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

* UOOUX00E6TDV *

Ref. UOOU-05226 / 19-22

DECISION

Chairwoman of the Office for Personal Data Protection as the appellate body competent pursuant to § 10

and § 152 para. 2 of Act No. 500/2004 Coll., the Administrative Procedure Code, decided pursuant to the provisions of § 152

para. 6

letter b) of Act No. 500/2004 Coll., Administrative Procedure Code, as follows:

Dismissal of the accused, XXXXX, born on XXXXX, permanently by XXXXX, against the decision

Office for Personal Data Protection Ref. UOOU-05226 / 19-7 of 12 March 2020 is rejected and

the contested decision is upheld.

Justification

Definition of things

[1] The basis for proceedings in the matter of suspicion of committing an offense pursuant to Section 62 (1)

letter b) of Act No. 110/2019 Coll., on the processing of personal data, in connection with disclosure

personal data of litigants through the XXXXX website maintained by

against the accused, XXXXX, born on XXXXX, permanently in XXXXX (hereinafter referred to as the “accused”),

the file material was collected on the basis of a complaint received by the Office for Protection

personal data (hereinafter referred to as the "Office") on 10 June 2019 and the documentation collected in

within the procedure for imposing measures to eliminate the identified deficiencies conducted by the Office under

sp. UOOU-02985/19, including the settlement of the appeal by the Chairwoman of the Office Ref. UOOU-02985 / 19-17

of 15 November 2019.

[2] It was clear from the file that the accused, at least since June 2019,

at least until the enforceability of the decision of the Office ref. UOOU-02985 / 19-17 of

15 November 2019 on the imposition of measures to eliminate the identified deficiencies, ie by 25 November

2019, published personal data of litigants on the XXXXX website.

The accused thus published information on court proceedings in the "Overview of court proceedings" section

proceedings ordered in all high, regional, city and district courts

from the website of the Ministry of Justice of the Czech Republic available at

https://infojednani.justice.cz, when on 19 August 2019 it was about 2,530,000

records. The content of the information published for each meeting was the identification of the person concerned

court, meeting room designation, date and time of the hearing, meeting number, title, name and surname

researcher, type of hearing (hearing, pronouncement of judgment, etc.) and title, name and surname of the participants

management (in the case of natural persons). Each record also included a link to the report

proceedings on the website of the Ministry of Justice of the Czech Republic. Accused

He also published the personal data of the participants on the XXXXX website in question

court proceedings before the Supreme Administrative Court of the Czech Republic gathered from

website of this court accessible at http://www.nssoud.cz when in the section

The "Archive of the Official Board of the NSS" published the judgments of the Supreme Administrative Court of the Czech

Republic,

both abridged versions and anonymised versions of entire judgments, including the statement of reasons,

as of August 19, 2019, there were approximately 5,500 records. To every judgment was

also published information containing the date of its publication, the reference number, the area to be

the case in question, and the title, first and last name of the parties (in the case of natural persons). IN

cases where one of the parties to the proceedings was a natural person were abbreviated

of the judgment, the personal data of the party to the proceedings in the range of name, surname and address are stated in the

statement

residence, as well as information on the outcome of the proceedings.

[3] On the basis of the above, the Office issued order no. UOOU-02985 / 19-4 of

July 18, 2019, subsequently annulled on the basis of the defendant's opposition, and then issued a decision

Ref. UOOU-02985 / 19-7 of 19 August 2019. In doing so, the Office imposed on the accused in

terminate both the disclosure of personal data of litigants

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

disclosure of personal data of participants in court proceedings before the Supreme Administrative Court

court of the Czech Republic collected from the website of this court. Listed

the decision was subsequently confirmed by the President of the Office to dismiss the accused

Ref. UOOU-02985 / 19-17 of 15 November 2019.

[4] An investigation by the first instance administrative authority found that the website

the accused was placed on 15 November 2019 with an article entitled “Legal calculations will end

November 25 ", and since then to the further publication of personal data of the parties to the proceedings

does not occur.

[5] In view of the above, the administrative authority of first instance has initiated proceedings in the case

on offense by order no. UOOU-05226 / 19-3 of 5 February 2020, by which the accused was recognized

guilty of committing an offense under § 62 para. b) of Act No. 110/2019 Coll., for which he

a fine of CZK 50,000 was imposed. Based on the timely resistance, the order was given

in accordance with Section 150, Paragraph 3 of Act No. 500/2004 Coll., the Administrative Procedure Code was repealed and

the proceedings continued.

[6] Subsequent issued decision of the administrative body of the first instance ref. UOOU-05226 / 19-7

of 12 March 2020 ('the decision'), however, reiterated that the accused

committed an offense under § 62 para. b) of Act No. 110/2019 Coll., as he violated one

basic principles for the processing of personal data pursuant to Articles 5 to 7 of Regulation

(EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals

in connection with the processing of personal data and on the free movement of such data and on cancellation

Directive 95/46 / EC (hereinafter "the General Regulation"), which he committed as a controller of personal data

in the form of direct intention by, from an unspecified time, but at least from the month of June

2019, and at least until the enforceability of the decision of the Office no. UOOU-02985 / 19-17 of

2/5

15 November 2019 on the imposition of measures to eliminate the identified deficiencies, ie by

On November 25, 2019, he published personal data through the XXXXX website

participants in court proceedings collected from the website of the Ministry of Justice

Of the Czech Republic available at the Internet address https://infojednani.justice.cz and personal

data of participants in court proceedings before the Supreme Administrative Court of the Czech Republic

collected from the website of this court accessible at

internet address

http://www.nssoud.cz, thereby violating the obligation set out in Article 6 (1) of the General Regulation,

thus the obligation to process personal data only for some legal reason

adjusted in letter a) to f) of this provision, for which a fine of 50,000 was imposed on him

CZK.

[7] However, the accused first filed a blanket appeal against the decision, which was subsequently filed against

reasoned by the administrative authority of the first instance.

Decomposition content

[8] In the dissolution, the accused called the decision illegal, as it should have disappeared altogether

legal and factual issues raised by him. The accused always had in connection with the subject

to respect the law and the instructions of the Office by processing personal data, this processing also by the Office

registered and respected both final decisions that were relevant to the application in question

Issued by the Office, and the accused cannot be blamed for the first decision concerning

limited the operation of the application at XXXXX to only one Internet subdomain.

[9] Furthermore, as the accused stated, he always processed already published personal data, mostly

authoritative official sources. For this reason, it should be problematic whether a threat has occurred

public interest. Thus, the factual nature of the offense by which the accused was found guilty was not

materially fulfilled. The conduct of the accused is therefore not a misdemeanor, as he does not report

no social harm. As the considerable media publicity of this also suggests

misdemeanor proceedings, the conduct of the accused is to be generally perceived as socially

beneficial.

[10] The accused therefore proposed that the contested decision be annulled and that the case be referred back to the

administrative authority

first instance for reconsideration.

Applicable law

[11] Article 6 (1) of the General Regulation reads: "Processing is lawful only if

at least one of the following conditions is met and only to the extent appropriate:

(a) the data subject has given his or her consent to the processing of his or her personal data for one or more

specific purposes;

(b) processing is necessary for performance of a contract to which the data subject is a party; or

to carry out pre-contractual measures at the request of that data subject;

(c) processing is necessary for compliance with a legal obligation applicable to the controller;

(d) processing is necessary in order to protect the vital interests of the data subject or otherwise

Individuals;

(e) processing is necessary for the performance of a task carried out in the public interest; or

the exercise of official authority vested in the administrator;

f) processing is necessary for the purposes of the legitimate interests of the relevant controller or third party,

except where those interests take precedence over interests or fundamental rights and freedoms

data subject requiring the protection of personal data, in particular if he is a data subject

child."

[12] Provisions of § 62 par. 1 let. b) of Act No. 110/2019 Coll. reads: "Administrator or processor

under Title II, it commits an offense by:. (b) infringes any of the basic principles for

processing of personal data pursuant to Articles 5 to 7 or 9 of Regulation (EU) No 2016/679 “.

Assessment by a second instance body

[13] The appellate body reviewed the contested decision on the basis of the appeal in its entirety, including the process that preceded its release and first dealt with it arguments of the accused.

[14] In particular, it found that the subject-matter of this infringement procedure was the processing itself personal data to accused persons without an appropriate legal title, as required by Article 6 of the General Regulation and not a breach of obligations imposed on the accused in proceedings brought under sp. UOOU-02985/19, ie the ban on processing personal data via the Internet XXXXX website or breach of obligations imposed on the accused in the proceedings conducted by sub Ref. UOOU-09728/18 in the matter of personal data processing through the website at address XXXXX for completeness then the appellate body states that for the fulfillment of the facts The offense in question is undecided between which domains and subdomains there is content moves. On the other hand, it is necessary, as required by Section 93 of Act No. 250/2016 Coll., on liability for misdemeanors and proceedings, properly specify the act to be prosecuted, in particular in the statement of the decision, so that it is not interchangeable with another. This includes stating how the offense has been committed, which in this case also means stating the relevant domain. However, it is an illusory notion that an authoritative finding would be illegal condition, the component of which is the use of a particular subdomain, allowed the accused to invoke their own subsequent (supposedly obstructive) conduct consisting in transfers sites to other subdomains or domains.

[15] Furthermore, the Appellate Body found that it was completely irrelevant to the assessment of the act as registration made by the accused pursuant to the former Act No. 101/2000 Coll., on protection personal data and on the amendment of certain laws, as well as the results of consultations aimed at compliance of the last mentioned legal regulation by the accused.

[16] Regarding the alleged disclosure of personal data by public authorities, the Appellate Body recalls that the personal data in question were only made available by them for a limited period of time time with regard to the precise purpose of their publication. Therefore, the data subject may reasonably expect that, after the information in question has been removed from the original source, it has before further disclosure of such data takes precedence over its fundamental right to personal protection data, resp. privacy. The concept of public regulation is naturally based on unaddressed protection of these rights as a public interest. He was then undoubtedly the actions of the accused affected, which must be regarded as the social harmfulness of the accused's conduct. Moreover, the Office he has no awareness of the media publicity supporting the accused's publicity personal data, while the accused himself has not documented such a thing, and above all it is possible

practically rule out the possibility that this alleged fact could have an effect on the current paradigm protection of personal data.

[17] With the argument that the defendant's conduct is beneficial, the Appellate Body suffers sufficiently already settled in the decision ref. UOOU-02985 / 19-17 of 15 November 2019, in which he interpreted (time) differentiated meaning of personal data in the accused invoked public control judiciary, in opposition to the widespread and indefinite processing carried out accused.

[18] Furthermore, after an overall examination, the Appellate Body did not find any administrative action first instance, no errors rendering the decision illegal. In particular, it seems to him like appropriate amount of the fine imposed at the very lower limit of the rate.

[19] For all the above reasons, the Appellate Body therefore ruled as set out in opinion 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, July 28, 2020

official stamp imprint

JUDr. Ivana Janů

President

v. Mgr. Josef Prokeš

deputy chairman

(electronically signed)