

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, on 30

January

2019

DECISION

ZSPU.440.574.2018

Based on Article. 104 § 1 of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), art. 160 sec. 1 and 2 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000, as amended) in connection with joke. 22 of the Act of August 29, 1997 on the Protection of Personal Data (Journal of Laws of 2016, item 922, as amended), as well as Art. 6 sec. 1 letter f) and Art. 14 sec. 5 lit. b) 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 (general regulation on data protection) (Journal of Laws UE.L.2016.119.1), after conducting administrative proceedings regarding the complaint of Mr. SS, order no. in W. [...], for the processing of his personal data by the Foundation, based in Z. [...], President of the Office for Personal Data Protection
refuses to accept the request.

Justification

The Office of the Inspector General for Personal Data Protection (currently the Office for Personal Data Protection) received a complaint from Mr. S. S. in W. [...], hereinafter also referred to as the Complainant, for the processing of his personal data by the Foundation, based in Z. [...], hereinafter also referred to as the Foundation. The complainant questioned the legality of the Foundation's activities consisting in the processing of his personal data, used in particular for the purposes of their publication on the website operated by it [...] (previously: [...]). The complainant assessed the above activities of the Foundation as illegal, both in the absence of a premise for the processing of the data in question provided for in Art. 23 sec. 1 and art. 27 sec. 2 of the Act of August 29, 1997 on the Protection of Personal Data (Journal of Laws of 2016, item 922, as amended) in force at the time of filing the complaint, as well as of the legal act and its failure to respond to the call to stop processing said data. In connection with the above, the Complainant formulated his request to the authority competent for the protection of personal

data as follows: "(...) I request an administrative decision ordering (...) the Foundation (...) to delete personal data (...) of Mr. SS, that personal data files created by the indicated Personal Data Administrator (...)".

In the correspondence of [...] October 2016, the Complainant's attorney clarified the following quotation: "(...) The Complainant questions the Foundation's failure to fulfill a number of obligations towards him, including the information obligation, and in connection with numerous violations of the law, in particular in connection with with the processing of his personal data without an appropriate legal basis, he asks for a decision ordering the Personal Data Administrator to delete personal data (...)".

Both in the complaint initiating these proceedings and in further correspondence in the case in question, the Complainant expressed the conviction that the Foundation, by publishing on the website [...] (previously: [...]), in fact publishes information about him obtained from the National Court Register his data subject to special protection, as defined in art. 27 sec. 1 of the previously mentioned Act of August 29, 1997 on the protection of personal data, ie: "(...) data on the judgments of registration courts concerning the Applicant {the Complainant} (...)".

In the course of the explanatory proceedings conducted in this case, the President of the Personal Data Protection Office, hereinafter also referred to as the President of the Personal Data Protection Office (previously: the Inspector General for Personal Data Protection) determined the following.

The Foundation is an entity whose purpose - according to the information contained in Section 3, Rubric 3 concerning its National Court Register (KRS No. [...]), is the following: "supporting the development of democracy by promoting citizens' rights in the field of access to public information". In turn, according to the provisions of the Foundation's Statute - published by it on its website - [...] quoted: "(...) the Foundation assumes its task to support the development of democracy by promoting citizens' rights in the field of access to public information (...)" (§ 5); "(...) The Foundation achieves its goals by: (...) building IT, programming and technology tools supporting citizens' involvement in public affairs (...) undertaking activities in the field of establishing and promoting standards and good practices in the field of access and re-use of information from the sector public (...)" (§ 6 points 4 and 5).

The Foundation processes the complainant's personal data obtained from the National Court Register, hereinafter also referred to as the National Court Register or the Register, related to his participation in entities subject to entry in this register. The Foundation obtained the complainant's personal data as cited: "(...) from the website of the entity maintaining the National Court Register (...), ie the Minister of Justice (...)" (Foundation letter of [...] October 2016 - in the case file). The scope of the

Complainant's personal data obtained by the Foundation included: his first names, surname, PESEL identification number, functions performed in the authorities of the above-mentioned entities and information on participation in them as a partner (along with an indication of the number and value of shares). Until now, the Foundation processes the complainant's personal data in the above-mentioned the scope of the quotation: "(...) in order to make them available on websites operated by the Foundation (...)" (letter of the Foundation of [...] October 2016). As the Foundation also emphasized: "(...) the only set of personal data in which the Foundation processes the Complainant's personal data is a set of personal data obtained from publicly available sources - the National Court Register and the Court and Economic Monitor, and the Complainant's personal data are used by The Foundation only for the needs related to the Foundation's website [...] (previously [...]) (...)" (letter of the Foundation of [...] November 2018 - in the case file). The Foundation publishes on its website [...] (previously: [...]) the above-mentioned the Complainant's personal data, except for the PESEL number. Currently published in the above-mentioned the website, the complainant's personal data refer to him as: a partner and member of the bodies of D [...] Sp. z o.o. (KRS No. [...]), partner S. [...] Spółka jawna in liquidation (No. [...]), member of the bodies of S. [...] Sp. z o.o. (KRS number [...]), proxy S. [...] Sp. komandytowo - akcyjna (KRS number [...]), member of the authorities of S. [...] Sp. z o.o. (KRS number [...]), member of the bodies of E. [...] S.A. (KRS number [...]).

In a letter of [...] June 2016, the Complainant's attorney asked the Foundation with the following request: "(...) immediate deletion of my Principal's {the Complainant's} personal data (...)" (copy of the letter - in the case file). The Foundation refused to comply with the above request (a copy of the Foundation's letter of [...] June 2016 - in the case file).

Referring to the complainant's allegations, the plenipotentiary of the Foundation indicated in particular the following quotation: "(...) The Foundation is an entity acting for the development of democracy, open and transparent authority and civic involvement. Taking advantage of the opportunities provided by the Act of September 6, 2001 on access to public information and the Act of February 25, 2016 on the re-use of public sector information, the Foundation undertakes activities consisting in opening various public data and making them available to citizens free of charge on websites. run by the Foundation (...) The Foundation provides the Complainant's personal data on websites operated by the Foundation (...) for the purpose resulting from the Foundation's subject of activity, which is supporting the development of democracy by promoting citizens' rights in the field of access to public information (...)" .

On the website of the Foundation [...], the following information is included in the "Privacy Policy" document:

- in point [...] "Definitions", quotation: "(...) Administrator-Foundation [...] with its seat in Z. [...] KRS [...] (...) " (point [...]), " (...) "

Website - a set of websites made available by the Administrator on internet servers at the following addresses: (...) [...] (...)

"(point [...])," (...) User - any natural person visiting the Website, in particular any natural person using the services provided by the Service Provider on the Website "(point [...]);

- in point [...] "Purposes and legal grounds for data processing on the website" point [...] "Personal data from publicly available sources - National Court Register and Monitor Sądowy i Gospodarczy", quotation:

"[...] The administrator, on the website [...], presents personal data collected from publicly available sources, ie the National Court Register and the Court and Economic Monitor.

[...] The categories of personal data processed by the Foundation are the same as the categories of personal data disclosed in the National Court Register and the Court and Economic Monitor, in particular: names, surnames, date of birth, age, PESEL number, information on the functions performed by a person in an entity entered in the National Court Register, if there is: the number and value of shares / stocks held;

[...] Above. Personal data is processed by the Administrator in order to make them available on websites operated by the Foundation to support the certainty and openness of business transactions, using profiling - the legal basis is the legitimate interest of the Foundation (Article 6 (1) (f) of the GDPR), the legitimate interest of the Foundation is to provide personal data on websites operated by the Foundation to support the certainty and openness of business transactions.

[...] The profiling referred to in the previous point consists in: [...] automatic analysis of the PESEL number in order to obtain information about the year of birth of persons whose data is processed, which allows the Administrator to introduce the functionality of displaying the year of birth persons with the same names and surnames (to distinguish them from other persons with the same name appearing in the National Court Register) "; [...] automatic linking of personal data with data collected from other sources and the presentation of connections and relationships.

- in point [...] "Rights of data subjects" quotation:

"[...] Each data subject has the right to access the data and - on the terms set out by the GDPR - the right to request their rectification, deletion, processing restrictions, the right to transfer data and the right to object to data processing, as well as the right to lodge a complaint with the supervisory body dealing with the protection of personal data.

[...] Without prejudice to available administrative or extrajudicial remedies, including the right to lodge a complaint with a

supervisory authority, every data subject has the right to an effective judicial remedy if he or she considers that the rights to its under the GDPR were violated as a result of the processing of his personal data in violation of the GDPR ”.

- in point [...] "Data transfer outside the EEA" quoted:

"[...] Due to the fact that the level of personal data protection outside the European Economic Area (EEA) differs from that provided by the provisions of the GDPR, the Administrator transfers personal data outside the EEA only when it is necessary and with an appropriate level of protection, mainly through: [...] cooperation with entities processing personal data in countries for which a relevant decision of the European Commission has been issued; [...] application of standard contractual clauses issued by the European Commission; [...] application of binding corporate rules approved by the competent supervisory authority; [...] in the case of data transfer to the USA - cooperation with entities participating in the Privacy Shield program, approved by a decision of the European Commission ”.

- in point [...] "Contact details", quotation: "Contact with the Administrator is possible via the e-mail address: [...]".

At the same time, as part of the explanations provided in the case in question, the Foundation took the position that it is not obliged to meet individually the persons whose data it processes, including the Complainant, with the information obligation referred to in Art. 14 sec. 1 and 2 of the GDPR (during the period of validity of the Act of August 29, 1997 on the Protection of Personal Data - in Article 25 (1) of the cited legal act). As the Foundation pointed out, "(...) the information obligation resulting from this provision does not apply if (...) providing such information would require a disproportionately large effort. And this is exactly what we are dealing with in the present case - providing information would require a disproportionately large effort, taking into account the scale of such an operation (tens of millions of records) and the circumstance in which, despite the collection of personal data (...), the fundamental element of the legal situation of the entities does not change personal data: their data is still available over the Internet, from anywhere in the world and without any restrictions. As it is argued in the science of law (...) we will have to deal with a situation of disproportionately large effort when the effort put into providing information is disproportionate to the inconvenience caused by the lack of this information in the data subject (...) in particular, the adoption of an unrestricted disclosure obligation would in such a case lead to the destruction of the right of access to public information and the right to re-use public sector information. Meanwhile, these values are equal at the level of the Constitution of the Republic of Poland and independent at the statutory level, so the exercise of one right may not infringe the essence of the other (...) ”.

After reviewing all the evidence gathered in the case, the President of UODO considered the following.

At the outset, it should be noted that on May 25, 2018, with the entry into force of the Act of May 10, 2018 on the protection of personal data (Journal of Laws of 2018, item 1000, as amended), the General Office The Personal Data Protection Inspector has become the Office for Personal Data Protection. Proceedings conducted by the Inspector General for Personal Data Protection, initiated and not completed before May 25, 2018, are conducted by the President of the Personal Data Protection Office, pursuant to the Act of August 29, 1997 on the Protection of Personal Data (Journal of Laws of 2016, item 922, as amended). in accordance with the principles set out in the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), hereinafter also referred to as the Administrative Procedure Code. All actions taken by the Inspector General for Personal Data Protection before May 25, 2018 remain effective (Article 160 (1) and (2) of the Act of May 10, 2018 on the protection of personal data).

The President of the Personal Data Protection Office is the competent authority for the protection of personal data (Article 34 (1) of the Act of 10 May 2018 on the Protection of Personal Data) and the supervisory authority within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of 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 EU L.2016.119.1), hereinafter referred to as hereinafter referred to as GDPR (Article 34 (2) of the Act of May 10, 2018 on the protection of personal data.).

Pursuant to Art. 57 sec. 1 GDPR, without prejudice to other tasks under this Regulation, each supervisory authority on its territory shall monitor and enforce the application of this Regulation (point a) and handle complaints brought by the data subject or by an entity, organization or association pursuant to art. 80, to the extent appropriate, conducts proceedings on these complaints and informs the complainant about the progress and the results of these proceedings within a reasonable time, in particular if it is necessary to continue investigations or coordinate actions with another supervisory authority (point f). The instruments for the implementation of the tasks provided for in Art. 57 sec. 1 GDPR are set out in particular in Art. 58 sec. 2 of the GDPR, remedial powers, including the possibility to: order the controller or processor to comply with the data subject's request resulting from their rights under this Regulation (Article 58 (2) (c)), order the controller or processor to adjust processing operations to the provisions of this Regulation, and, where applicable, indication of the method and date (Article 58 (2) (d)).

GDPR defines personal data as any information relating to an identified or identifiable natural person ("data subject"), where an identifiable natural person is a person who can be directly or indirectly identified, in particular on the basis of an identifier such as first name and name, identification number, location data, internet identifier or one or more specific factors determining the physical, physiological, genetic, mental, economic, cultural or social identity of a natural person (Article 4 point 1). In turn, data processing is, in the light of the GDPR, an operation or a set of operations performed on personal data or sets of personal data in an automated or non-automated manner, such as collecting, recording, organizing, organizing, storing, adapting or modifying, downloading, viewing, using, disclosing by sending, distributing or otherwise sharing, adjusting or combining, limiting, deleting or destroying (Article 4 (2) of the GDPR).

Pursuant to Art. 6 sec. 1 GDPR, processing is lawful only in cases where - and to the extent that - at least one of the following conditions is met: a) the data subject has consented to the processing of his personal data in one or more specific goals; b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; c) processing is necessary to fulfill the legal obligation incumbent on the controller; d) processing is necessary to protect the vital interests of the data subject or of another natural person; e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller; f) processing is necessary for the purposes of the legitimate interests pursued by the administrator or by a third party, except where these interests are overridden by the interests or fundamental rights and freedoms of the data subject, which require protection of personal data, in particular when the data subject is a child.

The Act of August 20, 1997 on the National Court Register (Journal of Laws of 2018, item 986, as amended), hereinafter referred to as the Act on the National Court Register, introduces in Art. 8 the principle of formal openness of the National Court Register, hereinafter referred to as the Register. The aforementioned provision explicitly states that the Register is public (section 1), that everyone has the right to access the data contained in the Register via the Central Information (section 2) and that everyone has the right to receive, also by electronic means, certified copies, extracts, certificates and information from the Register (section 3). However, according to Art. 13 sec. 1, entries in the register shall be published in the Court and Economic Monitor (hereinafter referred to as the Monitor), unless the law provides otherwise.

The names, surnames and PESEL numbers of natural persons belonging to the bodies authorized to represent entities subject to entry in the register of entrepreneurs of the National Court Register, their proxies and partners, are entered in the indicated

Register pursuant to art. 36 points 2 and 5-7, art. 38 points 4 and 8 and article. 39 points 1 and 3 in connection with joke. 35 point 1 of the Act on the National Court Register and constitute public information and available to everyone pursuant to Art. 8 of the legal act under discussion.

Bearing in mind that the Foundation also processes (but does not publish) the complainant's PESEL number, it should be indicated that pursuant to Art. 15 sec. 2 of the Act of 24 September 2010 on population records (Journal of Laws of 2018, item 1382, as amended), this number is an eleven-digit numerical symbol that uniquely identifies a natural person, containing the date of birth, serial number, gender and a check number, where the date of birth is included in the first six digits in the following order: the last two digits of the year of birth, the month of birth along with the encoded age of birth and the day of birth, the next four digits are the consecutive number and gender of the person (the last digit of the consecutive number contains the designation gender: an even digit, including "0", for women, and an odd digit for men), and the last, eleventh digit of the PESEL number is a control number enabling electronic control of the correctness of the assigned identification number. This means that each entity that processes the PESEL number of a specific person also processes information about the date of birth (age) and gender.

The Foundation operates as follows: "(...) for the development of democracy, open and transparent authority and civic involvement (...) Using the opportunities provided by the Act of September 6, 2001 on access to public information and the Act of February 25, 2016 on the re-use of public sector information, the Foundation undertakes activities consisting in opening various public data and making them available to citizens free of charge on websites operated by the Foundation (...)" (Foundation letter of [...] October 2016). As part of the implementation of the above objectives, the Foundation undertakes activities consisting in making available to citizens, free of charge, on the website [...] (formerly: [...]) of data from publicly available sources (KRS / Monitor). Undoubtedly, the goals and tasks of the Foundation defined in this way are legally justified. Their implementation is also conditioned by the processing of personal data disclosed in publicly available registers, including the personal data of the Complainant as a person performing specific functions in entities subject to entry in the Register. At the same time, there are no grounds to assume that the implementation of the above-mentioned, legitimate interest of the administrator (Foundation), consisting in conducting activities related to the dissemination of the content contained in the National Court Register / Monitor, had to give way to overriding interests or fundamental rights and freedoms of the Complainant, requiring personal data protection. As it has been indicated, the complainant's personal data processed in the

impugned manner are publicly available data. At the same time, the scope of the Complainant's personal data published on the website [...] (previously: [...]) is adequate (not excessive) in the context of the information objective pursued (these data are in fact published in a narrower scope compared to the scope of data disclosed in the National Court Register - not because they include the PESEL number). The President of the Personal Data Protection Office finds no grounds to question the legality of obtaining and further processing by the Foundation, in the set created for the needs of the website [...], of information on the PESEL number - in order to clearly distinguish the Complainant from other persons with the same names and surnames. At the same time, it should be emphasized that this number is not published by the Foundation on the given website. Thus, it should be assumed that the processing by the Foundation of publicly available personal data of the Complainant - as a person performing specific functions in entities subject to entry in the Register - is based on the already mentioned Art. 6 sec. 1 letter f) of the GDPR.

It is worth mentioning here that in a similar case, the essence of which was to assess the admissibility of further use of personal data obtained from a public register, the Supreme Administrative Court, hereinafter also referred to as the Supreme Administrative Court, in the judgment of 3 December 2015 (file ref. I OSK 1166/14) stated that the quotation: "(...) the Act on the Protection of Personal Data does not introduce special obligations in the field of obtaining data from public registers (here: from the National Court Register). The purpose of publicly available registers is to make information available for the purposes of legal transactions. Reading such data is legal, which results directly from Art. 8 sec. 1 of the Act (...) on the National Court Register (...) establishing the principle of openness of the register and art. 10 sec. 1 (...) defining the right of every interested person to view the files (...) ”.

In the context of the arguments presented in this case by the Foundation in order to prove the legality of its activities, it is also reasonable to cite the provisions of the Act of February 25, 2016 on the re-use of public sector information (Journal of Laws 2018, item 1243 as amended) . Pursuant to Art. 2 clause 1 of this Act, public sector information should be understood as any content or part thereof, regardless of the method of recording, in particular in paper, electronic, audio, visual or audiovisual form, which is in the possession of the entities referred to in art. 3. Above. The act also defines re-use as the use by natural persons, legal persons and organizational units without legal personality, referred to as "users", of public sector information, for commercial or non-commercial purposes other than the original public purpose for which the information was produced (Art. 2). The Act provides for the general right to re-use the public sector information provided in the ICT system, in particular on the

website of the Public Information Bulletin of the obliged entity or in the central repository of public information referred to in Art. 9a of the Act of 6 September 2001 on Access to Public Information (Journal of Laws of 2018, item 1330, as amended), or otherwise (Article 5 (1) of the Act on the re-use of public sector information). The re-use of information may be limited - the obliged entity makes available on its website the Public Information Bulletin in the subject menu in the "Re-use" category, the conditions for re-use, if specified by it (Article 11 (1) (1) of the Act on the re-use of sector information public) - however, the use of information from the National Court Register was not subject to such conditions.

It should also be mentioned that the complainant's argument that the information processed by the Foundation constituted personal data subject to special protection should not be taken into account. Due to the loss of binding force of Art. 27 of the Act of August 29, 1997 on the Protection of Personal Data, analysis of the legitimacy of the above-mentioned The complainant's claims in the context of the quoted provision is currently obviously irrelevant. In turn, being the equivalent of the above-mentioned, already repealed regulation, the currently applicable art. 9 GDPR, does not include in the catalog of sensitive data information on any judgments issued in court or administrative proceedings.

Summing up, in the context of Art. 6 sec. 1 letter f) of the GDPR, there are no grounds for stating that the Complainant's personal data was obtained by the Foundation in an unlawful manner, and that it was subject to further processing in an unauthorized manner.

It should also be emphasized that the complainant's arguments regarding the allegation that the Foundation failed to fulfill the original information obligation, independent of the applicant's request, should not be taken into account.

Pursuant to the wording of art. 14 sec. 1 GDPR, if the personal data has not been obtained from the data subject, the controller provides the data subject with the following information: a) his identity and contact details and, where applicable, the identity and contact details of his representative, b) when it applies - contact details of the data protection officer, c) the purposes of the processing for which the personal data are to be used, and the legal basis for the processing, d) the categories of personal data concerned, e) information on the recipients of the personal data or on the categories of recipients, if any, f) if applicable - information on the intention to transfer the personal data of a recipient in a third country or an international organization and on the determination or absence of an adequate level of protection by the Commission, or in the case of transfer referred to in art. 46, art. 47 or article. 49 sec. 1, second paragraph, a reference to appropriate or appropriate safeguards and information on how to obtain a copy of these safeguards or on the place where they are made available. Pursuant to Art. 14 sec. 2 GDPR, in

addition to the information referred to in para. 1, the controller provides the data subject with the following information necessary to ensure fair and transparent processing towards the data subject: a) the period for which the personal data will be stored, and if this is not possible, the criteria for determining this period, b) if the processing is based on art. 6 sec. 1 lit. f) - legitimate interests pursued by the administrator or by a third party, c) information about the right to request the administrator to access personal data concerning the data subject, rectify it, delete it or limit processing, and the right to object to processing, as well as on the right to data portability, d) if the processing takes place on the basis of art. 6 sec. 1 lit. a) or Art. 9 sec. 2 lit. a) - information on the right to withdraw consent at any time without affecting the lawfulness of processing based on consent before its withdrawal, e) information on the right to lodge a complaint with the supervisory authority, f) source of personal data, and when it has this application - whether they come from publicly available sources, g) information on automated decision-making, including profiling referred to in art. 22 sec. 1 and 4, and - at least in these cases - relevant information about the rules for their taking, as well as the significance and envisaged consequences of such processing for the data subject. Art. 14 sec. 3 and paragraph 4 GDPR also determines the moment when the controller is obliged to fulfill the information obligation in question. At the same time, Art. 14 sec. 5 lit. b) GDPR excludes the application of par. 1 - 4 if - and to the extent that the provision of such information proves impossible or would require a disproportionate effort, in particular in the case of processing for archiving purposes in the public interest, for scientific or historical research purposes or for statistical purposes, subject to the conditions and collaterals referred to in Art. 89 paragraph. 1, or if the obligation referred to in para. 1 of this article may prevent or seriously hamper the achievement of the purposes of such processing. In such cases, the controller takes appropriate measures to protect the rights and freedoms and legitimate interests of the data subject, including making information available to the public.

The scope of personal data obtained by the Foundation from the publicly available KRS and subject to further processing (including publication) is strictly determined by the purpose and scope of the functioning of the National Court Register, and at the same time complies with the legitimate interest of the administrator (Article 6 (1) (f) of the GDPR). These data are limited to information directly related to the Complainant's participation in business transactions as a member of the authorities, partner or proxy of entities subject to entry in the National Court Register. At the same time, in view of the administrator's obligation to respect the obligation expressed in art. 5 sec. 1 letter c) of the GDPR, the data minimization rule (obliging it to limit the scope of the processed data to the necessary minimum, adequate to the pursued purpose), the Foundation cannot reasonably be

expected to obtain and process for information purposes (only for the purpose of individually fulfilling the obligation under Art. 14 GDPR), his further personal data (address data) (see also the judgment of the Supreme Administrative Court of January 24, 2013 (file reference number: I OSK 1827/11 and the judgment of the Provincial Administrative Court in Warsaw of April 28, 2014. reference number: II SA / Wa 125/14) In this situation, it should be assumed that Article 14 (5) (b) of the GDPR applies in this case - it is impossible to provide the Complainant with this information individually - for the reasons indicated above - it is impossible . At the same time, one should agree with the Foundation's argument that adopting the opposite position would in fact mean - with regard to the subjective scope of the data published on the website it runs (the number of records) - to frustrate the functioning of the given website, and therefore to prevent the Foundation from performing its core statutory activity - limited to further sharing of data obtained from the National Court Register, thus undermining the universal right of access to public information and re-use of public sector information.

At the same time, bearing in mind the content of the information provided by the Foundation as part of the "Privacy Policy" document available both from the Foundation's website: [...] and from the Foundation's website [...] (previously: [...]), cited in detail in point 3 of the factual justification for this decision, it was assessed that by providing the Complainant with the information indicated in this way on the processing of his personal data, the Foundation met the conditions set out in Art. 14 sec. 5 letter b) GDPR in fine. The provision of the information in question constituted an undertaking of appropriate and sufficient measures in the context of the protection of the applicant's rights and freedoms. In particular, the Complainant obtained information about the processing of his data, the administrator of this data and the possibility of contacting him, as well as the rights related to the said data processing. Consequently, in the case under examination, no violation of Art. 14 sec. 1 and 2 GDPR - as a result of excluding their application pursuant to art. 14 sec. 5 letter b) of the GDPR. Thus, the complaints of the Complainant, insofar as they related to the processing of his personal data in breach of the provisions on the passive information obligation (i.e. the obligation carried out at the initiative of the data controller himself, regardless of the data subject's request) were assessed as unfounded. Regardless of the above assessment, it seems important to mention that the finding of non-fulfillment of the obligations in the area of information provided to data subjects may result in the data protection authority formulating an appropriate order to remedy this infringement, and not an order to delete data in general. On the other hand, in the case under examination, although the complainant alleged breach of the above-mentioned obligations, he treated this allegation explicitly as an argument alleging that the said data were processed unlawfully, as a rule, demanding their

removal and not fulfilling any information obligations.

To sum up, the process of the challenged processing of the Complainant's personal data by the Foundation is carried out legally, and as a result, the Complainant cannot effectively demand the cessation of the processing of his data (their removal) - also in the context of the provisions establishing the right to object to data processing (Article 21 GDPR) and the right to be forgotten (Article 17 of the GDPR).

Pursuant to the wording of Art. 17 sec. 1 GDPR, the data subject has the right to request the administrator to immediately delete his personal data, and the administrator is obliged to delete personal data without undue delay, if one of the following circumstances occurs: a) personal data are no longer necessary for the purposes of which have been collected or otherwise processed; b) the data subject has withdrawn consent on which the processing is based in accordance with art. 6 sec. 1 lit. a) or Art. 9 sec. 2 lit. a), and there is no other legal basis for the processing; c) the data subject objects to the processing pursuant to Art. 21 sec. 1 against processing and there are no overriding legitimate grounds for processing or the data subject objects to the processing pursuant to art. 21 sec. 2 against processing; d) the personal data have been processed unlawfully; e) personal data must be removed in order to comply with the legal obligation provided for in the Union law or the law of the Member State to which the controller is subject; f) the personal data have been collected in relation to the offering of information society services referred to in art. 8 sec. 1. In the case under examination, the complainant's personal data are still necessary in the context of the purposes pursued by the Foundation (no prerequisite from Article 17 (1) (a) of the GDPR), the basis for their processing is the legitimate interest pursued by the administrator, and not consent Of the Complainant (no prerequisite from Article 17 (1) (b) of the GDPR), the challenged process of processing the Complainant's personal data is carried out legally (no prerequisite from Article 17 (1) (d) of the GDPR), there is no provision that would oblige The Foundation to remove the complainant's personal data in question (no prerequisite from Article 17 (1) (e) of the GDPR), the Complainant's personal data was not collected in relation to the offering of information society services referred to in art. 8 (1) of the GDPR (no prerequisite from Article 17 (1) (f) of the GDPR). In the case under examination, the existence of a prerequisite for an effective request to delete data specified in Art. 17 sec. 1 letter c) of the GDPR. The aforementioned provision requires the deletion of data in the event of an objection by the data subject pursuant to Art. 21 sec. 1 and sec. 2 GDPR - these regulations, in turn, concern the objection to the processing of personal data in a situation where the processing is carried out on the basis of art. 6 sec. 1 lit. e) or f) GDPR and when the purpose of data processing is a marketing purpose. In the present case, the

complainant's personal data are processed for purposes not related to marketing.

Art. 21 sec. 1 GDPR grants the data subject the right to object at any time - for reasons related to his particular situation - to the processing of his personal data based on art. 6 sec. 1 lit. e) or f), including profiling based on these provisions, indicating at the same time that the administrator is no longer allowed to process this personal data, unless he demonstrates the existence of valid legitimate grounds for processing, overriding the interests, rights and freedoms of the data subject, or grounds for establishing, investigating or defending claims. It should be emphasized, however, that in the present case there are no grounds to conclude that his special situation argues that the applicant's objection was taken into account. As it is emphasized in the literature on the subject, the quotation: "(...) a special situation justifying the cessation of the processing of the applicant's personal data may entail the risk of disclosure by such processing of data related to the sphere of privacy or family life, if the use of such data in a specific situation does not is absolutely necessary (...)" (P. Fajgielski" Commentary to Regulation 2016/679 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 (general regulation on the protection of data), [in:] General Data Protection Regulation. Personal Data Protection Act. Comment "WKP 2018). In the present case, the Complainant did not demonstrate the existence of any special situation on his side justifying the request to stop processing his personal data by the Foundation. The arguments presented by the Complainant in the given scope focus on the issue of violating - as a result of the Foundation's actions questioned - his right to privacy and the quotation: "(...) a real threat to rights and freedoms (...)". According to the position of the Complainant's attorney, the consequence of the questioned publication of the Complainant's personal data by the Foundation quoted: "(...) is a situation in which any person can at any time obtain full knowledge of my Principal's date of birth, employment history, business associates and friends. Such far-reaching information creates a real threat to my Principal - he feels uncomfortable and is afraid of using this data in a way that will allow him to do real harm. In the context of my Principal's age, he does not want every person, after entering his name into a publicly available search engine, to find out how old he is. (...) it creates real difficulties related to, for example, recruitment processes for potential new employers and jobs. It can also complicate private, personal and family life (...) ". Thus, the arguments presented boil down to speculation about the possible public perception of information about it and about unspecified and uncertain further consequences of becoming acquainted with them. In the manner specified, the Complainant in no way demonstrated the existence of a special situation on his side, understood primarily as the possibility of revealing unnecessary in the context of

the purposes pursued by the Foundation, his personal data related to the strictly private, family sphere, etc. The data processed by the Foundation are commonly available data in connection with the Complainant's participation in the broadly understood economic turnover, therefore it cannot be assumed that their processing for the purposes related to running the website [...], including publishing on this website, is related to - even potentially - with interference in the sphere of his privacy. The complainant's discomfort related to the possibility of becoming acquainted with the above-mentioned its data by any person does not affect the transparency of this information.

To sum up, the process of the challenged processing of the Complainant's personal data by the Foundation is carried out legally, and the Complainant's request for the removal of his data does not deserve to be taken into account.

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

Based on Article. 160 sec. 1 and 2 of the Act of 10 May 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000, as amended) in connection with joke. 21 sec. 1 and art. 22 of the Act of August 29, 1997 on the Protection of Personal Data (Journal of Laws of 2016, item 922, as amended) in connection with joke. 129 § 2 and article. 127 § 3 of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), a party dissatisfied with this decision is entitled, within 14 days from the date of its delivery, to submit to the President Office for Personal Data Protection, request for reconsideration of the case (address: Office for Personal Data Protection, ul. Stawki 2, 00-193 Warsaw). If a party does not want to exercise the right to submit an application for reconsideration, it has the right, pursuant to Art. 52 § 3 of the Act of August 30, 2002, Law on Proceedings before Administrative Courts (Journal of Laws of 2018, item 1302, as amended) to lodge a complaint against the decision 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 Personal Data Protection Office. The fee for the complaint is PLN 200. The party has the right to apply for an exemption from court costs.

2019-04-17