

THE PRESIDENCY OF PERSONAL DATA PROTECTION Warsaw, 07 October 2021 DECISION DKE.561.9.2021 Pursuant to art. 104 § 1 of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2020, item 256), art. 7 and art. 60 of the Act of May 10, 2018 on the Protection of Personal Data (Journal of Laws of 2019, item 1781), art. 31 and art. 58 sec. 1 lit. a) and e) and art. 58 sec. 2 lit. b) Regulation of the European Parliament and of the EU Council 2016/679 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 (general data protection regulations) (Journal of Laws UE L 119 of 04/05/2016, p. 1, as amended), after conducting administrative proceedings on the imposition of an administrative fine on Stowarzyszenie K., the President of the Office for Personal Data Protection issues a warning to Stowarzyszenie K. for violation of the provisions art. 31 and art. 58 sec. 1 lit. a) and lit. e) Regulation 2016/679 of the European Parliament and of the Council and of the EU Council 2016/679 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 ( general regulation on data protection) (Journal of Laws UE L 119 of 04/05/2016, page 1, as amended), consisting in the lack of cooperation with the President of the Personal Data Protection Office in the performance of his tasks and failure to provide access to personal data and information in proceedings with reference number [...] necessary for the President of the Personal Data Protection Office to perform his tasks. Justification In the proceedings with reference number [...], instigated ex officio on the basis of a notification of a personal data breach consisting in the theft of a laptop containing personal data made by Stowarzyszenie K. (hereinafter also referred to as the "Association"), the President of the Personal Data Protection Office, acting pursuant to Art. 58 sec. 1 lit. a) and e) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46 / EC (general regulation on data protection) (Journal of Laws UE L 119 of May 4, 2016, p. 1 and Journal of Laws UE L 127 of May 23, 2018, p. 2), hereinafter referred to as: ("Regulation 2016/679") , in a letter of [...] February 2021, he called on the Association to provide explanations on the matter by: Sending a detailed description of the security features of the stolen laptop. Indication of the scope of disclosed data in relation to each category of persons, i.e. employees, users, students, pupils, children, people with special needs (e.g. the elderly, disabled, etc.), listed in point 7 of the personal data breach notification form (explanations of the differences in the categories of personal data contained in the notification of the personal data breach of [...] December 2020 and the categories of data contained in the letter of [...] January 2021). Answering whether the incident has been

followed by an analysis of the violation of the rights or freedoms of natural persons, and if so, whether it resulted in the need to notify data subjects about the violation of their personal data. The letter was delivered [...] on March 2021. Despite the instruction that failure to respond to the summons, a penalty may be imposed pursuant to Art. 83 sec. 5 lit. e) of Regulation 2016/679, the Association did not reply to this letter. In the absence of a reply, in a letter of [...] April 2021, the President of the Personal Data Protection Office, acting pursuant to Art. 58 sec. 1 lit. a) and e) again asked the Association to answer the above-mentioned questions and instructed that failure to respond to the summons may result in the imposition of a penalty under Art. 83 sec. 5 lit. e) Regulation 2016/679. The letter was notified twice and finally returned to the sender [...] May 2021. The Association did not respond to the request of the President of the Personal Data Protection Office. on the Association of an administrative fine for violation of Art. 31 and art. 58 sec. 1 lit. a) and e) of Regulation 2016/679, due to the lack of cooperation with the President of the Personal Data Protection Office in the performance of his tasks by this authority and failure to provide access to personal data and information necessary for the President of the Personal Data Protection Office to perform his tasks. Letter of [...] June 2021 on the initiation of the administrative procedure in question and the collection of evidence in the case, was not taken by the Association, however, it was considered delivered [...] on June 2021 on the basis of substitute service pursuant to Art. 44 Kpa (a shipment twice notified, not collected on time). The association did not reply to this letter either. The letter indicated that if the Association provided exhaustive explanations requested by the President of the Personal Data Protection Office in letters of [...] February 2021 and [...] April 2021, this circumstance may have a mitigating effect on the administrative fine imposed in these proceedings or may result in withdrawal from its imposition. On [...] September 2021, the Office for Personal Data Protection received a letter from the President of the Association's Management Board - Mr. T.K. In the letter, Mr. T.K. answered the questions addressed to the Association in the case no. [...]. At the same time, in this letter, he explained that the lack of a reply to the letter of [...] June 2021 within the deadline (reference number DKE.561.9.2021) was due to his involvement in the project of a football championship for children taking place outside the permanent seat of the Association. He pointed out that on these dates he was often traveling between game locations throughout Poland, as well as in [...] and that he is the only person authorized to receive correspondence, and this, combined with the accumulation of duties, often away from home, makes it impossible to collect on time. correspondence. He explained that in the month of July and August he was preoccupied with organizing football camps, which were also held outside the seat of the Association, which caused another delay. Due to staff shortages, it is obliged to perform additional duties resulting from

the personal management and coordination of the above-mentioned projects, including the work of people who have left it due to the poor financial condition of the Association. He added that the quotation: "In view of the above, I had very difficult opportunities to cooperate with your Office. This fact is not due to my negligence or bad will, but only from the lack of time and the availability of my person responsible for so much (...). I am asking for understanding and refraining from imposing a financial penalty (...). I hope that my explanations will prove to be sufficient, at the same time that I am at your disposal all the time ". Then, in a letter of [...] September 2021, the President of the Management Board of the Association - Mr. T.K. [...] by clarifying the issue of computer security and indicating specific data of contractors (clients) stored in the stolen computer. In this letter, he also explained that the reason for the lack of response to the letters addressed in the case no. [...] there were problems with the functioning of the Association, dismissals of employees and involvement in the 3-month-long procedure of deferring the payment of VAT. Having read all the evidence collected in the case, the President of the Office for Personal Data Protection considered the following. 57 sec. 1 lit. a) Regulation 2016/679, the President of the Personal Data Protection Office - as a supervisory authority within the meaning of art. 51 of Regulation 2016/679 - monitors and enforces the application of this regulation on its territory. As part of his competences, the President of the Personal Data Protection Office examines, inter alia, Complaints brought by data subjects shall investigate these complaints to an appropriate extent and inform the complainant of the progress and the outcome of these proceedings within a reasonable time (Article 57 (1) (f)). In order to enable the performance of such defined tasks, the President of the Personal Data Protection Office has a number of specified in Art. 58 sec. 1 of Regulation 2016/679, the rights in the scope of conducted proceedings, including the right to order the administrator and the processor to provide all information needed to perform its tasks (Article 58 (1) (a)) and the right to obtain access from the administrator and the processor to all personal data and all information necessary for the performance of its tasks (Article 58 (1) (e)). In addition, the President of the Personal Data Protection Office is entitled to a number of provisions specified in Art. 58 sec. 2 corrective powers, including reminders to the administrator or processor in the event of violation of the provisions of Regulation 2016/679 by processing operations. resulting in a breach of the authority's powers referred to in Art. 58 sec. 1 (including the right to obtain data and information necessary to perform its tasks), and is subject - in accordance with art. 83 sec. 5 letter e) in fine of Regulation 2016/679 - an administrative fine of up to EUR 20,000,000, and in the case of an enterprise - up to 4% of its total annual worldwide turnover from the previous financial year, with the higher amount being applicable. It should also be indicated that the controller and the processor are obliged to cooperate with the supervisory authority in the

performance of its tasks, as provided for in Art. 31 of Regulation 2016/679. The President of the Personal Data Protection Office, acting pursuant to art. 58 sec. 2 lit. b) of Regulation 2016/679 may also consider it justified to issue the Association a warning in the scope of the infringement of the provisions of Art. 31 and 58 sec. 1 lit. a) and e) of Regulation 2016/679.

Referring the above-mentioned provisions of the Regulation 2016/679 to the facts established in this case and described at the beginning of this decision, it should be stated that the Association - as a party to the proceedings conducted by the President of the Personal Data Protection Office (UODO) No. [...], undoubtedly breached the obligation to cooperate with the President of the Personal Data Protection Office and the obligation to provide the President of the Personal Data Protection Office with access to information necessary for the performance of his tasks - in this case, the substantive resolution of the case. The President of the Personal Data Protection Office twice called the Association to provide explanations. The first of these summons was delivered to the Association [...] in March 2021, and the second was notified twice and finally returned to the sender [...] in May 2021. None of the letters received a reply within the indicated deadlines 7 days from the date of their delivery. Preventing access to information requested from the Association by the President of the Personal Data Protection Office (UODO), prevented a thorough consideration of the case no. [...] and resulted in the prolongation of the proceedings, which, in turn, is in contradiction with the basic principles governing administrative proceedings - as set out in Art. 12 sec. 1 Kpa. principles of insight and speed of proceedings. This omission of the Association made it necessary to initiate the present proceedings on the imposition of an administrative fine. However, in response to the information about the initiation of this procedure, the Association resumed cooperation with the President of the Personal Data Protection Office by sending [...] September 2021 and [...] September 2021 detailed explanations in the procedure with reference number [...] which allowed the President of the Personal Data Protection Office to continue the proceedings in case no. [...]. Moreover, the Association provided explanations justifying the reasons for the lack of cooperation with the President of the Personal Data Protection Office. As mentioned above, there is no doubt that the Association violated the provisions of Regulation 2016/679 by its behavior. The justification provided by the Association for the lack of response to the requests of the President of the Personal Data Protection Office does not remove the responsibility for the identified omission. At the same time, however, the reasons indicated by the Association for the initial lack of cooperation with the supervisory body had to be considered as credible and having a significant impact on the assessment of the Association's behavior in the context of the choice of the sanction applied to it in these proceedings. In the present state of facts, apart from the lack of a response to the requests for explanations -

which was supplemented by the Association as a result of the initiation of this proceeding - no other indications were found that the Association would not cooperate with the President of the Personal Data Protection Office. In the opinion of the President of the Personal Data Protection Office, the above-mentioned breach was unintentional. The circumstances of the case, and in particular the Association's later attitude, lead to the conclusion that its initial sluggishness did not result from the ill will of the person authorized to represent the Association, nor was it intended to deliberately obstruct the proceedings. No reaction from the Association to the calls to him to provide explanations in the case no. [...], in the opinion of the President of the Personal Data Protection Office, it was caused by real problems related to the functioning of the Association. In addition, the subsequent, active attitude of the Association, in particular providing explanations for the case no. [...], including the explanation of the reasons for the lack of response to the requests for explanations, indicates the readiness for further cooperation with the President of the Personal Data Protection Office. In the opinion of the supervisory body, the very initiation of the proceedings to impose an administrative fine and the real prospect of imposing a financial penalty have become a clear signal for the Association that further evasion of the obligations imposed by the provisions of Regulation 2016/679 will inevitably lead to the application of the strictest sanctions provided for in these provisions. Nevertheless, in order to avoid similar situations in the future, the President of the Personal Data Protection Office indicates that the Association should inform immediately of any obstacles preventing the Association from timely fulfillment of its obligations towards the personal data protection authority, as soon as they arise. pursuant to Art. 58 sec. 2 lit. b) of Regulation 2016/679, according to which each supervisory authority has the right to issue a reminder to the controller or processor in the case of violation of the provisions of this Regulation by processing operations, the President of the Personal Data Protection Office found it justified to provide the Association with a reminder in the scope of the infringement found art. 31 and art. 58 sec. 1 lit. a) and lit. e) Regulation 2016/679, assuming that in the light of the criteria set out in Art. 83 sec. 2 of Regulation 2016/679, it will be effective and sufficient. It should be noted, however, that in the event of a similar event occurring in the future, each reminder issued by the President of the Personal Data Protection Office against the Association will be taken into account when assessing the premises for a possible administrative penalty, in accordance with the principles set out in Art. 83 sec. 2 of the Regulation 2016/679. In this factual and legal state, the President of the Personal Data Protection Office resolved as in the operative part of this decision. The decision is final. The party 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, via the President of the Personal Data Protection

Office (address: ul. Stawki 2, 00-193 Warsaw). The fee for the complaint is PLN 200. In the proceedings before the Provincial Administrative Court, the party has the right to apply for the right to assistance, which includes exemption from court costs and the appointment of an attorney, legal advisor, tax advisor or patent attorney. The right to assistance may be granted at the request of a party submitted before the commencement of the proceedings or in the course of the proceedings. The request is free of court fees.

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