal data by the President of the District Court in W., the President of the Office for Personal Data Protection

discontinues the proceedings

Justification

On [...] May 2018, the Personal Data Protection Office received a complaint from Mr. P. N., hereinafter referred to as "the Complainant", concerning irregularities in the processing of his personal data by the President of the District Court [...], hereinafter referred to as "the President". The applicant pointed out that in the files of the case pending before the District Court [...] (file reference [...]) there was a printout from the website of the Law Firm [...] with a photograph showing the personal data in the form of the applicant's image. The complainant also pointed out that these data were redundant for the purposes of the court proceedings, as the described printout, constituting an attachment to the pleading, was not admitted as evidence in the case and did not constitute evidence in the case on which the decision was based in any way. The complainant also explained that he had never consented to the use of his image in the described manner, therefore, there was no reason to legalize the processing of the complainant's personal data in the manner described in the complaint.

By letter of [...] July 2018 (date of receipt: [...] July 2018), the complainant withdrew the complaint of [...] May 2018 (date of receipt: [...] May 2018).

In view of the above, the President of the Personal Data Protection Office considered the following. The decisive factor for the

resolution of the case is the fact that in the course of the proceedings initiated by a complaint against the President of the District Court [...], the applicant withdrew his complaint in a letter of [...] July 2018.

Pursuant to Art. 105 § 1 of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2017, item 1257, 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 authority public administration issues a decision to discontinue the proceedings, respectively, in whole or in part. Pursuant to Art. 105 § 2 of the Code of Administrative Procedure, a public administration body may discontinue the proceedings if it is requested by the party on whose request the proceedings were initiated, and other parties do not object to it and if it is not contrary to the public interest.

The doctrine indicates that the discontinuation of proceedings under Art. 105 § 2 does not differ in legal consequences from the obligatory redemption pursuant to Art. 105 § 1, because in both cases the proceedings are irrelevant. With the proviso that the provision of Art. 105 § 1 refers to objectified cases, while the provision of § 2 refers to a situation in which a party to the proceedings refrains from requesting a decision on the essence of the case, concerning its legal interest or obligation. This does not mean that this legal interest or obligation ceases to exist, but for the party, the decision on them in an administrative decision loses its legal significance, so it is a relative pointlessness, because it relates to the content of the party's request, which was the basis for initiating the proceedings (B. Adamiak, J. Borkowski, Code of Administrative Procedure. Comment :, 7th edition, CHBeck Publishing House, Warsaw 2005). The Supreme Administrative Court also ruled on March 11, 1997 (file reference number I SA / Po 1281/96) that withdrawing the request to initiate proceedings is tantamount to requesting discontinuance of the proceedings. It means that the party is no longer interested in the substantive examination of the case. Considering the above, it should be stated that the conditions for discontinuation of the proceedings pursuant to Art. 105 § 2 of the Code of Administrative Procedure.

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

Based on Article. 127 § 3 of the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2017, item 1257, as amended), from this decision, the party has the right to submit an application for reconsideration of the case within 14 days from the date of delivery of the decision to the party. If a party does not want to exercise the right to submit an application for reconsideration of the case, he 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 to the party. The complaint is lodged through the President of the

Personal Data Protection Office. 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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