THE CHAIRMAN OF PERSONAL DATA PROTECTION

Warsaw, on 05

February

2019

DECISION

ZSOŚS.440.95.2018

Based on Article. 105 § 1 of the Act of June 14, 1960 - Code of Administrative Procedure (Journal of Laws of 2018, item 2096) and art. 12 point 2, 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 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) after conducting administrative proceedings regarding the complaint of Mrs. W. S., residing in in S., irregularities in the processing by the President of the District Court in P., consisting in disclosing her personal data to other participants in the proceedings in the case [...] pending before the District Court in P.,

I discontinue the proceedings

Justification

On [...] August 2016, the Office of the Inspector General for Personal Data Protection (currently: the Office for Personal Data Protection) received a complaint from Mrs. WS (hereinafter referred to as "the Complainant") regarding the inclusion of her personal data in the court's decision of [. ...] on November 2015 and making them available to other participants in the proceedings in the case with file number [...], pending before the District Court in P. of the parties, their personal data as well as the personal data of other persons interested in the case, i.e. names, surnames and addresses. The applicant complained that she had not consented to disclose her personal data to other participants in the proceedings who were strangers to her. In a letter of [...] September 2016, the complainant was summoned by the Inspector General for Personal Data Protection to supplement the formal deficiencies in the complaint. In reply, the complainant specified that the scope of the personal data provided by the court concerned her first name, surname and address of residence and that she requested an inspection to be carried out in order to assess the correctness of the processing of personal data at the District Court in P.

It should be noted here that on the date of entry into force of the Act of May 10, 2018 on the protection of personal data, i.e. May 25, 2018, the Inspector General for Personal Data Protection became the President of the Office for Personal Data

Protection. Pursuant to Art. 160 of this Act, the 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 in accordance with the principles set out in the Code of Civil Procedure. All activities undertaken by the Inspector General for Personal Data Protection before May 25, 2018 remain effective.

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 [...] April 2018, the Inspector General for Personal Data Protection asked the President of the District Court in P., who is 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 [...] April 2018 in the case file).

On [...] May 2018, the Office of the Inspector General for Personal Data Protection received a letter from the President of the Court ([...]), in which he explained that the legal basis for the processing of the complainant's personal data in the case with file number [...] are defined by the provisions of the Act of 27 July 2001, Law on the System of Common Courts (Journal of Laws of 2018, item 23, as amended), ie Art. 1 § 2 and the Act of November 17, 1964, Code of Civil Procedure (Journal of Laws of 2018, item 1360, as amended), hereinafter referred to as the "CCP", i.e. Art. 9, art. 128 § 1, art. 258, art. 357 § 2 in connection with Art. 23 sec. 4 of the Act of August 29, 1997 on the protection of personal data. The President of the Court also indicated that, at the preliminary stage of the proceedings in the present case, the applicant had been called as a witness by the appellant. On [...] November 2015, the District Court in P., at a closed session, issued a decision on the call to participate in the case as interested 52 people, including the applicant, pursuant to Art. 47711 § 1 and § 2 of the Civil Procedure Code A copy of this decision, in accordance with the judge's order and pursuant to Art. 357 § 2 of the Code of Civil Procedure was served on all participants of the proceedings who, in accordance with the principle of openness expressed in Art. 9 of the Code of Civil Procedure have the right to view the case files and receive extracts from these files. Therefore, in the opinion of the President of the Court, it would be unjustified to anonymize the personal data of other participants in court proceedings in letters addressed to specific addressees, since under the Code of Civil Procedure they have the right to access the case files.

In such a factual and legal state, the President of the Personal Data Protection Office considered the following.

The Act of August 29, 1997 on the protection of personal data defines the rules of conduct in the processing of personal data

and the rights of natural persons whose personal data is or may be processed in data files (Article 2 (1) of the Act). Pursuant to the wording of art. 7 point 2 of the Act, data processing should be understood as any operations performed on personal data, such as collecting, recording, storing, developing, changing, sharing and deleting, especially those performed in IT systems. Each of the ones indicated in Art. 7 point 2 of the Act, the forms of personal data processing should be based on one of the prerequisites for the legality of the processing of personal data, enumerated in art. 23 sec. 1 of the Act on the Protection of Personal Data. Due to the wording of Art. 7 of the Constitution of the Republic of Poland of April 2, 1997, according to which organs of public authority operate on the basis and within the limits of the law, the content of Art. 23 sec. 1 point 2 of the Personal Data Protection Act. The processing of personal data in common courts takes place in order to administer justice in the scope not belonging to administrative courts, military courts and the Supreme Court, and to perform other tasks in the field of legal protection, entrusted by statutes (Article 1 § 2 and § 3 of the Act of 27 July 2001 Law on the System of Common Courts). The principles of the Court's operation result, inter alia, from from the provisions of the Act of 27 July 2001, Law on the System of Common Courts and issued pursuant to Art. 41 § 1 of this Act - the Ordinance of the Minister of Justice of 23 December 2015. Regulations for the operation of common courts (Journal of Laws of 2015, item 2316), which stipulates, inter alia, the order of functioning of common courts, the order of actions taken in courts. The judicial activity of the Court is, in turn, determined by the provisions of procedural law included in the Code of Civil Procedure.

In the present case, it is necessary to point out the lack of substantive jurisdiction of the supervisory authority with regard to the processing of data by courts in the course of the administration of justice. The main purpose of the exemption in this respect is to protect the independence of courts. The exercise by the authority competent in data protection matters of supervision over the processing of data in the scope of adjudication could constitute an unacceptable interference in the judicial activity. The President of the Personal Data Protection Office, as part of the powers conferred on him by the Act, may not interfere in the course or manner of proceedings conducted by other authorities authorized under separate provisions. Thus, it cannot interfere with the content of the documents collected in the files of such proceedings. In other words, the President of the Personal Data Protection Office may not take actions related to proceedings conducted by other authorities on the basis of relevant legal provisions. The above is confirmed by the jurisprudence of the Supreme Administrative Court, which in its judgment of March 2, 2001 (file number II SA 401/00) stated that the Inspector General for Personal Data Protection (currently: President of the Office for Personal Data Protection) is not a controlling body nor overseeing the correct application of

substantive and procedural law in matters falling within the competence of other authorities, services or courts, whose decisions are subject to review in the course of the instance or in any other manner determined by appropriate procedures. Notwithstanding the foregoing, it should be noted that the court does not act ex officio, and does so only at the request of an authorized entity, submitted in the prescribed form. At the same time, the court is obliged to ensure that all interested parties participate in the proceedings, i.e. persons whose rights or obligations depend on the outcome of the case.If such persons do not take part in the case, the court will notify them of the pending proceedings (Art. § 2 of the Code of Civil Procedure). Incidentally, attention should also be paid to the expressed in Art. 9 of the Code of Civil Procedure the principle of open proceedings. Pursuant to the regulation of this provision, cases are heard openly, unless a specific law provides otherwise. The parties and participants in the proceedings have the right to view the case files and receive copies, copies or excerpts from these files.

Due to the lack of competence of the President of the Office to substantively resolve this case, the proceedings initiated by the complaint lodged by the complainant had to be discontinued as redundant, pursuant to Art. 105 § 1 of the Act of June 14, 1960, Code of Administrative Procedure. The doctrine indicates that: "the objectivity of administrative proceedings", as provided for in Art. 105 § 1 of the Code of Civil Procedure, means the lack of any element of the material-legal relationship resulting in the fact that it is impossible to settle the matter by deciding on its substance. The discontinuation of administrative proceedings is a formal ruling that ends the proceedings, without a substantive decision (judgment of the Supreme Administrative Court in Warsaw of September 21, 2010, II OSK 1393/09). 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 in the sentence.

Based on Article. 127 § 3 of the Code of Administrative Procedure, the party has the right to file an application for reconsideration of the case within 14 days from the date of its delivery to the party. If a party does not want to exercise the right to submit an application for reconsideration of the case, he has the right to lodge a complaint against the decision with the Provincial Administrative Court in Warsaw within 30 days from the date of its delivery to the party. The complaint is lodged

through the President of the Office (address: ul. Stawki 2, 00-193 Warsaw). 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.

2019-04-16