OFFICE FOR PERSONAL DATA PROTECTION

Lt. Col. Sochora 27, 170 00 Prague 7

tel .: 234 665 111, fax: 234 665 444

posta@uoou.cz, www.uoou.cz

* UOOUX00DNWH2 *

Ref. UOOU-02985 / 19-17

DECISION

Chairwoman of the Office for Personal Data Protection as the appellate body competent under

provisions of § 10 and § 152 paragraph 2 of Act No. 500/2004 Coll., the Administrative Procedure Code decided in accordance

with the provisions

§ 152 par. 6 let. b) of Act No. 500/2004 Coll., Administrative Procedure Code, as follows:

Dismissal of the party, Mr XXXXXX, born on XXXXXX, permanently in XXXXXX, against

Decision of the Office for Personal Data Protection Ref. UOOU-02985 / 19-7 of 19 August 2019

is rejected and the contested decision is upheld.

Justification

AND.

The basis for initiating administrative proceedings to impose measures to eliminate the identified

defects with the party, Mr XXXXXX, born on XXXXXX, on a permanent basis

apartment XXXXXX (hereinafter referred to as the “party to the proceedings”), pursuant to Section 60 of Act No. 110/2019

Coll., on processing

personal data and Article 58 (2) (a) (d) 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 on the repeal of Directive 95/46 / EC (the "General Regulation"), was

Complaint received by the Office for Personal Data Protection (hereinafter referred to as the "Office") on 10 June 2019,

the purpose of which is to publish the personal data of litigants on websites

website https: // XXXXXX, as well as documents provided by the administrative body of the first instance on

3 July 2019 within the framework of acts preceding the inspection in the sense of the provisions of Section 3 of the Act No. 255/2012 Coll., on control (control rules), when it was for the purpose of verifying the said complaint exported content of website https: // XXXXXX.

On the basis of the materials thus collected, the administrative authority of the first instance found that on The websites https: // XXXXXX in the "Overview of court proceedings" section are published information on court proceedings, which were ordered at all high, regional, city, etc. district courts, and as of 19 August 2019 there were approximately 2,530,000 records.

The content of the information published for each hearing is the identification of the competent court, meeting room designation, date and time of the meeting, meeting number, title, name and surname of the solver, type of hearing (hearing, delivery of judgment, etc.) and title, name and surname of the parties to the proceedings (v in the case of natural persons). Each record then includes a link to an overview of the proceedings at the website of the Ministry of Justice of the Czech Republic (hereinafter also "MSp"), http://infosoud.justice.cz.

It was also found that in the section "Archive of the official board of the NSS" on the website https: XXXXXX Judgments of the Supreme Administrative Court of the Czech Republic (hereinafter also “SAC”) are published, namely both abbreviated and anonymised versions of the whole judgment, including the reasons. As of 19. August 2019, there were more than 5,500 records relating to the judgments of the NSS. By content the information given for each judgment is the date of publication of the judgment, the case number, the concerned and the title, first and last name of the parties (in the case of natural persons) persons). At the same time, an abridged version of the SAC judgment is published, and in some cases anonymised version of the whole judgment, including the reasons. In case she was one of the parties natural person, the statement of the abbreviated version of the judgment of the Supreme Court data of this participant in the range of name, surname and address of residence and further it is stated here how The SAC ruled on the matter (ie information on the outcome of the proceedings before the SAC). If the NSS in the matter has already published an anonymised version of the whole judgment, it is possible to use the information

record and identification data in the abbreviated version of the judgment to the natural person as well

all information about the subject and course of the proceedings.

From the information provided directly on the website https: XXXXXX (in the section "Protection

personal data ”) as well as from the links placed to the individual records published here

It is clear that the party to the proceedings draws the above-mentioned information on court proceedings from the website

MSp website (http://infojednani.justice.cz). The party from this source regularly

collects information about ordered court proceedings, then places this information on

website https: // XXXXXX, where it continues to process (publish) them, in fact after

indefinitely.

Information is published on the MSp website https://infojednani.justice.cz

on court proceedings, which was ordered for the next 30 days, ie so far

did not take place. The information includes the date and time of the meeting, room, title, name and surname

researcher, type of proceedings (proceedings, promulgation of judgment, etc.), title, name and surname of the participants

proceedings (in the case of natural persons) and whether it is a closed session

and whether the hearing was canceled. This information is no longer available after the hearing in question

available on the listed MSp website.

Information is then published on the MSp website https://infosoud.justice.cz

on the course of court proceedings, ie an overview of individual events that occurred during the proceedings.

Status information is published on this website for a specific file number

proceedings (final case / pending case) and the course of the proceedings, ie the type of event that in the given

proceedings have taken place (eg initiation of proceedings, order of proceedings, issuance of a decision). This information is

available here even after the proceedings in question have been definitively terminated, however, their content

there is no personal data of the participants in the court proceedings at any stage of the proceedings.

From the above, it is clear that the information made available by the MSp is being published

personal data of the parties to the proceedings only in relation to the court proceedings which were

ordered, but has not yet taken place. At this stage, information about the court proceedings can be combined

with information on the course of the proceedings. In the event that no action is ordered in the case, resp.
the case has already been finalized, only information on the course of the trial is publicly available
proceedings without the identification of their participants.
Furthermore, with regard to the judgments of the SAC, it is clear (again directly on the basis of the information given in section
"Privacy" and the information on the original URL of each judgment),
that the party to the proceedings collects judgments published on the official board of the SAC, which is remotely
made available through the website of this court http://www.nssoud.cz. Thus
the collected judgments, abbreviated and anonymized versions, shall be placed on the website by the party to the proceedings
https: // XXXXXX, where it continues to publish it (ie it processes the personal data contained therein),
in fact for an indefinite period.
The NSS announces on its official notice board, and therefore also on the website http://www.nssoud.cz
in accordance with Section 49, Paragraph 12 of Act No. 150/2002 Coll., the Code of Administrative Procedure, judgments by
posting
abbreviated written copy without justification for a period of 14 days, if they are at the time of publication
only judicial persons are present in the judgment. After this period, the version of the judgment is shortened
removed from the official board and
is subsequently replaced by an anonymised version of the judgment
with justification. The identification data of the participants in the proceedings are thus on the official board of the SAC (and on
website http://www.nssoud.cz) accessible only for a period of 14 days, and only
in the form of an abbreviated version of the judgment and not at the same time as the anonymised version of the judgment in
which
the course of the proceedings is described in detail.
The party to the proceedings therefore collects and further publishes publicly available information about the proceedings
courts and the decision-making activities of the SAC. Because the information in question also includes
personal data of the parties to the proceedings, the party to the proceedings is in relation to this information

as a controller of personal data within the meaning of Article 4 (7) of the General Regulation, since it provided

purpose (informing the public of court proceedings and archiving this information for enforcement

public control over the judiciary, which is to be done to protect the rights of individuals) as well as

pages https: // XXXXXX) of this personal data processing. Therefore, the party to the proceedings

apply to all the obligations which result from this general position on the basis of this position

ordinance.

As it was also found, the processing of personal data in question is identical to the former

processing performed by the participant

pages

https: // XXXXXX. The last mentioned processing was then the subject of a deposit procedure

corrective measures taken by the Office with the participant in the proceedings under file no. stamp UOOU-09728/18, in which

As a result, the party was ordered to discontinue the disclosure of the personal data in question

via https: // XXXXXX, as none was found for this

legal title. In other words, the party to the proceedings after the end of the proceedings under file no. stamp UOOU-09728/18

placed the entire content of the website https: // XXXXXX on the newly created website

https: // XXXXXX, while the structure and content of the newly established website are identical to

https: // XXXXXX. The only difference can be found only in the scope of published information,

which is constantly growing as new negotiations are ordered, resp. new judgments are issued.

Based on the state of affairs thus established, the administrative body first issued an order no. UOOU-

02985 / 19-4 of 18 July 2019, but subsequently annulled on the basis of the defendant's opposition,

and then issued a decision ref. UOOU-02985 / 19-7 of 19 August 2019 (hereinafter referred to as the "Decision").

By decision, the party was ordered to pay the costs in addition to the costs

terminate both the disclosure of personal data of litigants

management via web

of the Republic

collected from the website of the Ministry of Justice of the Czech Republic

https://infojednani.justice.cz, as well as the publication of personal data of participants in court proceedings

conducted before the Supreme Administrative Court of the Czech Republic collected from web

website of this court https://www.nssoud.cz. It is necessary to add that in writing

decision, the administrative authority of the first instance committed a manifest error, when as a number

the negotiator erred in stating 'UOOU-20985/19', without, however, raising doubts as to its unambiguity

act identification.

However, the party to the proceedings objected to the proper appeal. In it at first only

generally called the decision illegal. He therefore proposed that they be annulled and that the matter be referred back to the

administrative authority

first instance for reconsideration. At the request of the administrative body of the first instance

pursuant to § 37 par. 3 of the Administrative Procedure Code, he then justified his appeal by stating that the legal title in

within the meaning of Article 6 (1) of the General Regulation, there is a public interest in the control of the judiciary,

only personal data previously published by courts or state courts are processed

councils and their publication is done in such a way that there is no disproportionate interference with the rights

subjects of such personal data. It should be added that the procedural opinion of the party to the proceedings is

complemented by a very subjective, emotionally tuned expression. Leaving aside the possible form

speech, this is a relatively bold response to the first-instance body's call to rectify the defect

filed by the party nota bene. But because not even that speech

does not aspire to any argumentative value, there was no reason to its content in any way

to deal with.

II.

The appellate body reviewed the decision in its entirety, including the previous process

its issue and first dealt with the arguments of the accused.

In that regard, it states, in particular, that Article 6 (1) of the General Regulation is one of the legal titles for

the processing of personal data does not provide any compelling basis for the processing of personal data,

as carried out by the party to the proceedings. If a party were to rely on Article 6 (1)
letter (e) a general regulation according to which processing is to be considered "necessary
for the performance of a task carried out in the public interest or in the exercise of official authority, which is
it should be noted that the party to the proceedings is certainly not the task in question
relevantly, in particular not by law, and this legal title is therefore
not applicable in the treated case.
Public control of the judiciary, which can be seen as a subset of the public interest, is
in the conditions of the Czech legal system is ensured through the principle of public conduct
before the court, including public information on all ordered proceedings with the designation of the parties.
The control of court proceedings in a specific case (in the case of identified participants) is thus ex ante
it is manifested by public participation in court proceedings and is fulfilled by the public pronouncement of the judgment.
This can be seen as the focus of the democratic legitimacy of the judiciary. At the same time, it is indisputable
that sufficient information from court proceedings to fulfill this goal is provided by the state itself, resp. courts
and the state administration of the courts, by entirely sufficient and proportionate means.
However, after the end of a specific court proceeding, there is no longer a (comprehensive) identification of the participants in
the proceedings
necessary condition for fulfilling this function. Ex post control of the judiciary
on the basis of published (entirely anonymised) judgments it concentrates on more general ones

aspects: uniformity and consistency of decision-making, monitoring the development of case law over time, surveying
judicial excesses, etc., however, regardless of the identity of the parties to the proceedings. Performance control
the judiciary in terms of access to information on the course and outcome of court proceedings should not be
a self-serving tool for satisfying subjective curiosity, but to act as
democratic corrective of the judge in his activities in a specific proceeding (but not to put pressure on the judge)
judge in a particular case). It is to be a prevention against arbitrariness, decision-making by the cabinet judiciary and before
overall "encapsulation" of the judiciary. However, by deciding on a specific case, this is specific

the function is, in principle, exhaustive, as the case of a particular participant is closed (with the exception of another procedural procedure, which is not, however, available to the public).

The fact that in an individual assessment (eg on the basis of an application) does not change this according to Act No. 106/1999 Coll.), it can be concluded that there is a legitimate interest in to make personal data part of the public debate (quite randomly: in the case of persons in public active if they act in court proceedings precisely in connection with their public activity). This however, the approach does not correspond to the flat - rate and non - discriminatory processing of personal data according to findings of fact. For completeness, it is noted that typically the first name and last name in the context of a comprehensive justification of the court decision using standard public The available search and verification methods are the basis for determining a person's identity.

Of these functions of public control of the judiciary, which manifest themselves unequally at different stages of the proceedings,

in any case, the right to further disclose personal data relating to the judiciary cannot be inferred negotiations, resp. contained in the documents concerning them, since at the same time the law must be respected for the protection of privacy guaranteed by the Charter of Fundamental Rights and Freedoms. It is therefore necessary to distinguish

between the public control of the judiciary argued by the party and the disclosure personal data through the processing in question. From a general point of view, it is still necessary to add that the public of certain data does not a priori entitle them to their further unlimited processing.

No other legal title for the processing of personal data in question to which the party to the proceedings does not have the consent of the data subjects, then it is no longer a priori possible. Especially by him the purpose of the archiving cannot be because the personal data in question are clearly not processed in the regime of Act No. 499/2004 Coll., on archiving and the file service and on the amendment of certain acts and a unilateral statement alone obviously cannot lead to the activity in question will be considered archiving in that sense.

Nor can it be Article 6 (1) (a). (f) a general regulation under which personal data may be processed
process without the consent of the data subject for the purposes of legitimate interests. Primarily, it would
it was necessary to prove such a legitimate interest and then to compare it with the interests and basic ones
the rights and freedoms of the data subject. Legitimate interest, as set out in recital 47 of the General Regulation,
then it must be taken into account through reasonable expectations of the data subject on the basis of
its relationship with the administrator and could be given, for example, in a situation where there is a relevant between them
and the corresponding relationship. But something like that is completely absent in the treated case, because peace
reasonable expectation is defined by the public of the court itself, as mentioned
above. On the contrary, the data subject's legitimate expectation is that after the relevant hearing has taken place
and the information has been removed from the original source, in principle the rights of the person concerned shall prevail
data subject. At the same time, however, it must be admitted that a certain proportionality test, as set out in Art.
Article 6 (1) (a) f) of the general regulation, indeed primarily carried out MSp, resp. competent court,
however, this only concerns the processing of personal data by these institutions and cannot be disseminated

to the party to the proceedings who, in addition, through the processing of personal data in question
exceeds the time limit set by the relevant institutions.
In the next, as the content-identical processing of personal data has already been dealt with in the proceedings
on the imposition of remedial measures conducted by the Office with the participant in the proceedings under file no. stamp
UOOU-09728/18,
it is also possible to refer to passages of the decision of the President of the Office ref. UOOU-09728 / 18-23 of
February 4, 2019, in which the legal opinion was expressed and substantiated, according to which he was not in favor
the processing of personal data in question found no legal title.
The appellant therefore rejected the party's arguments. At the same time after a general review
did not find in any way the reason for the illegality of the decision, nor did it
no errors in the procedure of the administrative body of the first instance.
Therefore, for all the above reasons, the appellate body ruled 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, November 15, 2019

official stamp imprint

JUDr. Ivana Janů

chairwoman

(electronically signed)