

# THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, on 25

January

2019

## DECISION

ZSPU.421.1.2018

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) and Art. 7 sec. 1 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000, as amended), after administrative proceedings regarding the processing of personal data by the Mayor G.,

I am discontinuing the proceedings in this case.

### Justification

Authorized by the President of the Personal Data Protection Office, the inspectors carried out at the Mayor G. inspection of the compliance of personal data processing with the provisions on the protection of personal data, i.e. with the Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of persons natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46 / EC (General Data Protection Regulation) (Journal of Laws UE L 119 of 04/05/2016, p. 1 and Dz. Urz. UE L 127 of 23/05/2018, p. 2) and the Act of 10 May 2018 on the protection of personal data (Journal of Laws of 2018, item 1000, as amended). The scope of the control covered the manner of keeping and securing the register of residents by the Mayor of G. In the course of the inspection, oral explanations were received from employees of the Municipal Office in G., the IT system for processing personal data was inspected and the premises where personal data are processed were inspected. The facts were described in detail in the inspection report, which was signed by the Mayor G.

On the basis of the evidence collected in this way, it was established that in the process of personal data processing, Mayor G., as the data controller, breached the provisions on the protection of personal data. These shortcomings consisted of:

Development of an information clause in the G. City Hall for persons who fulfill the registration obligation, which did not contain all the information specified in Art. 13 of the General Data Protection Regulation, in particular information on all data recipients and the period of data storage. In addition, the clause did not indicate which of the above-mentioned purposes of data

processing were carried out by the Mayor G. and the consequences of not providing personal data were not indicated.

Failure to include in the register of personal data processing activities kept at the Municipal Office in G. information on all recipients of personal data processed in connection with the keeping of the register of residents. Moreover, no specific date for deletion of data processed in connection with keeping the register of residents was not indicated, and the planned date of deletion of data processed for the same purpose, but only with the use of a different tool, included in the register, was not defined consistently.

Failure to keep records of access from the company's archive of documentation containing personal data processed as part of the register of residents.

Providing access to the documentation stored in the company's archives for inspection only by employees of the organizational units of the Municipal Office in the G. without filling in the file sharing card.

Therefore, on [...] November 2018, the President of the Office for Personal Data Protection initiated ex officio administrative proceedings to clarify the circumstances of this case (letter reference [...]).

By letter of [...] December 2018, no. [...] and by letter of [...] December 2018, no. [...] shows that:

The information clause for persons who fulfill the registration obligation has been supplemented with information on the purposes of data processing, data recipients, data storage period and the basis for providing data and the consequences of failure to provide it. The modified clause was submitted for use to the Head of the Registry Office, who was authorized by the Mayor G. to keep a register of residents at the Municipal Office in G.

The register of processing activities includes all recipients of data and specifies the planned date of deletion of personal data processed in connection with the keeping of the register of residents.

By a circular [...] of the Mayor of G. of [...] September 2018, the Instruction for sharing documentation stored in the Company Archives of the Municipal Office in G. was introduced. As part of the adopted procedure, a file sharing card was implemented and records of access to archival materials and non-archival documentation were established, which ensures control of the data administrator, ie the Mayor G., over the process of sharing personal data collected in the archive in connection with keeping the register of residents.

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

In the light of the explanations submitted by the Mayor G. and the remaining evidence attached, it should be considered that the deficiencies in the processing of personal data found during the inspection were removed.

Pursuant to Art. 105 § 1 of the Code of Administrative Procedure, when the proceedings for any reason have become redundant in whole or in part, the public administration authority issues a decision to discontinue the proceedings, respectively, in whole or in part. The premise for the discontinuation of the proceedings, pursuant to Art. 105 § 1 of the Code of Administrative Procedure, the proceeding is groundless "for any reason", i.e. for any reason that results in the lack of one of the elements of the material legal relationship with regard to its subjective or objective party (judgment of the Supreme Administrative Court of 21 January 1999, SA / Sz1029 / 97).

In the course of the proceedings, the deficiencies in the processing of personal data, which were the subject of the proceedings, were removed and therefore had to be discontinued.

In view of the above, the President of the Personal Data Protection Office resolved as in the sentence.

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, as amended), from this decision, the party 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 entry fee for the complaint is PLN 200. The party lodging the complaint may apply for a right of assistance, which includes exemption from court fees and the appointment of an attorney, legal advisor, tax advisor or patent attorney. The right to aid may be granted upon the application of a party submitted before the initiation of the proceedings or in the course of the proceedings. This application is free of court fees.

2019-04-16