

# THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, on 25

March

2019

## DECISION

ZSOŚS.440.3.2019

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), art. 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), hereinafter referred to as the "Act" in connection with Art. 55 sec. 3 and art. 57 sec. 1 lit. a and f of 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 119 of 04/05/2016, p. 1), hereinafter referred to as the "general regulation on the protection of personal data", after conducting administrative proceedings regarding the complaint of Mr. JP about irregularities in the processing of personal data by the President of the District Court for [...] in W., consisting in delivering to him a copy of the decision issued in a case to which he is not a party,

I discontinue the proceedings

### Justification

On [...] September 2018, the Personal Data Protection Office received a complaint from Mr. JP (hereinafter referred to as: "the Complainants"), about irregularities in the processing of personal data by the President of the District Court for [...] in W., consisting in serving him a copy of the order issued in a case to which he is not a party. The applicant pointed out that the postal item addressed to him from the W. District Court [...] contained a copy of the decision issued in a case concerning another person. At the same time, the applicant submitted that it was probable that a copy of the decision issued in the case to which he was a party had been served on the above-mentioned person. Therefore, as the Complainant points out, the President of the Court violated the general regulation on the protection of personal data.

In the course of the proceedings initiated by the complaint, the President of the Personal Data Protection Office obtained explanations regarding the circumstances of the case, read the evidence and made the following findings.

In a letter of [...] January 2019, the President of the Personal Data Protection Office asked the President of the District Court for [...] in W., who was the administrator of the complainant's personal data, to comment on the content of the complaint and provide written explanations. The President of the Office informed the Complainant about the above (letter of [...] January 2019 in the case files). On [...] February 2019, the Office for Personal Data Protection received a letter from the Vice President of the Court ([...]), in which he explained that the complainant had been mistakenly served with a copy of the decision issued in the case [...], additionally bearing an incorrect reference number [...]. It was an accidental action, resulting from an error of the secretary's employee dealing with the dispatch of correspondence. Moreover, it indicated that there were no indications that a copy of the decision issued in the case [...] concerning the Complainant had been served on any unauthorized person. In the case [...], with an incorrect reference number [...], the correspondence was sent to the debtor, but was not collected by her after a double notification. Referring to the note from the Head of the Registry of [...] September 2018, the Vice President of the Court added that the parcel contained a correct copy of the decision issued in the [...] case. In connection with the above, the Vice-President of the Court indicated that it was unlikely that the violation in question would result in a risk of violating the rights or freedoms of natural persons, as the copy delivered to the Complainant contained only the name and surname of the participant in the proceedings, ref. No. Act [...]. This type of data is publicly available, for example in court cases. For this reason, in his opinion, the conditions set out in Art. 33 sec. 1 sentence 1 in fine of the General Data Protection Regulation. It should be noted that Art. 57 of the General Data Protection Regulation sets out the basic tasks of the supervisory body, which is the President of the Personal Data Protection Office, and generally defines the manner of performing these tasks. To the above-mentioned tasks, constituting the essence and the most important part of the body's activity, include: monitoring and enforcement of the application of the provisions of the Regulation (paragraph 1 (a)) as well as considering complaints and conducting proceedings in cases of complaints (paragraph 1 (f)).

Referring to the content of the submitted complaint and explanations submitted by the Vice President of the District Court for [...] in W., it should be stated that there was no breach of the provisions on the protection of personal data against the complainant, as a copy of the decision in the case concerning him was not served on another unauthorized about yourself. Thus, pursuant to the provisions of Art. 105 § 1 of the Act of June 14, 1960, Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended), hereinafter referred to as: "kpa", when the proceedings for any reason have become redundant in their entirety or in part, a public administration body issues a decision to discontinue the proceedings, in whole or

in part, respectively. The doctrine indicates that: "the redundant nature of administrative proceedings, as provided for in Art. 105 § 1 of the Code of Civil Procedure, means that there is no element of a material legal relationship, and therefore it is not possible to issue a decision settling the matter by resolving its substance. The prerequisite for discontinuation of the proceedings may exist even before the initiation of the proceedings, which will be revealed only in the pending proceedings, and it may also arise during the proceedings, i.e. in a case already pending before the administrative authority "(B. Adamiak, J. Borkowski," Kodeks administracyjne postępowania. Komentarz, 14th edition, CH Beck Publishing House, Warsaw 2016, p. 491). The objectivity of the administrative procedure referred to in the above provision means that there is no legal basis for the substantive resolution of a given case, no subject matter of the proceedings, which is a specific case.

The determination by the public authority of the existence of the condition referred to in Art. 105 § 1 of the Code of Administrative Procedure, obliges him, as it is emphasized in the doctrine and jurisprudence, to discontinue the proceedings, because then there are no grounds for resolving the matter as to the substance, and continuing the proceedings in such a situation would make it defective, having a significant impact on the result of the case. .

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

The decision is final. 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) in connection with art. 13 § 2, art. 53 § 1 and article. 54 § 1 of the Act of August 30, 2002, Law on Proceedings before Administrative Courts (Journal of Laws of 2018, item 1302, as amended), from this decision, the party has the right to lodge a complaint with the Provincial Administrative Court, 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 fee for the complaint is PLN 200. The party has the right to apply for the right to assistance, including exemption from court costs.

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