

OFFICE FOR PERSONAL DATA PROTECTION

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\* UOOUX00D1EBC \*

Ref. UOOU-09913 / 18-14

DECISION

Chairwoman of the Office for Personal Data Protection as an appellate body competent pursuant to § 2, § 29 and § 32 of Act No. 101/2000 Coll., on the protection of personal data and on the amendment of certain acts, and according to § 10 and § 152 paragraph 2 of Act No. 500/2004 Coll., Administrative Procedure Code, decided on 24 January 2019 according to

§ 152 par. 6 let. b) of Act No. 500/2004 Coll. thus:

Decomposition XXXXX, b. XXXXX, apartment XXXXX, against the resolution of the Office for Personal Data Protection

Ref. UOOU-09913 / 18-4 of 14 November 2018, is rejected and the contested resolution is upheld.

Justification

The Office for Personal Data Protection (hereinafter referred to as the "Office") issued on 26 October 2018 in administrative proceedings

conducted with XXXXX in the matter of imposing corrective measures order ref. UOOU-09728 / 18-2. By this

By order, the Office imposed XXXXX obligations aimed at ensuring the conformity of personal processing

data carried out via the website [https: // XXXXX](https://XXXXX) with the requirements of the Regulation

(EU) 2016/679 of the European Parliament and of the Council of 27 April 2016. As a result of the filed

resistance and subsequently also the dissolution The Office continues the proceedings with XXXXX (under file number UOOU-09728/18).

On 5 November 2018, the Office received application XXXXX, born XXXXX, byte XXXXX, which declared on behalf of the participant in the above-mentioned proceedings file no. UOOU-09728/18 kept with XXXXX.

Following this, the Office issued a resolution no. UOOU-09913 / 18-4 of 14 November 2018 (hereinafter

„resolution’), in which, however, XXXXX's status as a party to the proceedings was not granted because none of the conditions for participation pursuant to Sections 27 and 28 of Act No. 500/2004 Coll. was found to be met, Administrative Procedure.

He lodged a proper appeal against the XXXXX resolution. In particular, he stated that the resolution had been issued excluded person, ie XXXXX, inspector of the Office It is therefore unreviewable and legally incorrect and therefore requests that XXXXX be canceled or decided to be a participant management. At the same time, he described himself as an activist fighting for the rights of the disabled, which he did needs to have access to uncensored information on court proceedings. He is also developing a system artificial intelligence, which can work with judgments in an intelligent form, which, however, can not without complete data on court proceedings. For this reason, he is considered to be a person who

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it may be directly affected by its rights or obligations and should therefore be a party to the proceedings within the meaning of § 27 para. 2 of the Administrative Procedure Code. As the primary proceedings directly concern third parties, their representative should be appointed and XXXXX has referred to case law in this regard European Court of Human Rights. As for bias XXXXX, it has already been settled in December 2018.

It should be added that XXXXX, following the issuance of the resolution by a special memorandum, requested the Office to adoption of a preliminary measure pursuant to Section 61 of the Administrative Procedure Code, which should be until resolved appeal against the resolution prohibited to issue measures that would permanently restrict the operation of the server XXXXX. As there was no response to this submission, XXXXX turned to to the President of the Office with a request to resolve the said requirement pursuant to Section 80, Paragraph 3 of the Administrative order.

The Appellate Body examined the contested order in its entirety, including the process which

preceded its publication, and mainly dealt with the XXXXX argument.

In this context, it considers it necessary first to recall that this is the case

on the situation regulated by the provision of § 28 par. 1 of the Administrative Procedure Code, as XXXXX declared itself

on behalf of the party to the proceedings. At the same time, the appellate body ruled out the granting of XXXXX status

party to the proceedings pursuant to Section 27 Paragraph 1 or 3 of the Administrative Procedure Code. Therefore, it would

provide the only option

the provisions of Section 27, Paragraph 2 of the Administrative Procedure Code, which considers “other concerned” to be a

party to the proceedings

persons, in so far as they may be directly affected by the decision in their rights or obligations'. Yippee

it must therefore be held that XXXXX demonstrated a degree of concern. However, in this case

it is not a direct concern which appears necessary for the grant of the status of party to the proceedings.

A person who may be directly affected by his rights may be regarded only as

in which, by issuing a decision, its legal position may change in comparison

with the previous state. However, this cannot be inferred in this case, since in the proceedings

under sp. UOOU-09728/18 obviously XXXXX cannot directly impose any obligations, resp. direct

grant some rights. Although it cannot be ruled out that it will occur indirectly or indirectly

affecting the actual exercise of his rights, but this is not in terms of the conditions laid down

sufficient in the provisions of Section 27 (2) of the Administrative Procedure Code.

Argument XXXXX recalled by the case law of the European Court of Human Rights then

relies in particular on the decision in Case 47848/08 - Center for Legal Resources on behalf of

Valentina Campaenea v. Romania. However, this decision emphasized the need to establish

a guardian or other representative who would protect the interests of extremely vulnerable persons and is in favor of

this case is not applicable. The same applies to other XXXXX judgments of the European Court of Justice

Court of Human Rights, as their factual and legal basis is significantly different from this

case.

The XXXXX bias proceedings have already been closed for the same reason as XXXXX

by issuing a resolution of the President of the Office ref. UOOU-10120 / 18-13 of 17 December 2018

conclusion that XXXXX is not excluded from the performance of administrative proceedings conducted under file no. zn.

UOOU-09728/18, while with regard to the provisions of § 48 of the Administrative Procedure Code, it is not possible to initiate another

management.

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As regards the application for an interim measure within the meaning of Section 61 of the Administrative Procedure Code, the Board of Appeal

the authority found this request to be null and void, as under the latter provision it is possible

ex officio or at the request of a party, order the party or other person to:

they have done something, they have delayed something or they have tolerated something, or to secure a thing if they need to be

the circumstances of the participants have been adjusted on a temporary basis, or if there is a concern that implementation would be jeopardized

execution. Extradition is therefore excluded from the very wording of the provisions of Section 61 of the Administrative Procedure Code

an interim measure by which the administrative body obliges itself to abstain from something, resp. something

do. The requirement in question thus a priori goes beyond the scope of Section 61 of the Administrative Procedure Code.

Moreover, XXXXX v

at the time of the submission of the application in question (ie after the issuance of the resolution regarding his participation in the proceedings)

as a party to the proceedings already due to possible doubts within the meaning of § 28 par. 1

of the Administrative Procedure Code, ie he did not have legitimacy to apply for interim measures.

The appellate body therefore rejected XXXXX's argument and found no reason to do so

should be granted the status of a participant in the administrative proceedings with XXXXX in the matter of imposition

corrective measures under file no. stamp UOOU-09728/18. At the same time, after an overall review, he did not find it

nor the reason for the illegality of the resolution. In view of the above, it therefore decided that  
as stated 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.

Prague, January 24, 2019

official stamp imprint

JUDr. Ivana Janů, v. R.

chairwoman

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