

THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, day 28

March

2019

DECISION

ZWAD.405.1274.2018

Based on Article. 105 § 1 of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2017, item 1257, as amended), in connection with Art. 58 sec. 2 lit. e) 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 (Journal .UE.L.2016.119.1), after carrying out the administrative procedure regarding incorrect notification by YSA of the person concerned by the breach of personal data protection, the President of the Office for Personal Data Protection

discontinues the proceedings in this case in its entirety.

Justification

On [...] September 2018, the Personal Data Protection Inspector of Y. S.A., hereinafter also referred to as "T." or "Y. THERE ARE." submitted a notification of a breach of personal data protection to the President of the Personal Data Protection Office, hereinafter also referred to as the "President of the Personal Data Protection Office" (date of finding: [...] September 2018).

The breach consisted in sending information about the granting of a cash benefit under the insurance to an incorrect e-mail address, as a result of which the client's personal data was disclosed to an unauthorized person. In the notification, the administrator stated that the breach concerned such data as: name and surname, PESEL number, bank account number, data on health services provided. T. informed that it had notified the person of the incident, indicating that after the breach, measures were taken to remedy the breach of personal data protection, in accordance with Art. 34 sec. 3 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 (Journal .UE.L.2016.119.1), hereinafter referred to as "Regulation 2016/679", ie, sent to the person who received the data of another person information about the need to delete the e-mail.

On [...] November 2018, the President of the Personal Data Protection Office pursuant to Art. 52 sec. 1 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2018, item 1000 of 2018.05.24, as amended), and Art. 34 sec. 4 of the Regulation 2016/679, sent to Y. S.A. a statement in which he called for a correct notification of the data subject about the breach of personal data protection and providing that person with recommendations to minimize the potential negative effects of the breach, which he did not include in the content of his notification addressed to the data subject.

At the above speech, Y. S.A. it has not replied within the time limit set.

On [...] February 2019, pursuant to Art. 61 § 1 and 4 of the Code of Administrative Procedure (Journal of Laws of 2017, item 1257, as amended), hereinafter referred to as "Kpa", in connection with Art. 58 sec. 2 lit. e) GDPR, administrative proceedings were initiated regarding an incorrect notification by Y. S.A. the data subject about the breach of personal data protection in accordance with art. 34 of the Regulation 2016/679.

By letter of [...] February 2019, T. informed the President of the Personal Data Protection Office that the data subject had been notified by correspondence of the breach of personal data protection on [...] February 2019. T. provided the anonymised content of the notification, according to which the data subject has been provided with the following information:

what was the breach of personal data protection;

what are its possible negative consequences;

what measures can be taken by the data subject to minimize the possible negative effects of the breach of personal data protection;

what measures has the administrator applied to remedy the breach of personal data protection;

name and surname and e-mail address of the personal data protection officer.

In these facts, the President of the Personal Data Protection Office considered the following.

Pursuant to the provision of art. 105 § 1 of the Code of Administrative Procedure, when the proceedings for any reason have become redundant, the public administration authority issues a decision to discontinue the proceedings. Therefore, it follows from the above-mentioned provision that administrative proceedings may not be conducted in a situation where during the proceedings its subject ceased to exist, or when the subject matter no longer existed before the commencement of the proceedings.

Taking into account the fact that the controller has notified the data subject of a breach of personal data protection in

accordance with art. 34 sec. 2 of Regulation 2016/679 and the above-mentioned legal regulations, it should be stated that the proceedings in this case have become redundant and, consequently, it is necessary, pursuant to art. 105 § 1 of the Code of Administrative Procedure, issuing a decision on its redemption in full.

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

On the basis of art. 127 § 3 of the Code of Administrative Procedure, you have the right to submit an application for reconsideration to the President of the Office for Personal Data Protection within 14 days from the date of receipt of the decision (address: Office for Personal Data Protection, ul. Stawki 2, 00-193 Warsaw).

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