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NOTICE

MARSZAŁEK SEJMU OF THE REPUBLIC OF POLAND

of 30 August 2019.

on the announcement of the consolidated text of the Act on personal data protection

1. Pursuant to Article 16(1), first sentence, of the Act of 20 July 2000 on the publication of normative acts and certain other legal acts (Journal of Laws of 2019, item 1461), the consolidated text of the Act of 10 May 2018 on the protection of personal data (Journal of Laws, item 1000), as amended, is published in the Annex to this notice:

- 1) By the Act of 3 July 2018. - Provisions introducing the Act - Law on higher education and science (Journal of Laws, item 1669),
- 2) Act of 21 February 2019 on amending certain acts in connection with ensuring the application 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 Data Protection Regulation) (OJEU, item 730)

and changes resulting from regulations promulgated before 29 August 2019.

2. The consolidated text of the Act given in the annex to this notice does not include:

- 1) Articles 109-157 of the Personal Data Protection Act of 10 May 2018 (Journal of Laws, item 1000), which state:

"Article 109 In the Act of 17 November 1964. - Code of Civil Procedure (Journal of Laws of 2018, item 155, as amended^{a)}) in Article 17 in point 4⁴ the full stop shall be replaced by a semicolon and point 4⁵ shall be added as follows:

" 4⁵) for claims arising from infringements of rights under data protection legislation."

Art. 110. The Act of 17 June 1966 on enforcement proceedings in administration (Journal of Laws of 2017, item 1201, 1475, 1954 and 2491 and of 2018, item 138 and 398) shall be amended as follows:

- 1) the words 'Inspector-General for the Protection of Personal Data' in Article 2(1)(12) and in Article 20(2) shall be replaced by 'President of the Office for the Protection of Personal Data' when used in different cases;
- 2) Article 18i(12) is replaced by the following:

"§ 12. Objection proceedings shall not exclude liability for breach of obligations under data protection legislation."

a) Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2017, item 2491, and of 2018, items 5, 138, 398, 416, 650, 730, 756, 770 and 771.

Article 111. in the Act of 26 June 1974. - Labour Code (Journal of Laws of 2018, item 917), Article 22¹ shall be followed by the following Article 22² and Article 22³ :

"Art. 22² . § 1. If it is necessary to ensure the safety of employees or the protection of property or the control of production or to maintain the secrecy of information, the disclosure of which could expose the employer to harm, the employer may introduce special surveillance of the premises of the workplace or the area around the workplace in the form of technical means for recording images (monitoring).

§ (2) Monitoring shall not extend to sanitary rooms, cloakrooms, canteens and smoking rooms or rooms made available to the company trade union organisation, unless the use of monitoring in these rooms is necessary to achieve the purpose specified in § 1 and does not violate the dignity and other personal rights of the employee, as well as the principle of freedom and independence of the trade union, in particular by using techniques that make it impossible to identify the persons present in these rooms.

§ 3. The employer shall process the video recordings exclusively for the purpose for which they were collected and store them for a period not exceeding 3 months from the date of recording.

§ 4. Where the video recordings constitute evidence in proceedings under the law or the employer has become aware that they may constitute evidence in the proceedings, the time limit set out in § 3 shall be extended until the proceedings have become final.

§ After the expiry of the periods referred to in § 3 or 4, the image recordings containing personal data obtained as a result of the monitoring shall be destroyed, unless otherwise stipulated by separate provisions.

§ 6. The objectives, scope and method of application of the monitoring shall be established in a collective agreement or in work regulations or in a notice if the employer is not covered by a collective agreement or is not obliged to establish work regulations.

§ 7. The employer shall inform the employees of the introduction of the monitoring, in the manner customary for the employer, no later than 2 weeks prior to its commencement.

§ 8. The employer shall provide the employee with the information referred to in § 6 in writing before allowing the employee to work.

§ 9. If monitoring is introduced, the employer shall mark the premises and the area to be monitored visibly and legibly, by means of appropriate signs or audio announcements, no later than one day prior to its commissioning.

§ 10. The provision of § 9 shall be without prejudice to the provisions of Article 12 and Article 13 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 Data Protection Regulation) (Official Journal of the EU L 119 of 04.05.2016, p. 1).

Art. 22³ . § 1. If it is necessary to ensure that work is organised in such a way as to make full use of working time and to ensure the proper use of the work tools provided to the employee, the employer may introduce control of the employee's business e-mail (e-mail monitoring).

§ 2 E-mail monitoring must not violate the secrecy of correspondence or other personal rights of the employee.

§ 3. The provisions of Article 22² § 6-10 shall apply *mutatis mutandis*.

§ 4. The provisions of § 1-3 shall apply *mutatis mutandis* to other forms of monitoring than those specified in § 1 if their use is necessary to achieve the objectives specified in § 1."

Art. 112. In the Act of 31 July 1981 on Remuneration of Persons in Managerial Positions of the State (Journal of Laws of 2017, item 1998 and of 2018, item 650), the words "the General Inspector of Personal Data Protection" used in Article 2, points 2 and 4 shall be replaced by "the President of the Office for Personal Data Protection".

Art. 113. In the Act of 16 September 1982 on public servants (Journal of Laws of 2017, item 2142 and 2203, and of 2018, item 106 and 650), the words "Office of the Inspector General for the Protection of Personal Data" used in Article 1, paragraph 1, item 13, in Article 36, paragraph 5, item 1, and Article 48, paragraph 2, in different cases, shall be replaced by the words "Office for the Protection of Personal Data" used in the corresponding case.

Article 114 The Act of 8 March 1990 on municipal self-government (Journal of Laws of 2018, item 994) shall be amended as follows:

- 1) The following Article 9a shall be inserted after Article 9:

"Art. 9a. (1) The municipality, for the purpose of ensuring public order and the safety of citizens, as well as fire and flood protection, may use technical means enabling the recording of images (monitoring) in an area of public space, with the consent of the manager of such area or the entity holding the legal title to such area, or on the premises and in building structures constituting the property of the municipality or the municipality's organisational units, as well as on the area around such properties and building structures, if this is necessary to ensure public order and the safety of citizens or fire and flood protection.

2. Monitoring does not include sanitary facilities, cloakrooms, canteens, smoking rooms and social facilities.

3. Video recordings containing personal data shall be processed solely for the purposes for which they were collected and shall be stored for a period not exceeding 3 months from the date of recording, unless otherwise provided for by separate legislation.

4. After the expiry of the period referred to in paragraph 3, image recordings obtained as a result of monitoring, containing personal data, shall be destroyed, with the exception of situations in which the recordings have been secured, in accordance with separate provisions.

5. Properties and structures under monitoring shall be visibly and legibly marked with information on monitoring, in particular by means of appropriate signs.

6. Monitoring that involves the processing of personal data requires the application of security measures for the processing of such data, in particular to prevent their loss or unlawful dissemination, and to prevent access to the data by unauthorised persons."

- 2) in Article 50, the existing text shall be numbered as paragraph 1 and the following paragraph 2 shall be added:

"(2) The protection of property shall include, in particular, monitoring on and in the area around such properties and structures which are municipal property. The provisions of Article 9a (2) to (6) shall apply *mutatis mutandis*."

Article 115 The Act of 23 December 1994 on the Supreme Chamber of Control (Journal of Laws of 2017, item 524) shall be amended as follows:

- 1) where in Article 4(1) and (2) the words "the Inspector-General for Personal Data Protection" shall be replaced by "the President of the Office for Personal Data Protection";

- 2) in Article 29(1), in point (2), point (i) shall be replaced by the following:

"(i) the processing of personal data, with the exception of data revealing political opinions, religious or philosophical beliefs, as well as genetic data, data on addictions, sexuality or sexual orientation."

Art. 116. In the Act of 29 June 1995 on Public Statistics (Journal of Laws of 2018, item 997), the words "to the General Inspector for Personal Data Protection" used in Article 44, paragraph 2, item 2 shall be replaced by the words "to the President of the Office for Personal Data Protection".

Article 117 In the Act of 10 April 1997. - Energy Law (Journal of Laws of 2018, item 755, 650, 685 and 771), paragraph 5a of Article 9c shall be replaced by the following:

"5a. Distribution system operators installing remote reading meters at end-users connected to their network shall be obliged to protect metering data relating to such end-users under the rules laid down in the provisions on the protection of personal data."

Article 118. In the Act of 21 August 1997 on real estate management (Journal of Laws of 2018, item 121, 50 and 650), the words "General Inspector for Personal Data Protection" used in Article 60, paragraph 1, item 1 shall be replaced by "President of the Office for Personal Data Protection".

Art. 119. In the Act of 27 August 1997 on professional and social rehabilitation and employment of persons with disabilities (Journal of Laws of 2018, item 511) in Article 6d, paragraph 4b shall be replaced by the following:

"4b. The entities mentioned in paragraph 4a shall process the data made available from the system for the purpose for which the data were made available to them, in accordance with the rules laid down in the provisions on the protection of personal data."

Article 120 In the Act of 29 August 1997. - Tax Ordinance (Journal of Laws of 2018, item 800, 650, 723 and 771) shall be amended as follows:

1) Article 14(4) shall be replaced by the following:

"§ 4. The minister responsible for public finance shall ensure the functioning of the tax portal and shall be the data controller of the taxpayers, payers, collectors, their legal successors and third parties using the portal.";

2) in Article 119zt, point 4 shall be replaced by the following:

"(4) The President of the Office for the Protection of Personal Data - to the extent necessary to carry out the statutory tasks set out in the provisions on the protection of personal data;"

3) in Article 119zzg, the words "Inspector-General for the Protection of Personal Data" shall be replaced by "President of the Office for the Protection of Personal Data".

Article 121 In the Act of 29 August 1997. - Banking Law (Journal of Laws of 2017, item 1876, as amended^{b)}) in Article 105, paragraph 1, item 2, point n shall be replaced by the following:

"n) the President of the Office for the Protection of Personal Data to the extent necessary for the performance of statutory tasks,".

Art. 122. In the Act of 5 June 1998 on provincial self-government (Journal of Laws of 2018, item 913), the following Art. 60a shall be added after Art. 60:

"Article 60a. (1) It shall be the duty of the persons participating in the management of the property of the province to exercise particular care in carrying out the management in accordance with the purpose of that property and to protect it.

2. Property protection includes, in particular, the possibility of using technical means for recording images (video surveillance) on the territory of real estate and construction facilities constituting the property of the province, as well as on the area around such real estate and construction facilities.

3. Monitoring does not include sanitary facilities, cloakrooms, canteens, smoking rooms and social facilities.

4. Video recordings containing personal data shall be processed solely for the purposes for which they were collected and shall be stored for a period not exceeding 3 months from the date of recording, unless otherwise provided for by separate legislation.

5. After the lapse of the period referred to in paragraph 4, image recordings obtained as a result of monitoring, containing personal data, shall be destroyed, with the exception of situations where the recordings have been secured, in accordance with separate provisions.

6. Properties and structures under monitoring shall be visibly and legibly marked with information on monitoring, in particular by means of appropriate signs.

7. Monitoring that involves the processing of personal data requires the application of security measures for the processing of such data, in particular to prevent their loss or unlawful dissemination, and to prevent access to the data by unauthorised persons."

Article 123 The Act of 5 June 1998 on county self-government (Journal of Laws of 2018, item 995) shall be amended as follows:

1) The following Article 4b shall be inserted after Article 4a:

"Art. 4b. (1) The county, for the purpose of ensuring public order and the safety of citizens, as well as fire and flood protection, may use technical means enabling the recording of images (monitoring) in an area of public space, with the consent of the manager of this area or the entity holding the legal title to this area, or on the territory of real estate and in building structures constituting the property of the county or county organisational units, as well as on the territory around such real estate and building structures, if this is necessary to ensure public order and the safety of citizens or fire and flood protection.

2. Monitoring does not include sanitary facilities, cloakrooms, canteens, smoking rooms and social facilities.

3. Video recordings containing personal data shall be processed solely for the purposes for which they were collected and shall be stored for a period not exceeding 3 months from the date of recording, unless otherwise provided for by separate legislation.

^{b)} Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2017, items 2361 and 2491, and of 2018, items 62, 106, 138, 650, 685, 723 and 864.

4. After the expiry of the period referred to in paragraph 3, image recordings obtained as a result of monitoring, containing personal data, shall be destroyed, with the exception of situations where the recordings have been secured, in accordance with separate provisions.

5. Properties and structures under monitoring shall be visibly and legibly marked with information on monitoring, in particular by means of appropriate signs.

6. Monitoring that involves the processing of personal data requires the application of security measures for the processing of such data, in particular to prevent their loss or unlawful dissemination, and to prevent access to the data by unauthorised persons."

- 2) in Article 50, the existing text shall be numbered as paragraph 1 and the following paragraph 2 shall be added:

"2. The protection of property shall include, in particular, monitoring on and in the area around such property and structures which are county property. The provisions of Article 4b(2) to (6) shall apply *mutatis mutandis*."

Article 124 The Act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation (Journal of Laws of 2016, item 1575 and of 2018, item 5 and 369) shall be amended as follows:

- 1) in Article 53f, paragraph 1 shall be replaced by the following:

"(1) In order to carry out search work and to identify the identity of the persons referred to in Article 53b, a Genetic Material Database, hereinafter referred to as the "Database", shall be established at the Institute of Remembrance, of which the President of the Institute of Remembrance shall be the administrator."

- 2) in Article 53h, paragraph 3 shall be replaced by the following:

"(3) The entity referred to in paragraph (1) shall transfer to the Institute of Remembrance the information and data referred to in paragraph (1) and the samples of genetic and biological material in its possession in the event of termination of the activities related to the identification of the identity of the persons referred to in Article 53b."

- 3) Article 71 shall be replaced by the following:

"Article 71. In the activities of the Institute of Remembrance referred to in Article 1, the provisions 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 Data Protection Regulation) (Official Journal of the EU L 119 of 04.05.2016, p. 1) shall apply to the operation of the Base."

Article 125 In the Act of 9 November 2000 on the establishment of the Polish Agency for Enterprise Development (Journal of Laws of 2018, item 110 and 650) in Article 6aa paragraph 5 shall be replaced by the following:

"5. The Agency shall act as the controller of the data referred to in paragraphs 2 and 3."

Art. 126. In the Act of 8 June 2001 on the profession of psychologist and the professional self-government of psychologists (Journal of Laws, item 763 and 1798, and of 2009, item 120 and 753) in Article 13, paragraph 2 is replaced by the following:

"2. If the results of the research are to be used for more than just the client's information, the data protection provisions shall apply."

Article 127 In the Act of 27 July 2001. - Law on the system of common courts (Journal of Laws of 2018, item 23, as amended^{o)}) shall be amended as follows:

- 1) in Article 175a, paragraph 2 shall be repealed;
2) in Article 175c in paragraph 1, the second sentence shall be deleted.

Article 128. In the Act of 28 November 2003 on family benefits (Journal of Laws of 2017, item 1952 and of 2018, item 107, 138, 650, 730 and 912) in Article 23, paragraph 9 shall be replaced by the following:

"(9) The information referred to in paragraph (8) may be processed by the minister competent for family matters and the voivode for the purpose of monitoring the implementation of family benefits and for the purpose of enabling the competent authorities and the voivode to verify the right to family benefits, and by the entities mentioned in paragraph (10) for the purpose for which the information has been made available to them, in accordance with the principles specified in the provisions on personal data protection. The competent authorities and the voivode shall transfer the data to the central register using the software referred to in section 7."

^{o)} Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2018, items 3, 5, 106,

Article 129. In the Act of 27 May 2004 on investment funds and management of alternative investment funds (Journal of Laws of 2018, item 56, as amended^{d)}) in Article 286b, paragraph 16 shall be replaced by the following:

"(16) The Commission may provide information to a supervisory authority of a third country relating to an individual case handled by the Commission if the conditions referred to in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 are met. 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 Data Protection Regulation) (OJ L 119, 04.05.2016, p. 1) - in the case of personal data, and if the transfer is necessary for the performance of tasks set out by the Act. In such a case, the Commission may consent to the onward transfer of this information to the supervisory authority of another third country."

Art. 130. In the Act of 17 December 2004 on liability for violation of public finance discipline (Journal of Laws of 2017, item 1311 and 2110), the words "General Inspector for Personal Data Protection" used in Article 47, paragraph 1, item 11 and in Article 52, item 8, in different case, shall be replaced by the words "President of the Office for Personal Data Protection" used in the appropriate case.

Article 131 The Act of 17 February 2005 on the computerisation of the activity of entities performing public tasks (Journal of Laws of 2017, item 570) shall be amended as follows:

- 1) in Article 2(4), the words 'the Inspector-General for Personal Data Protection' shall be replaced by 'the Pre-essor of the Office for Personal Data Protection';
- 2) in Article 4, point 1 shall be replaced by the following:
"(1) data protection legislation;"
- 3) in Article 19a, paragraph 2 shall be replaced by the following:
"2. The Minister in charge of informatisation shall be the data controller of ePUAP users."

Article 132 In the Act of 27 July 2005. - Law on Higher Education (Journal of Laws of 2017, item 2183, as amended^{e)}), paragraph 5 shall be repealed in Article 88.

Art. 133. In the Act of 18 October 2006 on the disclosure of information on documents of the organs of state security from 1944 to 1990 and the content of such documents (Journal of Laws of 2017, item 2186 and of 2018, items 538, 650, 651 and 730), in Article 22, paragraph 1, item 8c, the words "the General Inspector for Personal Data Protection" shall be replaced by "the President of the Office for Personal Data Protection".

Article 134 In the Act of 7 September 2007 on assistance to persons entitled to alimony (Journal of Laws of 2018, item 554 and 650) in Article 15, paragraph 8b shall be replaced by the following:

"8b. The information contained in the central register referred to in section 8a may be processed by the minister competent for family affairs and the voivode in order to monitor the implementation of the maintenance fund benefits and to enable the competent authorities of the debtor and the competent authorities of the creditor to verify the right to maintenance fund benefits, and by the entities mentioned in section 8c for the purpose for which the information has been made available to them, in accordance with the rules laid down in the provisions on the protection of personal data. The competent authorities of the creditor and the competent authorities of the debtor shall transmit data to the central register using the software referred to in paragraph 8."

Art. 135. In the Act of 27 August 2009 on public finance (Journal of Laws of 2017, item 2077 and of 2018, item 62), in Article 139, paragraph 2, the words "the General Inspector for Personal Data Protection" shall be replaced by "the President of the Office for Personal Data Protection".

Article 136. In the Act of 5 November 2009 on cooperative savings and credit unions (Journal of Laws of 2017, item 2065, as amended^{f)}) in Article 9f in paragraph 1 point 18 shall be replaced by the following:

"18) at the request of the President of the Office for the Protection of Personal Data, within the scope of his performance of the tasks set out in the provisions on the protection of personal data;"

^{d)} Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2017, item 2491, and of 2018, items 106, 138, 650, 685 and 771.

^{e)} Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2017, item 2201, and of 2018, items 138, 398, 650, 730 and 912.

^{f)} Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2017, items 2486 and 2491, and of 2018, items 62, 106, 138, 650, 723, 771 and 864.

Art. 137. In the Act of 9 April 2010 on sharing of business information and exchange of business data (Journal of Laws of 2018, item 470, 650, 723, 730 and 771), in Article 11, paragraph 2, the words "the General Inspector for Personal Data Protection" shall be replaced by "the President of the Office for Personal Data Protection".

Article 138. In the Act of 9 April 2010 on the Prison Service (Journal of Laws of 2017, item 631 and 1321 and of 2018, item 138, 730 and 912) in Article 18 in paragraph 2, item 6 shall be replaced by the following:

"(6) The President of the Office for the Protection of Personal Data;"

Article 139 In the Act of 5 August 2010 on the protection of classified information (Journal of Laws of 2018, item 412 and 650) in Article 34 in paragraph 10, item 9 shall be replaced by the following:

"(9) The President of the Office for the Protection of Personal Data;"

Article 140 In the Act of 5 January 2011. - Electoral Code (Journal of Laws of 2018, item 754), Article 143, paragraph 4 shall be replaced by the following:

"§ 4. The list of payments made by Polish citizens to the electoral committee of the organisation and the electoral committee of voters shall be made available for inspection by the State Election Commission and the election commissioner upon request, in accordance with the procedure and principles laid down in the provisions on the protection of personal data."

Article 141 In the Act of 15 July 2011 on the professions of nurse and midwife (Journal of Laws of 2018, item 123 and 650) in Article 27, paragraph 9 shall be replaced by the following:

"(9) The handling of the matters referred to in paragraphs (1) to (6) shall be confidential and shall comply with data protection legislation."

Article 142. In the Act of 19 August 2011 on payment services (Journal of Laws of 2017, item 2003 and of 2018, item 62, 650, 723 and 864), Article 10 shall be replaced by the following:

"Article 10 Providers and payment system operators may process personal data to the extent necessary for the prevention, investigation and detection of fraud in relation to the payment services provided or the operation of the payment system by the competent authorities, with the exception of the data referred to in Art. 9(1) 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 Data Protection Regulation) (OJ L 119, 04.05.2016, p. 1)."

Article 143. In the Act of 14 December 2012 on waste (Journal of Laws of 2018, item 992), in Article 80, paragraph 1, point 3 shall be replaced by the following:

"(3) he shall ensure the security of the processed data, information and documents he has received in connection with the maintenance of the BDO, in accordance with the legislation on the protection of personal data."

Article 144. In the Act of 20 February 2015 on Renewable Energy Sources (Journal of Laws of 2017, item 1148, 1213 and 1593 and of 2018, item 9 and 650) in Article 159, paragraph 1 shall be replaced by the following:

"1. The President of UDT shall administer and process the data contained in the registers referred to in Article 158(1) in accordance with the provisions on the protection of personal data."

Article 145 In the Act of 24 July 2015. - Law on Assemblies (Journal of Laws of 2018, item 408) in Article 15, paragraph 3 shall be replaced by the following:

"3. The decision to prohibit the assembly shall be made available in the Public Information Bulletin taking into account the provisions on the protection of personal data for 3 months from the date of its issuance."

Article 146. In the Act of 11 September 2015 on insurance and reinsurance activity (Journal of Laws of 2018, item 999) in Article 35 in paragraph 2, item 10 shall be replaced by the following:

"10) the President of the Office for the Protection of Personal Data, to the extent that he performs the tasks set out in the provisions on the protection of personal data;"

Article 147 In the Act of 25 September 2015 on the profession of physiotherapist (Journal of Laws of 2018, item 505) in Article 12, paragraph 9 shall be replaced by the following:

"(9) The handling of the matters referred to in paragraphs (1) to (7) shall be confidential and shall be carried out in compliance with data protection legislation."

Article 148. In the Act of 9 October 2015 on biocidal products (Journal of Laws of 2018, item 122, 138 and 650) in Article 42, paragraph 2 shall be replaced by the following:

"(2) The report and the data referred to in paragraph (1) may not include data protected under the provisions on the protection of personal data."

Article 149 In the Act of 28 January 2016. - Law on the Public Prosecutor's Office (Journal of Laws of 2017, item 1767 and of 2018, item 5) shall be amended as follows:

1) in Article 13:

a) § 5 reads:

"§ 5. The National Public Prosecutor's Office shall be the controller of the data processed in the nationwide ICT systems of the common organisational units of the public prosecutor's office."

b) the following § 6 and 7 are added:

"§ 6. The general organisational units of the public prosecutor's office shall be the controllers of the data processed within the framework of the tasks performed, excluding the data referred to in § 5.

§ 7. The provisions of Articles 12 to 16, Articles 18 to 22 of Regulation Parliament of the European Parliament and of the Council (EU) 2016/679 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 D a t a Protection Regulation) (Official Journal of the EU L 119 of 04.05.2016, p. 1) shall not apply to the processing of personal data in proceedings or information and communication systems in the performance of the tasks referred to in Article 2.";

2) in Article 191, paragraph 2 shall be repealed.

Art. 150. In the Act of 11 February 2016 on State aid in upbringing of children (Journal of Laws of 2017, item 1851 and of 2018, item 107, 138 and 650) in Article 14, paragraph 3 shall be replaced by the following:

"(3) The information referred to in paragraph (2) may be processed by the minister competent for family affairs and the voivode in order to monitor the realisation of upbringing benefits and to enable the competent authorities and the voivodes to verify the right to upbringing benefits, and by the entities mentioned in paragraph (4) for the purpose for which the information has been made available to them, under the rules specified in the provisions on personal data protection. Competent authorities and voivodes transfer data to the central register using the ICT systems referred to in para. 1."

Article 151. In the Act of 25 February 2016 on the re-use of public sector information (Journal of Laws, item 352 and of 2017, item 60) in Article 7, paragraph 2 shall be replaced by the following:

"2. The provisions of the Act shall be without prejudice to the provisions on the protection of personal data."

Article 152. In the Act of 13 April 2016 on the security of trade in explosive precursors (Journal of Laws of 2018, item 410), Article 9 shall be replaced by the following:

"Article 9 The provisions on the protection of personal data shall apply to personal data collected in the notification system."

Article 153. In the Act of 16 November 2016 on the National Fiscal Administration (Journal of Laws of 2018, item 508, 650 and 723), Article 45(1) shall be replaced by the following:

"(1) The KAS authorities, for the purpose of performing statutory tasks within the scope referred to in Article 2(1)(1), (2), (6) and (8), may collect and use information, including personal data, from legal persons, organisational units without legal personality and natural persons conducting economic activity, about events having a direct impact on the emergence or amount of a tax liability or customs duties, and process them, as well as apply to these entities for access to documents containing information, including personal data, also without the knowledge and consent of the person to whom the data refers."

Article 154 In the Act of 14 December 2016. - Education Law (Journal of Laws of 2018, item 996), the following Article 108a shall be added after Article 108:

"Art. 108a. (1) If it is necessary to ensure the safety of pupils and employees or the protection of property, the headmaster of the school or establishment, in agreement with the authority in charge of the school or establishment and after consultation with the pedagogical council, parents' council and student self-government, may introduce special surveillance over the premises of the school or establishment or the area around the school or establishment in the form of technical means enabling the recording of images (monitoring).

2. Monitoring should not be a means of supervising the quality of the work performed by the staff of a school or establishment.

3. The monitoring does not include rooms where teaching, upbringing and custodial classes take place, rooms where psychological and pedagogical assistance is provided to pupils, rooms intended for rest and recreation of employees, sanitary and hygienic rooms, health prophylaxis office, changing rooms and dressing rooms, unless the use of monitoring in these rooms is indispensable due to the existing threat to the realization of the purpose specified in paragraph 1 and it does not violate the dignity and other personal rights of pupils, employees and other persons. 1 and will not violate the dignity and other personal rights of pupils, staff and other persons, in particular techniques will be used which make it impossible to identify the persons present in these premises.

4. Image recordings containing personal data of pupils, staff and other persons who can be identified as a result of such recordings shall be processed by the school or establishment only for the purpose for which they were taken and shall be kept for a maximum period of 3 months from the date of the recording.

5. After the expiry of the period referred to in paragraph 4, the image recordings obtained as a result of the monitoring, containing personal data of pupils, employees and other persons who can be identified as a result of the recordings, shall be destroyed, unless otherwise stipulated by separate provisions.

6. The head of the school or establishment shall inform the pupils and staff of the school or establishment of the introduction of monitoring, in the manner adopted in the school or establishment concerned, no later than 14 days prior to the commencement of monitoring.

7. The head of the school or establishment shall inform the person in writing of the use of monitoring before allowing him/her to perform his/her duties.

8. Where monitoring is introduced, the head of the school or establishment shall mark the premises and area to be monitored in a visible and legible manner, by means of appropriate signs or audio announcements, no later than the day before it is put into operation.

9. The head of the school or establishment shall agree with the authority in charge of the school or establishment on appropriate technical and organisational measures to protect the stored image recordings and the personal data of pupils, staff and other persons who can be identified as a result of the recordings, obtained as a result of the monitoring."

Article 155. In the Act of 16 December 2016 on the principles of state property management (Journal of Laws item 2259, of 2017 item 624, 1491 and 1529 and of 2018 item 538 and 702), the following Article 5a shall be added after Article 5:

"Article 5a. (1) The management of state property shall also include the provision of property security, which may include the use of safeguards, including physical safeguards and technical means enabling the recording of images (monitoring) on the premises and in the buildings constituting state property, as well as on the area around such premises and buildings, if this is necessary to ensure the security of the state property under management.

2. Monitoring does not include sanitary facilities, cloakrooms, canteens, smoking rooms and social facilities.

3. Video recordings containing personal data shall be processed solely for the purpose for which they have been taken and stored for a period not exceeding 3 months from the date of the recording, unless otherwise provided by separate provisions.

4. After the expiry of the period referred to in paragraph 3, image recordings obtained as a result of monitoring, containing personal data, shall be destroyed, with the exception of situations where the recordings have been secured, in accordance with separate provisions.

5. Properties and building structures covered by the monitoring shall be visibly and legibly marked with information about the monitoring, in particular by means of appropriate signs.

6. Monitoring that involves the processing of personal data requires the application of security measures for the processing of such data, in particular to prevent their loss or unlawful dissemination, and to prevent access to the data by unauthorised persons."

Article 156. In the Act of 9 March 2017 on the system of monitoring the carriage of goods by road (Journal of Laws, item 708 and of 2018, item 138) in Article 4, paragraph 3 shall be replaced by the following:

"3 The register shall be kept by the Head of the National Fiscal Administration, who shall be the controller of the data processed in the register."

Article 157. In the Act of 27 October 2017 on primary health care (Journal of Laws, item 2217) in Article 10, paragraph 5 is replaced by the following:

"(5) The completed declarations of choice referred to in paragraph (1)(1) shall be kept by the healthcare provider either at its registered office or at the place where primary healthcare services are provided, ensuring that they are available to the healthcare recipients who have submitted them, while observing the requirements arising from the provisions on the protection of personal data.";

- 2) Article 350 of the Act of 3 July 2018. - Provisions introducing the Act - Law on higher education and science (Journal of Laws item 1669), which states:

"Article 350 The Act shall enter into force on 1 October 2018, except:

- 1) Article 1(1), Article 42(2)(b) and Article 334(2), which shall enter into force on the day following the date of announcement;
 - 2) Article 19(3)(b) as regards the addition of point 39c in Article 21(1), point 1 of Article 120, points 33 to 36 and 39 of Article 127 and Article 167, which shall enter into force on 1 January 2019.";
- 3) Reference No. 1 and Articles 169 and 173 of the Act of 21 February 2019 amending certain laws in connection with ensuring the application 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 Data Protection Regulation) (Journal of Laws No. 730), which provide:

"¹⁾ This Act serves to apply 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 Data Protection Regulation) (Official Journal of the EU L 119 of 04.05.2016, p. 1 and Official Journal of the EU L 127 of 23.05.2018, p. 2)."

"Article 169. In cases initiated pursuant to Article 57 of the Act amended by Article 161, as amended to date, and not concluded before the date of entry into force of this Act, prior consultation shall not be granted and the initiated proceedings shall be discontinued."

"Article 173 The Act shall enter into force 14 days after its promulgation, except:

- 1) Article 87(1), which shall enter into force 90 days after the date of publication;
- 2) Article 107(7) and (8), which shall enter into force on 1 May 2019;
- 3) Article 157(2), which shall enter into force on 13 October 2019."

Speaker of the Sejm: *E. Witek*

Annex to the announcement of the Speaker of the Sejm of the Republic of Poland of 30 August 2019. (Item 1781)

USTA

of 10 May 2018.

on data protection ^{1),2)}

Chapter 1

General provisions

Article 1 (1) The Act shall apply to the protection of natural persons in relation to the processing of personal data to the extent set out in Article 2 and Article 3 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 Data Protection Regulation) (Official Journal of the EU L 119 of 04.05.2016, p. 1), hereinafter referred to as "Regulation 2016/679".

(2) The Act specifies:

- 1) public entities obliged to appoint a Data Protection Officer and the procedure for notifying their appointment;
- 2) conditions and procedure for the accreditation of an entity entitled to certification in the field of personal data protection, accredited by the Polish Centre for Accreditation, hereinafter referred to as the "certification body", the body monitoring the Code of Conduct and the certification;
- 3) procedure for approving the code of conduct;
- 4) authority competent for the protection of personal data;
- 5) data protection infringement proceedings;
- 6) European administrative cooperation mode;
- 7) monitoring compliance with data protection legislation;
- 8) civil liability for breaches of data protection legislation and legal proceedings;
- 9) criminal liability and administrative fines for breaches of data protection legislation.

Article 2 (1) The activity consisting in editing, preparing, creating or publishing press materials within the meaning of the Act of 26 January 1984. - Press Law (Journal of Laws of 2018, item 1914), as well as statements within the framework of literary or artistic activity, the provisions of Articles 5-9, Article 11, Articles 13-16, Articles 18-22, Article 27, Article 28(2)-(10) and Article 30 of Regulation 2016/679 shall not apply.

(2) Article 13, Article 15(3) and (4), Article 18, Article 27, Article 28(2) to (10) and Article 30 of Regulation 2016/679 shall not apply to academic speech.

Article 3. 1. The controller performing a public task shall not communicate the information referred to in Article 13(3) of Regulation 2016/679 where the change of the purpose of the processing is for the performance of the public task and the non-performance of the obligation referred to in Article 13(3) of Regulation 2016/679 is necessary for the purposes referred to in Article 23(1) of that Regulation and the communication of that information:

- 1) will prevent or significantly impede the proper performance of a public task and the interest or fundamental rights or freedoms of the data subject are not overridden by the interest in the performance of that public task, or
- 2) will violate the protection of classified information.

¹⁾ This Act serves to apply 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 Data Protection Regulation).

²⁾ This Act implements, within the scope of its regulation, Directive 2016/680 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 by competent authorities for the purposes of prevention, investigation, detection and prosecution of criminal offences and the execution of penalties, on the free movement of such data and repealing Council Framework Decision 2008/977/JHA.

2. In the case referred to in paragraph 1, the controller shall provide appropriate measures to protect the interests or fundamental rights and freedoms of the data subject.

3. The controller shall, upon request, inform the data subject without undue delay, but no later than one month from the date of receipt of the request, of the grounds for not providing the information referred to in Article 13(3) of Regulation 2016/679.

Article 4 (1) To the extent not regulated in Article 14 (5) of Regulation 2016/679, an administrator performing a public task shall not transmit the information referred to in Article 14 (1), (2) and (4) of Regulation 2016/679, where this serves the fulfilment of the public task and the non-performance of the obligation referred to in Article 14 (1), (2) and (4) of Regulation 2016/679 is necessary for the fulfilment of the purposes referred to in Article 23 (1) of that Regulation and the transmission of that information:

- 1) will prevent or significantly impede the proper performance of a public task and the interest or fundamental rights or freedoms of the data subject are not overridden by the interest in the performance of that public task, or
- 2) will violate the protection of classified information.

2. In the case referred to in paragraph 1, the controller shall provide appropriate measures to protect the interests or fundamental rights and freedoms of the data subject.

3. The controller shall, upon request, inform the data subject without undue delay, but no later than one month from the date of receipt of the request, of the grounds for not providing the information referred to in Article 14(1), (2) and (4) of Regulation 2016/679.

Article 5. 1. An administrator performing a public task shall not transmit the information referred to in Article 15(1) to (3) of Regulation 2016/679 where this is for the performance of a public task and the non-performance of the obligations referred to in Article 15(1) to (3) of Regulation 2016/679 is necessary for the purposes referred to in Article 23(1) of that Regulation and the performance of those obligations:

- 1) will prevent or significantly impede the proper performance of a public task and the interest or fundamental rights or freedoms of the data subject are not overridden by the interest in the performance of that public task, or
- 2) will violate the protection of classified information.

2. Where the fulfilment of the obligations referred to in Article 15(1) and (3) of Regulation 2016/679 requires a disproportionate effort to retrieve the personal data, the controller performing the public task shall call upon the data subject to provide information allowing retrieval of the data. The provision of Article 64 of the Act of 14 June 1960. - Code of Administrative Procedure (Journal of Laws of 2018, item 2096 and of 2019, item 60, 730 and 1133) shall apply accordingly.

3. In the cases referred to in paragraphs 1 and 2, the controller shall provide appropriate measures to protect the interests or fundamental rights and freedoms of the data subject.

4. The controller shall, upon request, inform the data subject without undue delay, but no later than one month from the date of receipt of the request, of the grounds for failure to comply with the obligations referred to in Article 15(1) to (3) of Regulation 2016/679.

Article 5a.³⁾ (1) A controller who has received personal data from a body performing a public task shall not fulfil the obligations referred to in Article 15(1)-(3) of Regulation 2016/679 where the body transferring the personal data has made a request to that effect on the grounds that it is necessary for the proper performance of a public task aimed at:

- 1) prevention of crime, detection or prosecution of offences or enforcement of penalties, including protection against and prevention of threats to public safety;
- 2) the protection of the economic and financial interests of the State including, in particular:
 - a) the realisation and recovery of income from taxes, charges, non-tax debts and other levies,

³⁾ Added by Article 161(1) of the Act of 21 February 2019 amending certain laws in connection with ensuring the application 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 Data Protection Regulation) (Journal of Laws item 730), which entered into force on 4 May 2019.

- b) Execution of administrative enforcement of pecuniary and non-pecuniary receivables and execution of security of pecuniary and non-pecuniary receivables,
- c) countering the use of the activities of banks and financial institutions for the purposes of tax evasion,
- d) uncovering and recovering property threatened with forfeiture in connection with criminal offences,
- e) carrying out controls, including customs and tax inspections.

(2) In the case referred to in paragraph 1, the controller shall respond to a request made pursuant to Article 15 of Regulation 2016/679 in a manner that makes it impossible to establish that the controller is processing personal data received from a body performing a public task.

Article 6 The Act and Regulation 2016/679 shall not apply to:

- 1) the processing of personal data by entities of the public finance sector referred to in Article 9 paragraph 1, 3, 5, 6 and 14 of the Act of 27 August 2009 on public finance (Journal of Laws of 2019, item 869 and 1622), to the extent in which such processing is necessary for the performance of tasks aimed at ensuring national security, if specific provisions provide for necessary measures to protect the rights and freedoms of the data subject;
- 2) activities of special services within the meaning of Article 11 of the Act of 24 May 2002 on the Internal Security Agency and the Intelligence Agency (Journal of Laws of 2018, items 2387, 2245 and 2399 and of 2019, items 53, 125 and 1091).

Article 6a.⁴⁾ (1) The provisions of Article 4-7, Article 11, Article 12, Article 16, Article 17, Article 24 (1) and (2), Article 25 (1) and (2), Article 28-30, Article 32, Article 34, Article 35, Article 37-39 and Article 86 of Regulation 2016/679 and the provisions of Article 6 and Article 11 of the Act shall apply respectively to the processing of personal data in the exercise of the constitutional and statutory powers of the President of the Republic of Poland, to the extent not covered by national security.

(2) The processing of the data referred to in Article 9 and Article 10 of Regulation 2016/679 shall be carried out to the extent necessary for the performance of the constitutional and statutory competences of the President of the Republic of Poland, if the rights or freedoms of the data subject are not overridden by the performance of the tasks arising from those competences.

Art. 7. 1. In matters not regulated by the Act, the Act of 14 June 1960 shall apply to administrative proceedings before the President of the Office for Personal Data Protection, hereinafter referred to as "the President of the Office", referred to in Chapters 4 to 7 and 11. - Administrative Procedure Code.

2. Proceedings before the President of the Office are single-instance proceedings.

3. To the decisions issued in the proceedings referred to in paragraph 1, to which a complaint is made in accordance with the Act of 14 June 1960. - Code of Administrative Procedure are subject to complaint, the provisions on complaint shall not apply.

4. The decisions referred to in paragraph 3 may be appealed to the administrative court.

Chapter 2

Appointment of the Data Protection Officer

Article 8 The controller and the processor shall be obliged to appoint a data protection officer, hereinafter referred to as "officer", in the cases and under the conditions set out in Article 37 of Regulation 2016/679.

Article 9 Public authorities and bodies obliged to appoint an inspector as referred to in Article 37(1)(a) of Regulation 2016/679 shall mean:

- 1) units of the public finance sector;
- 2) research institutes;
- 3) National Bank of Poland.

Article 10 (1) The entity that appointed the inspector shall notify the President of the Office of the appointment within 14 days of the appointment, indicating the name, surname and e-mail address or telephone number of the inspector.

2. The notification may be made by proxy of the entity referred to in paragraph 1. The notification shall be accompanied by a power of attorney granted in electronic form.

⁴⁾ Added by Article 161(2) of the Act referred to in reference 3.

3. In addition to the data referred to in paragraph 1, the notification shall indicate:

- 1) name and residential address, where the controller or processor is a natural person;
- 2) the company name of the economic operator and the address of the place of business, where the controller or processor is a natural person engaged in a business activity;
- 3) the full name and address of the registered office if the controller or processor is an entity other than those referred to in points 1 and 2;
- 4) the REGON identification number, if assigned to the controller or processor.

4. The body which appointed the inspector shall notify the President of the Office of any change in the particulars referred to in paragraphs 1 and 3, and of the dismissal of the inspector, within 14 days of the occurrence of the change or dismissal.

5. Where a single inspector is appointed by public authorities or bodies or by a group of undertakings, each of those bodies shall make the notification referred to in paragraphs 1 and 4.

6. The notifications referred to in paragraphs 1 and 4 shall be drawn up in electronic form and bear a qualified electronic signature or a signature confirmed by an ePUAP trusted profile.

Article 11 The entity that appointed the inspector shall make the inspector's data referred to in Article 10(1) available, without delay after his/her appointment, on its website or, if it does not have its own website, in a manner generally accessible at the place of business.

Article 11a.⁵⁾ (1) The entity that appointed the inspector may appoint a person to replace the inspector when the inspector is not present, taking into account the criteria referred to in Article 37(5) and (6) of Regulation 2016/679.

2. In relation to the performance of the duties of the inspector in his absence, the provisions relating to the inspector shall apply mutatis mutandis to the person replacing him.

3. The body which has appointed a replacement inspector shall notify the President of the Office of his appointment in accordance with the procedure set out in Article 10 and shall make his details available in accordance with Article 11.

Chapter 3

Conditions and procedure for the accreditation of the certification body

Article 12 1. Accreditation of entities applying for the right of certification in the field of personal data protection referred to in Article 43 of Regulation 2016/679, hereinafter referred to as "accreditation", shall be granted by the Polish Centre for Accreditation.

2. Accreditation shall be granted under the terms of Article 43(1) to (7) of Regulation 2016/679.

3. The provisions of Chapter 4 of the Act of 13 April 2016 on conformity assessment and market surveillance systems (Journal of Laws of 2019, item 544), with the exception of Article 24(4) to (7) and Article 25(1) and (2) in the scope concerning the limitation of the scope of accreditation and its suspension, shall apply to the granting of accreditation.

Article 13 The President of the Office shall make the accreditation criteria referred to in Article 43(3) of Regulation 2016/679 available on his/her subject page in the Public Information Bulletin.

Article 14 (1) The Polish Accreditation Centre shall inform the President of the Office of the granted accreditation.

2. Information on the accreditation granted shall include:

- 1) identification of the body to which accreditation has been granted;
- 2) indication of the scope of the accreditation granted and its period of validity.

3. The Polish Accreditation Centre shall inform the President of the Office of the withdrawal of accreditation.

4. Information on the withdrawal of accreditation shall include:

- 1) identification of the body whose accreditation has been withdrawn;
- 2) indication of the reason justifying the withdrawal of accreditation.

5. The President of the Office and the Polish Centre for Accreditation may conclude an agreement on cooperation in the field of monitoring the activities of certification bodies and the mutual provision of information concerning those bodies.

⁵⁾ Added by Article 161(3) of the Act referred to in reference 3.

Chapter 4

Conditions and procedure for certification

Article 15 (1) The certification referred to in Article 42 of Regulation 2016/679, hereinafter referred to as 'certification', shall be carried out by the President of the Office or by a certifier, upon request of the controller, processor, manufacturer or sub- entity placing the service or product on the market.

2. Certification is carried out in accordance with the rules set out in Regulation 2016/679.

3. On matters of certification by the certification body not regulated by Regulation 2016/679 and the Act, the provisions of the civil law agreement concluded between the certification body and the certification applicant shall apply.

Article 16 The President of the Office shall make the certification criteria referred to in Article 42(5) of Regulation 2016/679 available on his/her subject page in the Public Information Bulletin.

Article 17 (1) An application for certification shall contain at least:

- 1) the name of the entity applying for certification or its name and an indication of its registered office, business or residential address;
- 2) information demonstrating compliance with the certification criteria;
- 3) indication of the scope of the requested certification.

2. The application shall be accompanied by documents or copies thereof attesting compliance with the certification criteria and, in the case of certification by the President of the Office, proof of payment of the fee referred to in Article 26.

3. An application shall be submitted in writing in a paper form bearing a handwritten signature or in an electronic form bearing a qualified electronic signature. An application submitted to the President of the Office in electronic form shall bear a qualified electronic signature or a signature confirmed with an ePUAP trusted profile.

Article 18 (1) The President of the Office or the certification body shall examine the application for certification and, within no more than 3 months from the date of submission of the application in accordance with Article 17, after examination of the fulfilment of the certification criteria, shall notify the applicant of the granting or refusal of certification.

(2) An application submitted to the President of the Office which does not contain the information referred to in Article 17(1)(1) shall be left unprocessed. If the application does not contain the information referred to in Article 17(1)(2) or (3), or does not meet the requirements referred to in Article 17(2) or (3), the President of the Office shall call upon the applicant to supplement the information and inform him that failure to do so within 7 days of the delivery of the call will result in leaving the application unconsidered.

Article 19 Before certification or refusal of certification, the certification body shall inform the President of the Office of the planned certification or planned refusal of certification.

Article 20 (1) Where it is found that an applicant for certification does not meet the criteria for certification, the President of the Office or the certification body shall refuse to perform certification.

(2) Refusal of certification by the President of the Office shall be by decision.

(3) The certification body shall develop and make available to interested entities the procedure to be followed if certification is refused.

Article 21 (1) The document confirming the certification shall be a certificate.

(2) The certificate shall contain at least:

- 1) identification of the entity that received the certificate;
- 2) the name of the certification body and an indication of its registered office address;
- 3) the number or designation of the certificate;
- 4) the scope, including the period for which the certification was made;
- 5) the date of issue and the signature of the certifier or a person authorised by the certifier.

Article 22. 1. For the period for which certification has been granted, the entity to which certification has been granted shall be obliged to comply with the certification criteria in force on the date of its issue.

2. The President of the Authority or the certification body shall withdraw certification if it is found that an entity to which certification has been granted does not meet or no longer meets the certification criteria.

3. Revocation of certification by the President of the Authority shall be by decision.

Article 23 (1) The certification body shall provide the President of the Office with the data of an entity to which certification has been granted and an entity to which certification has been withdrawn, together with an indication of the reason for its withdrawal.

2. The President of the Office shall maintain a publicly accessible list of the entities referred to in paragraph 1.

3. The President of the Office shall make an entry in the list as soon as certification has been carried out or the certification body has been informed that certification has been carried out.

4. The President of the Office shall make the list available on his website on the Public Information Bulletin and update it.

Art. 24 (1) The President of the Office, within the time limit referred to in Article 18(1) and also after certification, shall be entitled, in order to assess whether the entity meets the certification criteria, to carry out verification activities at the controller, the processor, the producer or the entity placing the service or the product on the market.

2. The President of the Office shall notify the entity referred to in paragraph 1 of his intention to carry out checks.

3. Security checks shall be carried out no earlier than 7 days and no later than 30 days after the date on which a notice of intention to carry out security checks is served on the entity referred to in paragraph 1. If the security screening is not carried out within 30 days from the date of service of the notice, a new notice shall be required.

4. Checking operations shall be carried out on the basis of a personal authorisation issued by the President of the Office, which shall include:

- 1) the name of the person carrying out the security check;
- 2) identification of the controller, processor, producer or marketer of the service or product;
- 3) indication of the legal basis for the screening exercise;
- 4) scope of verification activities;
- 5) the date and place of its issue;
- 6) signature of the person empowered to issue the authorisation on behalf of the President of the Office.

Art. 25. 1. The person carrying out the checking operations shall be entitled to:

- 1) access to the land and to buildings, premises or other facilities during the days and hours of operation of the controller, processor, producer or marketer of the service or product;
- 2) access to documents and information directly relevant to the activities covered by the certification;
- 3) visual inspection of data-processing equipment, media and IT or data communication systems;
- 4) request oral or written explanations on matters relating to the activity covered by the certification.

2. Verification activities shall be carried out in the presence of the controller, processor, manufacturer or marketer of the service or product or a person authorised by them.

3. A report shall be drawn up of the verification activities and submitted to the controller, processor, manufacturer or the person placing the service or product on the market. The provision of Article 88 shall apply accordingly.

Article 26. 1. The President of the Office shall levy a fee for the activities related to certification, the amount of which shall correspond to the expected costs incurred for the performance of those activities.

2. The President of the Office, in setting the amount of the fee, shall take into account the scope of the certification, the envisaged course and length of the certification procedure and the cost of the work of the employee performing the certification activities.

3. The maximum fee may not exceed four times the average salary in the national economy in the calendar year preceding the year in which the application for certification is submitted, as announced by the President of the Central Statistical Office pursuant to Article 20(1)(a) of the Act of 17 December 1998 on pensions from the Social Insurance Fund (Journal of Laws of 2018, item 1270, as amended⁶⁾).

⁶⁾ Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2018, item 2245, and of 2019, item 39, 539, 730, 752 and 1622.

4. The President of the Office shall display on his website in the Public Information Bulletin the amount of the fee to be paid by the entity referred to in Article 15 for certification tasks.

5. The fee is revenue for the state budget.

Chapter 5

Development and approval of a code of conduct and the conditions and procedure for accreditation of the body monitoring compliance with it

Article 27 (1) The Code of Conduct shall be drafted, reviewed and approved in accordance with the rules set out in Regulation 2016/679.

2. The Code of Conduct shall be subject to consultation with interested parties before being forwarded to the President of the Office for approval.

3. Information on the consultation carried out and its outcome shall be forwarded to the President of the Office together with the code of conduct.

4. If the President of the Office considers the extent of the consultation to be insufficient, he shall invite the entity to consult again, indicating the extent of the consultation.

5. A party to the proceedings on the approval of the code of conduct is only the applicant for the approval of this code. The provision of Article 31 of the Act of 14 June 1960. - Administrative Procedure Code shall not apply.

6. Paragraphs 1 to 5 shall apply to the amendment of the approved code of conduct or its extension.

Article 28 Compliance with the approved code of conduct shall be monitored by an entity accredited by the President of the Office under the terms of Article 41 of Regulation 2016/679.

Article 29 (1) The accreditation of an entity referred to in Article 28 shall be granted upon application, which shall include at least:

- 1) the name of the body seeking accreditation and the address of its registered office;
- 2) information confirming that the criteria referred to in Article 41(1) and (2) of Regulation 2016/679 are met.

2. The application shall be accompanied by documents proving that the criteria referred to in Article 41(1) and (2) of Regulation 2016/679 are met, or copies thereof.

3. The application shall be submitted in writing either in paper form bearing a handwritten signature or in electronic form bearing a qualified electronic signature or a signature confirmed by an ePUAP trusted profile.

Article 30 (1) The President of the Office shall examine the application referred to in Article 29(1) and, within no more than 3 months from the date of submission of the application in accordance with Article 29, after examination of the fulfilment of the criteria referred to in Article 41(1) and (2) of Regulation 2016/679, shall notify the entity seeking accreditation of the granting or refusal of accreditation.

An application submitted to the President of the Office which does not contain the information referred to in Article 29(1)(1) shall be left unprocessed. If the application does not contain the information referred to in Article 29, section 1, subsection 2, or does not meet the requirements referred to in sections 2 or 3, the President of the Office shall call upon the applicant to supplement the information, instructing him that failure to do so within 7 days of the delivery of the call will result in leaving the application unprocessed.

(3) Where it is established that an applicant for accreditation does not meet the criteria referred to in Article 41(1) and (2) of Regulation 2016/679, the President of the Office shall refuse to grant accreditation. The refusal to grant accreditation shall be by decision.

Article 31 (1) The document confirming accreditation shall be an accreditation certificate.

2 The accreditation certificate shall include at least:

- 1) the designation of the accredited body and the address of its registered office;
- 2) the number or designation of the accreditation certificate;
- 3) the date of issue and the signature of the President of the Office or his/her delegate.

Article 32 (1) During the period for which the accreditation has been granted, the accredited body shall be obliged to comply with the criteria referred to in Article 41(1) and (2) of Regulation 2016/679 in force on the date of issue of the accreditation certificate.

(2) The President of the Office shall withdraw, by decision, accreditation if it is found that an accredited body:

- 1) does not meet or no longer meets the accreditation criteria referred to in Article 41(1) and (2) of Regulation 2016/679;
- 2) takes actions that do not comply with Regulation 2016/679.

Article 33 (1) The President of the Office shall maintain a publicly accessible list of accredited bodies.

2. The President of the Office shall make an entry in the list as soon as accreditation has been granted.

3. The President of the Office shall make the list available on his website on the Public Information Bulletin and update it.

Chapter 6

The President of the Office

Article 34. 1. The President of the Office shall be the competent authority for the protection of personal data.

2. The President of the Office is a supervisory authority within the meaning of Regulation 2016/679, within the meaning of Directive Parliament of the European Parliament and of the Council (EU) 2016/680 of 27 April 2016 on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection and prosecution of criminal offences and the execution of penalties, on the free movement of such data and repealing Council Framework Decision 2008/977/JHA (Dz. OJ EU L 119, 04.05.2016, p. 89) and within the meaning of Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for law enforcement cooperation (Europol), replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ E U L 135, 24.05.2016, p. 53).

3. The President of the Office is appointed and dismissed by the Sejm of the Republic of Poland with the consent of the Senate of the Republic of Poland.

4. A person may be appointed to the position of President of the Office who:

- 1) is a Polish citizen;
- 2) has a university degree;
- 3) is distinguished by his legal knowledge and experience in the field of data protection;
- 4) enjoys full public rights;
- 5) has not been convicted of an intentional crime or an intentional fiscal offence by a judgment which has the force of res judicata;
- 6) has a good reputation.

5. The President of the Office is subject only to the law in the performance of his tasks.

6. The term of office of the President of the Office shall be four years, starting on the date of his oath. On expiry of his term of office, the President of the Office shall perform his duties until the new President of the Office takes office.

7. The same person may not be President of the Office for more than two terms.

8. The term of office of the President of the Office shall expire upon his/her death, dismissal or loss of Polish citizenship.

9. The President of the Office may be dismissed before the expiry of his/her term of office only if:

- 1) relinquished his position;
- 2) has become permanently incapacitated as a result of illness certified by a medical practitioner;
- 3) embezzled his oath;
- 4) has been convicted of an intentional crime or an intentional fiscal crime by a final court judgement;
- 5) was deprived of his public rights.

10. If the term of office of the President of the Office expires, his/her duties shall be performed by a Deputy President of the Office designated by the Speaker of the Sejm.

Article 35 (1) Prior to assuming his duties, the President of the Office shall take the following oath before the Sejm of the Republic of Poland:

"On assuming the position of the President of the Office for the Protection of Personal Data, I solemnly swear to remain faithful to the provisions of the Constitution of the Republic of Poland, to uphold the right to the protection of personal data, and to perform the duties entrusted to me conscientiously and impartially."

(2) The oath may be taken with the addition of the words "So help me God".

Article 36 (1) The President of the Office may appoint up to three deputies.

(2) A person may be appointed as Deputy President of the Office who:

- 1) is a Polish citizen;
- 2) has a university degree;
- 3) is distinguished by his legal knowledge and experience in the field of data protection;
- 4) enjoys full public rights;
- 5) has not been convicted of an intentional crime or an intentional fiscal offence by a judgment which has the force of res judicata;
- 6) has a good reputation.

Art. 37. 1. The President of the Office and his deputies may not hold any other position, with the exception of a teaching, scientific or research position in a higher education institution, the Polish Academy of Sciences, a research institute or other scientific unit, or perform any other paid or unpaid activity contrary to the duties of the President of the Office.

(2) The President of the Office and his deputies may not belong to a political party, a trade union or engage in any public activity incompatible with the dignity of his office.

Article 38. 1. The President of the Office may not, without the prior consent of the Sejm of the Republic of Poland, be held criminally liable or deprived of liberty.

2. The President of the Office may agree to be held criminally responsible for the offences referred to in paragraph 3 in accordance with the procedure set out in that provision.

3. If the President of the Office commits an offence referred to in Chapter XI of the Act of 20 May 1971. - Misdemeanours Code (Journal of Laws of 2019, item 821 and 1238), the acceptance by the President of the Office of a criminal fine or the payment of a fine, in the case of punishment with a criminal fine in absentia, referred to in Article 98 § 1 item 3 of the Act of 24 August 2001. - Code of Conduct in Misdemeanour Cases (Journal of Laws of 2019, item 1120, 1123 and 1556), constitutes a declaration of his consent to be held liable in this form.

4. The President of the Office may not be detained or arrested except in the heat of an offence and if his detention is necessary to ensure the proper course of proceedings. The detention shall immediately be notified to the Speaker of the Parliament, who may order the immediate release of the detainee.

Article 39 The statute of limitations in criminal proceedings for an act covered by immunity shall not run during the period in which immunity is enjoyed.

Article 40 (1) A request for consent to prosecute the President of the Office in a case of an offence prosecuted by public indictment shall be submitted through the Prosecutor General.

2. A request for consent to hold the President of the Office criminally liable in a case of a crime prosecuted by private prosecution shall be submitted by a private prosecutor after the prosecution has been brought before the court.

3. The application referred to in paragraph 2 shall be drawn up and signed by an advocate or legal adviser, with the exception of applications submitted in their own cases by judges, prosecutors, advocates, legal advisers, notaries and professors and doctors of legal sciences.

4. The applications referred to in paragraphs 1 and 2 shall include:

- 1) the name of the applicant and of the representative, if any;
- 2) the name and date and place of birth of the President of the Office;
- 3) indication of the legal basis for the proposal;
- 4) the precise definition of the act to which the application relates, indicating the time, place, manner and circumstances in which it was committed and its effects, in particular the nature of the injury suffered;
- 5) justification.

Article 41 (1) A request for consent to prosecute the President of the Office shall be submitted to the Speaker of the Sejm.

2. If the application does not meet the formal requirements referred to in Article 40 par. 3 or 4, the Speaker of the Sejm shall summon the applicant to correct or supplement the application within 14 days, indicating the necessary scope of the correction or supplementation. If the application is not corrected or supplemented within the indicated time limit and scope, the Speaker of the Sejm shall decide to leave the application unprocessed.

3. If the application complies with the formal requirements referred to in Article 40(3) and (4), the Speaker of the Sejm directs it to the body of the Sejm of the Republic of Poland competent to examine the application, at the same time notifying the President of the Office of the contents of the application.

4. The authority competent to consider the application shall notify the President of the Office of the date of its consideration. No less than 7 days shall elapse between the delivery of the notification and the deadline for examination of the application, unless there is an urgent case.

5. At the request of the authority competent to hear the application, the court or the relevant authority before which proceedings against the President of the Office are pending shall give access to the files of the proceedings.

6. The President of the Office shall provide the authority competent to hear the application with explanations and his own conclusions on the matter in written or oral form.

7. After considering the matter, the authority competent to consider the application shall adopt a report together with a proposal to accept or reject the application.

8. During the consideration by the Sejm of the Republic of Poland of the report referred to in paragraph 7, the President of the Office shall have the right to speak.

9. The Sejm of the Republic of Poland gives its consent for the President of the Office to be held criminally liable by means of a resolution adopted by an absolute majority of the statutory number of deputies. Failure to obtain the required majority of votes shall mean adoption of a resolution not to consent to the President of the Office being held criminally liable.

Article 42 (1) The prohibition of detention referred to in Article 38 (4) shall include any form of deprivation or restriction of the personal liberty of the President of the Office by the authorities authorised to use coercive measures.

2. A request for consent to the detention or arrest of the President of the Office shall be submitted through the Procurator General.

3. The application referred to in paragraph 2 shall include:

- 1) designation of the applicant;
- 2) the name and date and place of birth of the President of the Office;
- 3) the precise definition of the act and its legal qualification;
- 4) the legal basis for a particular measure;
- 5) justification, showing in particular the necessity of the measure.

4. The provisions of Article 41(1) to (8) shall apply *mutatis mutandis* to the handling of the application referred to in paragraph 2.

5. The Sejm of the Republic of Poland shall consent to the detention or arrest of the President of the Office by way of a resolution adopted by an absolute majority of the statutory number of Deputies. Failure to obtain the required majority of votes shall mean adoption of a resolution not to consent to the detention or arrest of the President of the Office.

6. The requirement to obtain the consent of the Sejm of the Republic of Poland does not apply to the execution of a sentence of deprivation of liberty imposed by a final court judgment.

Article 43 (1) The Speaker of the Sejm shall immediately send to the applicant the resolution referred to in Article 41 (9) and Article 42 (5).

(2) The resolutions referred to in Articles 41 (9) and 42 (5) shall be published in the Official Journal of the Republic of Poland "Monitor Polski".

Article 44 The provisions of the Act concerning the criminal liability of the President of the Office shall apply *mutatis mutandis* to liability for misdemeanours.

Article 45 (1) The President of the Office shall perform his tasks with the assistance of the Office for Personal Data Protection, hereinafter referred to as "the Office".

(2) In cases justified by the nature and number of personal data protection cases in a given area, the President of the Office may set up subdivisions of the Office within the Office.

(3) The President of the Office shall, by order, confer statutes on the Office, specifying:

- 1) the internal organisation of the Office,
- 2) the terms of reference of their deputies,
- 3) the terms of reference and procedures of the Office's organisational units

- with a view to creating optimal organisational conditions for the proper performance of the Office's tasks.

Article 46. 1. The President of the Office, the Deputy Presidents of the Office and the employees of the Office shall be obliged to keep secret the information of which they have become aware in connection with the performance of their official duties.

(2) The obligation of secrecy referred to in paragraph 1 shall continue after the end of the term of office or employment.

Article 47. the Council of Ministers shall determine, by way of a regulation, the specimen of an official ID card of an employee of the Office, taking into account the need to ensure the possibility to identify persons entitled to carry out control and perform other official activities.

Art. 48. 1. The Council for the Protection of Personal Data, hereinafter referred to as the "Council", shall operate under the President of the Office, which is an opinion and advisory body of the President of the Office.

2. The Council's tasks include:

- 1) to give an opinion on draft documents of European Union bodies and institutions dealing with matters of personal data protection;
- 2) giving an opinion on draft legislation and other documents submitted by the President of the Office relating to personal data protection matters;
- 3) developing proposals for the certification criteria referred to in Article 42(5) of Regulation 2016/679;
- 4) to draw up proposals for recommendations to identify technical and organisational measures to ensure the security of personal data processing;
- 5) to initiate actions in the area of personal data protection and to propose amendments to the law in this area to the President of the Office;
- 6) expressing opinions on matters submitted to the Council by the President of the Office;
- 7) carrying out other tasks assigned by the President of the Office.

3. The Council shall give its opinion within 21 days of receiving the drafts or documents referred to in paragraph 2.

4. Opinions, minutes of meetings and other documents of the Council are made available on the subject page in the Public Information Bulletin of the President of the Office.

5. The Council shall submit a report on its activities for each calendar year to the President of the Office by 31 March of the following year.

6. The Council consists of eight members.

7. Candidates for Council members are proposed by:

- 1) Council of Ministers;
- 2) Ombudsman;
- 3) chambers of commerce;
- 4)⁷⁾ entities referred to in Article 7(1)(1), (2) and (4) to (6) of the Act of 20 July 2018. - Law on Higher Education and Science (Dz. U. pos. 1668, as amended⁸⁾);
- 5) foundations and associations entered in the National Court Register, the statutory purpose of which is the protection of personal data.

⁷⁾ In the wording established by Article 168 item 1 of the Act of 3 July 2018. - Provisions introducing the Act - Law on higher education and science (Journal of Laws, item 1669), which entered into force on 1 October 2018.

⁸⁾ Amendments to the aforementioned Act were announced in the Journal of Laws 2018, items 2024 and 2245, and 2019, items 276, 447, 534, 577, 730 and 823.

8. A member of the Council may be a person who:

- 1) has a university degree;
- 2) has not been convicted of an intentional crime or an intentional fiscal offence by a judgment which has the force of res judicata;
- 3) enjoys full public rights;
- 4) has agreed to stand as a candidate.

9. A member of the Board shall be obliged to keep confidential any information of which he has become aware in connection with the performance of his functions as a member of the Board. The President of the Office may waive the obligation of secrecy to the extent determined by him.

10. The President of the Office shall appoint the composition of the Council, for a two-year term of office, from among candidates proposed by the entities referred to in paragraph 7, including 5 members from among candidates proposed by the entities referred to in paragraph 7, points 1 and 2, and 3 members from among candidates proposed by the entities referred to in paragraph 7, points 3-5.

11. Prior to the expiry of the term of office, membership of the Council expires due to:

- 1) resignation submitted in writing to the President of the Council;
- 2) death;
- 3) inability to perform his/her duties due to a long-term illness certified by a doctor;
- 4) conviction by a final judgment for an intentional crime or an intentional fiscal crime;
- 5) deprivation of public rights.

12. In the case referred to in paragraph 11, the President of the Office appoints a new member of the Council for the remainder of the term of office, from among the remaining candidates put forward, after confirming the validity of the application, taking into account paragraph 10.

13. The President of the Office shall appoint and dismiss the Chairman of the Council and the Vice-Chairman of the Council from among its members.

14. The President of the Council directs the work of the Council and represents it externally. In his/her absence, he/she is replaced by the Vice-Chairperson of the Council.

15. The services of the Council shall be provided by the Office.

16. Other persons may be invited, by the President of the Office and the Chairman of the Board, to a meeting of the Board if this is justified by the tasks of the Board. Provision of paragraph 9 shall apply accordingly.

17. The detailed procedure of the Council shall be laid down in the rules of procedure established by the President of the Office on a proposal of the Council.

Art. 49 (1) A member of the Council is entitled to remuneration for his participation in the works of the Council. The amount of remuneration depends on the scope of duties related to the function performed in the Council and the number of meetings attended.

2. The Council member's remuneration for participation in one meeting constitutes at least 5% of the average remuneration in the national economy in the calendar year preceding the year of the Council's appointment, announced by the President of the Central Statistical Office pursuant to Article 20 item 1 letter a of the Act of 17 December 1998 on pensions from the Social Insurance Fund, and may not exceed 25% of that remuneration.

3. The Council of Ministers shall determine, by way of an ordinance, the amount of remuneration of a member of the Council for participation in a meeting and the number of meetings of the Council per calendar year, taking into account the scope of duties related to the function performed in the Council and the proper implementation of the Council's tasks.

4. Members of the Council residing in a location other than the seat of the Office shall be entitled to per diems and reimbursement of travel and accommodation expenses under the conditions specified in the implementing regulations issued pursuant to Article 77⁵ § 2 of the Act of 26 June 1974. - Labour Code (Journal of Laws of 2019, item 1040, 1043 and 1495).

Art. 50. 1. The President of the Office shall present once a year by 31 August to the Sejm of the Republic of Poland, the Council of Ministers, the Ombudsman for Civil Rights, the Ombudsman for Children and the Prosecutor General a report on his/her activity, containing in particular information on the number and type of final court decisions considering complaints against decisions or decisions of the President of the Office and conclusions resulting from the state of observance of the provisions on personal data protection.

(2) The President of the Office shall make the report referred to in paragraph 1 available on his website on the Public Information Bulletin.

Article 51 Assumptions and drafts of legal acts concerning personal data shall be submitted to the Pre- cessor of the Office for an opinion.

Article 52 1. The President of the Office may address requests aimed at ensuring effective protection of personal data to state authorities, bodies of local self-government, state and municipal organisational units, non-public entities performing public tasks, natural and legal persons, organisational units which are not legal persons and other entities.

(2) The President of the Office may also apply to the competent authorities to take a legislative initiative or to issue or amend legal acts in matters concerning the protection of personal data.

(3) The entity to which the speech or request referred to in paragraphs (1) and (2) has been addressed shall be obliged to respond to that speech or request in writing within 30 days of receipt.

Article 53 (1) The President of the Office shall make available on his subject page in the Public Information Bulletin:

- 1) standard contractual clauses as referred to in Article 28(8) of Regulation 2016/679;
- 2) approved codes of conduct referred to in Article 40 of Regulation 2016/679, as well as amendments to those codes;
- 3) standard data protection clauses adopted, as referred to in Article 46(2)(d) of Regulation 2016/679;
- 4) recommendations setting out the technical and organisational measures to be taken to ensure the security of the processing of personal data.

2. The recommendations referred to in paragraph 1(4) shall be drawn up taking into account the specific nature of the activity concerned and shall be updated periodically.

3. The President of the Office shall consult the stakeholders affected by the draft recommendations referred to in point 4 of paragraph 1.

Article 54 (1) The President of the Office:

- 1) shall publish in a communication the list of types of personal data processing operations requiring an assessment of the effects of the processing on the protection of personal data referred to in Article 35(4) of Regulation 2016/679;
- 2) may publish in a communication a list of types of personal data processing operations that do not require an assessment of the effects of the processing on the protection of personal data, as referred to in Article 35(5) of Regulation 2016/679.

(2) The announcements referred to in paragraph 1 shall be published in the Official Journal of the Republic of Poland "Monitor Polski".

Article 55 The President of the Office may operate an ICT system enabling controllers to make notifications of personal data breaches referred to in Article 33 of Regulation 2016/679.

Article 56 The President of the Office shall, by decision:

- 1) approves the binding corporate rules referred to in Article 47 of Regulation 2016/679;
- 2) grants the authorisation referred to in Article 46(3) of Regulation 2016/679.

Article 57. 1.⁹⁾ The Administrator may request the President of the Office to carry out the prior consultation referred to in Article 36 of Regulation 2016/679.

2. The provision of Article 63 of the Act of 14 June 1960 shall apply *mutatis mutandis* to the application. - Code of Administrative Procedure.

3. If the application does not meet the requirements set out in Article 36(3) of Regulation 2016/679 and Article 63 of the Act of 14 June 1960. - Code of Administrative Proceedings, the President of the Office shall inform about the non-award of consultations, indicating the reasons for their non-award.

Article 58 If the President of the Office, on the basis of the information in his/her possession, is of the opinion that there has been an infringement of the provisions on the processing of personal data, he/she may demand that disciplinary or other proceedings provided for by law be instituted against the persons who have committed the infringement and that he/she be informed, within a specified period of time, of the results of such proceedings and the actions taken.

Article 59. 1. The President of the Office in matters of personal data protection shall cooperate with the independent supervisory authorities appointed pursuant to Article 91 of Regulation 2016/679.

(2) The President of the Office may conclude an agreement on cooperation and mutual information with the authorities referred to in paragraph 1.

⁹⁾ As amended by Article 161(4) of the Act referred to in reference 3.

Chapter 7

Data protection infringement proceedings

Article 60 The proceedings on infringement of provisions on personal data protection, hereinafter referred to as "proceedings", shall be conducted by the President of the Office.

Article 61 The social organisation referred to in Article 31 § 1 of the Act of 14 June 1960. - Code of Administrative Proceedings, may also appear in the proceedings with the consent of the data subject, on his/her behalf and for his/her benefit.

Article 62. In the case referred to in Article 36 of the Act of 14 June 1960, the - Code of Administrative Proceedings, the President of the Office, notifying the parties that a case has not been settled within the time limit, shall also be obliged to inform them about the state of the case and the activities conducted in the course of the case.

Article 63 The President of the Office may require a party to provide a translation into Polish of the documentation submitted by a party in a foreign language. The party shall be obliged to make the translation of the documentation at its own expense.

Article 64 In order to carry out its tasks, the President of the Office shall have the right of access to information covered by legally protected secrecy, unless specific provisions provide otherwise.

Article 65 (1) A party may reserve information, documents or parts thereof containing business secrets, presented to the President of the Office. In such a case, the party shall be obliged to present to the President of the Office also a version of the document not containing the information subject to reservation.

2. If a version of the document not containing the objectionable information is not produced, the objection shall be deemed ineffective.

3. The President of the Office may waive the reservation, by decision, if he considers that the information, documents or parts thereof do not meet the conditions to be covered by business secrecy.

4. In the event of a statutory obligation to transmit information or documents received from traders to other national or foreign authorities or institutions, the information and documents shall be transmitted with and subject to a reservation.

Art. 66. The President of the Office shall issue the decision referred to in Article 74 § 2 of the Act of 14 June 1960. - Code of Administrative Proceedings, also in the case where the disclosure of information and documents referred to in Article 65(1) threatens to disclose legally protected secrets or to disclose a company secret, if the entrepreneur from whom the information originates applies for restriction of access to the files for the parties to the proceedings.

Article 67 If the number of parties to the proceedings exceeds 20, the President of the Office may apply the provision of Article 49 of the Act of 14 June 1960. - Administrative Procedure Code.

Article 68. 1. If, in the course of the proceedings, it becomes necessary to supplement the evidence, the President of the Office may carry out an inspection procedure.

(2) The period of the inspection proceedings shall not be included in the time limits referred to in Article 35 of the Act of 14 June 1960. - Administrative Procedure Code.

Art. 69. 1. In the case referred to in art. 88 of the Act of 14 June 1960 - the Code of Administrative Proceedings. - Code of Administrative Proceedings, the President of the Office shall impose a fine in the amount of PLN 500 to PLN 5000.

(2) In imposing a fine, the President of the Office shall take into account:

- 1) in the case of a natural person, the personal circumstances of the person summoned and the degree of understanding of the seriousness of the obligations incumbent upon him/her under the summons, or
- 2) the need to align the level of the fine with the objective of compelling the summoned person to comply with the summons.

(3) A fine referred to in paragraph (1) may also be imposed where a party has refused to provide a translation into Polish of documentation drawn up in a foreign language.

Art. 70. 1. Where in the course of the proceedings it becomes probable that the processing of personal data violates the provisions on personal data protection, and the further processing of such data may cause serious and difficult to remove effects, the President of the Office, in order to prevent such effects, may, by means of a decision, oblige the entity alleged to have violated the provisions on personal data protection to restrict the processing of personal data, indicating the admissible scope of such processing.

(2) In the ruling referred to in paragraph 1, the President of the Office shall specify the term of the restriction of personal data processing, no longer than until the date of the decision concluding the case.

(3) The decision referred to in paragraph (1) may be appealed to the administrative court.

Article 71. 1. If, in the course of the proceedings, the President of the Office finds that there are reasonable doubts as to the compatibility with European Union law of the decision of the European Commission referred to in Article 40(9) on the code of conduct referred to in Article 46(2)(e) and the decision referred to in Art. 45(3) and (5) and Article 46(2)(c) of Regulation 2016/679, the President of the Office shall request the administrative court to raise a legal question under Article 267 of the Treaty on the Functioning of the European Union on the validity of the decision of the European Commission.

2. The application referred to in paragraph 1, in addition to meeting the requirements for a complaint referred to in Article 64 § 2 of the Act of 30 August 2002. - Law on Proceedings before Administrative Courts (Journal of Laws of 2018, item 1302, as amended¹⁰⁾), it includes in particular:

- 1) indication of the European Commission decision to which the application relates;
- 2) discussing the reasons why the President of the Office raised doubts as to the validity of the European Commission's decision and its incompatibility with the law;
- 3) the content of the question or questions which the administrative court is called upon to put to the Court of Justice of the European Union, including:
 - a) the subject matter of the dispute and the findings of fact, including the position of a party raised in the proceedings before the authority, if submitted by a party,
 - b) indication of the legal provisions applicable in the case,
 - c) proposed question(s) to be submitted to the Court of Justice of the European Union by the administrative court;
- 4) a declaration that the contents of the annex referred to in paragraph 3 correspond to the application made on paper.

3. The application referred to in paragraph 1 shall be accompanied by an annex containing the content of the application in the form of an electronic document saved on a computer storage medium in a data format that allows its content to be edited.

4. The President of the Office shall be a party to the proceedings before the administrative court concerning the application referred to in paragraph 1.

5. The administrative court shall hear the application referred to in paragraph 1 in closed session, composed of 3 judges.

6. The administrative court shall, if it considers that the request referred to in paragraph 1 is justified, refer a question to the Court of Justice of the European Union for a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union.

7. If the administrative court considers that the request referred to in paragraph 1 does not contain sufficient reasons for making a reference to the Court of Justice of the European Union for a preliminary ruling, an order refusing to make a reference shall be issued.

8. There shall be no appeal against the order referred to in paragraph 7.

9. The administrative court shall draw up a statement of reasons for the order referred to in paragraph 7 within 21 days.

10. The application referred to in paragraph 1 shall not be subject to a court fee.

Article 72. The grounds for the decision concluding the proceedings in the case shall additionally indicate the grounds set out in Article 83(2) of Regulation 2016/679 on which the President of the Office relied in imposing the administrative financial penalty and in determining its amount.

Article 73 (1) The President of the Office, if he deems that the public interest so justifies, shall, upon completion of the proceedings, announce the issuance of the decision on his subject page in the Public Information Bulletin.

(2) Units of the public finance sector, research institutes and the National Bank of Poland, in relation to which the President of the Office has issued a final decision establishing an infringement, shall immediately make public on their website or subject page in the Public Information Bulletin, information on actions taken to implement the decision.

Art. 74. The filing of a complaint by a party to an administrative court shall suspend the enforcement of a decision with regard to an administrative fine.

¹⁰⁾ Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2018, items 1467 and 1629, and of 2019, items 11, 60, 848 and 934.

Chapter 8

European administrative cooperation

Article 75 (1) In the cases referred to in Article 61(8), Article 62(7) and Article 66(1) of Regulation 2016/679, the President of the Office may order an interim measure as referred to in Article 70(1).

(2) In the order, the President of the Office shall specify the duration of the provisional measure referred to in Article 70(1), which shall not exceed 3 months.

(3) The order may be appealed to the administrative court.

Article 76 Any information sent by the President of the Office to the supervisory authorities of other Member States within the framework of European administrative cooperation shall be translated into one of the official languages of that Member State or into English.

Article 77. Where the President of the Office receives a request from a supervisory authority of another Member State of the European Union to participate in a joint operation as referred to in Article 62(1) of Regulation 2016/679, or the President of the Office makes such a request, the President of the Office shall make arrangements with the supervisory authority of another Member State of the European Union concerning the joint operation and draw up a list of arrangements without delay.

Chapter 9

Monitoring compliance with data protection legislation

Article 78. 1. The President of the Office shall carry out the control of compliance with the provisions on personal data protection.

(2) The inspection shall be carried out in accordance with the inspection plan approved by the President of the Office or on the basis of information obtained by the President of the Office or as part of the monitoring of compliance with Regulation 2016/679.

Article 79 (1) The inspection shall be carried out by a person authorised by the President of the Office:

- 1) Authority employee,
- 2) member or employee of a supervisory authority of a Member State of the European Union in the case referred to in Article 62 of Regulation 2016/679

- hereinafter referred to as 'the controller'.

(2) The inspector referred to in paragraph (1)(2) shall be obliged to keep confidential any information of which he becomes aware in the course of the inspection.

Article 80 (1) The inspector shall be subject to exclusion from participation in the inspection, upon request or ex officio, if:

- 1) the results of the inspection could affect his rights or obligations, those of his spouse, his spouse's spouse, his spouse's actual cohabitee, his relative or relative by affinity up to the second degree, or those of a person related to him by adoption, custody or guardianship;
- 2) there are reasonable doubts as to his impartiality.

2. The grounds for exclusion referred to in paragraph 1(1) shall continue even after the termination of marriage, adoption, guardianship or custody.

3. The inspector or the entity subject to inspection, hereinafter referred to as "the inspected person", shall immediately notify the President of the Office of the reasons for the exclusion.

4. The exclusion of the controller shall be decided by the President of the Office.

5. Pending the order, the inspector shall take urgent action.

An inspection shall be carried out upon presentation of a personal authorisation together with an official ID card, and in the case of the inspector referred to in Art. 79 section 1 item 2, upon presentation of a personal authorisation together with a document confirming identity.

(2) The named inspection authorisation shall include:

- 1) indication of the legal basis for the inspection;
- 2) authority designation;

- 3) the name and position of the controller and the number of his/her official identity card and, in the case of the controller referred to in Article 79(1)(2), the name and number of his/her identity document;
- 4) defining the scope of the audit in question;
- 5) designation of the controlled person;
- 6) indication of the start date and expected date of completion of the inspection activity;
- 7) Signature of the President of the Office;
- 8) to instruct the inspected person on their rights and obligations;
- 9) the date and place of its issue.

Article 82 (1) The President of the Office may authorise a person with specialist knowledge to participate in the inspection if the performance of the inspection activity requires such knowledge. The provisions of Article 80 and Article 81(2) shall apply.

2. The scope of the powers of the person referred to in paragraph 1 shall be specified in the authorisation by the President of the Office.

3. The person referred to in paragraph 1 shall be obliged to keep confidential the information of which he/she becomes aware in the course of the inspection.

Article 83 (1) Control activities shall be performed in the presence of the controlled person or a person authorised by him/her.

2. The inspected person is obliged to indicate in writing the person authorised to represent him/her during the inspection.

3. In the absence of the inspected person or the person authorised by him/her, the authorisation to carry out the inspection and the official card or document proving identity may be produced:

- 1) a person acting on the premises of the company within the meaning of Article 97 of the Act of 23 April 1964. - Civil Code (Journal of Laws of 2019, item 1145 and 1495) or
- 2) a summoned witness, if he/she is a public official as defined in Article 115 § 13 of the Act of 6 June 1997. - Penal Code (Journal of Laws of 2018, item 1600, as amended¹¹⁾), not being an employee of the Office or a person referred to in Article 80(1).

Article 84 (1) The inspector shall have the right to:

- 1) access from 6⁰⁰ to 22⁰⁰ to the land and to buildings, premises or other premises;
- 2) access to documents and information of direct relevance to the scope of the audit in question;
- 3) to carry out visual inspections of places, objects, devices, media and IT or tele-information systems used for data processing;
- 4) require written or oral explanations and question persons as witnesses to the extent not necessary to establish the facts;
- 5) commission expert reports and opinions.

2. The person being inspected shall provide the inspector and persons authorised to take part in the inspection with the conditions and means necessary for the efficient performance of the inspection and, in particular, shall himself/herself make copies or printouts of the documents and information stored on the media, devices or systems referred to in paragraph 1(3).

3. The inspected person shall certify the conformity of the copies or print-outs referred to in paragraph 2 with the originals. In the event of refusal to certify the conformity with the originals, the inspector shall make a note of this in the control process.

4. In justified cases, the course of inspection or individual activities during its course, after prior notification of the inspected person, may be recorded by means of audio or video recording equipment. Computer data carriers within the meaning of the Act of 17 February 2005 on the computerisation of the activities of entities performing public tasks (Journal of Laws of 2019, item 700, 730, 848 and 1590), on which the course of control or individual activities during its course have been recorded, constitute an enclosure to the control protocol.

¹¹⁾ Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2018, item 2077, and of 2019, item 730, 858, 870, 1135 and 1579.

Article 85 (1) The President of the Office or the controller may request the assistance of the locally competent Chief of Police if this is necessary for the performance of control activities.

2. The police shall provide assistance in the performance of inspection activities upon receipt of a written request at least 7 days prior to the date of such activities.

3. In urgent cases, in particular when the inspector encounters resistance which prevents or hinders the performance of inspection activities, assistance shall also be provided upon verbal summons from the President of the Office or the inspector, upon presentation of a personal authorisation to carry out the inspection and the official ID card of the inspector.

4. In the case referred to in paragraph 3, the President of the Office shall transmit an acknowledgement of the summons in writing no later than 3 days after the end of the inspection activity.

5. Providing assistance to the Police in the performance of inspection activities consists in ensuring the inspector's personal safety and access to the place where the inspection is carried out, as well as order in that place.

6. The police, when assisting the inspector in carrying out the inspection activities, shall also ensure the safety of other persons participating in the inspection activities, taking into account, in particular, respect for the dignity of the persons participating in the inspection.

7.⁽¹²⁾ The costs incurred by the Police for assistance in the performance of control activities shall be accounted for at a flat rate of 1.5% of the average monthly remuneration in the sector of enterprises without payments of rewards from profit for the previous year, announced by the President of the Central Statistical Office on the basis of Article 60(5) of the Act of 15 July 2011 on the professions of nurse and midwife (Journal of Laws of 2019, item 576, 577, 1490 and 1590).

Article 86 (1) The inspector may question the employee inspected as a witness.

2. A controlled employee is deemed to be a person employed under an employment relationship or performing work under a civil law contract.

3. The provision of Article 83 of the Act of 14 June 1960 shall apply to the hearing of the controlled employee. - Code of Administrative Procedure.

Article 87 The inspector shall establish the facts on the basis of evidence collected in the inspection proceedings, in particular documents, objects, visual inspection and oral or written explanations and statements.

Art. 88 (1) The course of inspection activities shall be presented by the inspector in the inspection protocol.

2. The inspection protocol shall include:

- 1) indication of the name and address of the inspected person;
- 2) the name of the person representing the inspected person and the name of the body representing the inspected person;
- 3) the name and surname, official position, number of the official ID card and number of the personal authorisation of the inspector, and in the case of the inspector referred to in Article 79(1)(2), the name and surname, number of the identity document and number of the personal authorisation;
- 4) the start and end date of the inspection activity;
- 5) defining the scope of the audit in question;
- 6) a description of the facts established in the course of the audit and other information relevant for the assessment of the compliance of the data processing with the provisions on the protection of personal data;
- 7) listing of annexes;
- 8) a discussion of the corrections, deletions and additions made to the control protocol;
- 9) Instruct the inspected person on their right to object to the inspection protocol and their right to refuse to sign it;
- 10) the date and place of signature of the inspection protocol by the inspector and the inspected person.

3. The inspection report is signed by the inspector and handed over to the inspected person for signature.

¹²⁾ As amended by Article 168(2) of the Act referred to in reference 7.

4. The inspected person shall, within 7 days from the date of presentation of the inspection protocol for signature, either sign it or lodge written objections to its content.

5. If objections are made, the inspector shall analyse them and, if necessary, undertake additional control activities and, if the objections are justified, amend or supplement the relevant part of the control protocol in the form of an annex to the control protocol.

6. If the objections are not upheld in whole or in part, the inspector shall communicate this to the inspected person together with the reasons.

7. Failure to provide the inspector with the signed inspection protocol and failure to raise objections to its content within the period referred to in paragraph 4 shall be deemed a refusal to sign the inspection protocol.

8. Any refusal to sign the inspection protocol shall be mentioned by the inspector in the protocol, including the date of such refusal. In the case referred to in paragraph 7, a note shall be made after the expiry of the time limit referred to in paragraph 4.

9. The inspection protocol shall be drawn up either electronically or in hard copy in duplicate. The inspector shall deliver the inspection report to the inspected person.

Art. 89 (1) Control shall be carried out not longer than 30 days from the date of presentation to the controlled person or other person indicated in the regulations of a personal authorisation to carry out control and an official ID card or other document confirming identity. The time limits do not include the time limits provided for raising objections to the control protocol or signing and delivering the control protocol by the controlled person.

The date of completion of the inspection shall be the date on which the inspection protocol is signed by the inspected person or on which the note referred to in Article 88(8) is made.

Article 90 If, on the basis of the information gathered in the control proceedings, the President of the Office finds that the provisions on the protection of personal data may have been infringed, he shall be obliged to initiate without delay the proceedings referred to in Article 60.

Article 91 The provisions of Articles 63 to 65 shall apply *mutatis mutandis*.

Chapter 10

Civil liability and court proceedings

Article 92 To the extent not regulated by Regulation 2016/679, the provisions of the Act of 23 April 1964 shall apply to claims for breach of provisions on personal data protection referred to in Article 79 and Article 82 of that Regulation. - Civil Code.

Article 93. The district court shall have jurisdiction over claims for violation of personal data protection provisions referred to in Article 79 and Article 82 of Regulation 2016/679.

Article 94. 1. The court shall immediately notify the President of the Office of the filing of a lawsuit and of a final decision ending the proceedings on a claim for a personal data breach referred to in Article 79 or Article 82 of Regulation 2016/679.

(2) The President of the Office notified of pending proceedings shall immediately inform the court of any case concerning the same infringement of the provisions on personal data protection which is pending before the President of the Office or an administrative court or has been concluded. The President of the Office shall also immediately inform the court about the commencement of any proceedings in a case concerning the same violation.

Article 95 The court shall suspend the proceedings if a case concerning the same infringement of data protection regulations has been initiated before the President of the Office.

Article 96 The court shall discontinue the proceedings in the scope in which a final decision of the President of the Office for ascertaining an infringement of the provisions on personal data protection or a final judgment issued as a result of a complaint referred to in Article 145a § 3 of the Act of 30 August 2002. - Law on Proceedings before Administrative Courts, shall allow the claim asserted before the court.

Article 97 The findings of the final decision of the President of the Office for ascertaining the infringement of the provisions for the protection of personal data, or of the final judgment issued as a result of a complaint referred to in Article 145a paragraph 3 of the Act of 30 August 2002. - Law on Proceedings before Administrative Courts, shall be binding upon the court in the proceedings for the redress of damage caused by the breach of provisions on the protection of personal data as to the determination of the breach of such provisions.

Article 98 (1) In cases of claims for infringement of personal data protection legislation, which can only be asserted in court proceedings, the President of the Office may bring actions in favour of the data subject with his/her consent and also enter, with the consent of the plaintiff, into the proceedings at any stage thereof.

(2) In other cases of claims for breaches of data protection legislation, the President of the Office may, with the consent of the claimant, intervene at any stage of the proceedings before the court, unless proceedings concerning the same breach of data protection legislation are pending before it.

(3) In the cases referred to in paragraphs (1) and (2), the provisions of the Act of 17 November 1964 shall apply to the President of the Office accordingly. - Code of Civil Procedure (Journal of Laws of 2019, item 1460, 1469 and 1495) on the public prosecutor.

Article 99. The President of the Office, if he considers that the public interest so warrants, shall present to the court a view relevant to the case on a claim for violation of the provisions on personal data protection.

Article 100. The provisions of the Act of 17 November 1964 shall apply to the proceedings on a claim for violation of the provisions on personal data protection referred to in Article 79 and Article 82 of Regulation 2016/679 to the extent not regulated by this Act. - Code of Civil Procedure.

Chapter 11

Provisions on administrative fines and criminal provisions

Article 101 The President of the Office may impose on an entity required to comply with Regulation 2016/679, other than:

- 1) unit of the public finance sector,
- 2) research institute,
- 3) National Bank of Poland

- by decision, an administrative financial penalty on the basis and under the conditions set out in Article 83 of Regulation 2016/679.

Article 101a.¹³⁾ In connection with pending proceedings for the imposition of an administrative pecuniary penalty, the entity referred to in Article 101 shall be obliged to provide the President of the Office, at his each request, within 30 days of the date of receipt of the request, with the data necessary to determine the basis for the assessment of the administrative pecuniary penalty.

Where the entity referred to in Article 101 fails to provide data or where the data provided by that entity make it impossible to establish the basis for the assessment of an administrative fine, the President of the Office shall establish the basis for the assessment of an administrative fine on an estimated basis, taking into account the size of the entity, the specific nature of its business or generally available financial data concerning the entity.

Art. 102. 1. The President of the Office may impose, by way of a decision, administrative fines of up to PLN 100 000 on:

- 1) units of the public finance sector referred to in Article 9(1) to (12) and (14) of the Public Finance Act of 27 August 2009;
- 2) research institute;
- 3) National Bank of Poland.

2. The President of the Office may impose, by way of a decision, administrative pecuniary penalties of up to PLN 10 000 on units of the public finance sector referred to in Article 9(13) of the Public Finance Act of 27 August 2009.

3. The administrative pecuniary penalties referred to in paragraphs 1 and 2 shall be imposed by the President of the Office on the basis and under the conditions laid down in Article 83 of Regulation 2016/679.

Article 103 The equivalent of the amounts expressed in euro referred to in Article 83 of Regulation 2016/679 shall be calculated in PLN at the average euro exchange rate announced by the National Bank of Poland in the table of exchange rates as at 28 January each year, and in the event that in a given year the National Bank of Poland does not announce the average euro exchange rate on 28 January - at the average euro exchange rate announced in the table of exchange rates of the National Bank of Poland nearest to that date.

¹³⁾ Added by Article 161(5) of the Act referred to in reference 3.

Article 104. funds from the administrative fine shall constitute revenue for the state budget.

Art. 105. 1. The administrative fine shall be paid within 14 days from the date of expiry of the time limit for lodging a complaint, or from the date on which the decision of the administrative court becomes final.

2. The President of the Office may, at the request of the sanctioned entity, postpone the deadline for payment of the administrative fine or spread it into instalments, due to an important interest of the applicant.

3. The request referred to in paragraph 2 shall be accompanied by a statement of reasons.

4. In the case of postponement of the deadline for payment of an administrative fine or spreading it into instalments, the President of the Office shall calculate interest on the unpaid amount on an annual basis at a reduced rate of interest for delay, announced pursuant to Article 56d of the Act of 29 August 1997. - Tax Ordinance (Journal of Laws of 2019, item 900, as amended¹⁴), from the day following the date of submission of the application.

5. If the administrative fine is divided into instalments, the interest referred to in paragraph 4 shall be calculated separately for each instalment.

6. If the deferred deadline for payment of the administrative fine or the deadline for payment of its instalments is not met, interest shall be charged for the period from the date of expiry of the deferred deadline for payment of the fine or the deadline for payment of individual instalments.

7. The President of the Office may waive the postponement of the deadline for payment of an administrative fine or the spreading of the fine into instalments if new or previously unknown circumstances relevant to the decision have come to light or if the instalment has not been paid on time.

8. The decision of the President of the Office on the postponement of the deadline for payment of the administrative fine or its division into instalments shall be taken by way of a decision.

9. The President of the Office, at the request of the punished business entity, may grant relief from the execution of the administrative fine referred to in paragraph 2, which:

- 1) does not constitute State aid;
- 2) constitutes *de minimis* aid, or *de minimis aid* in the agriculture or fisheries sectors, to the extent and in accordance with the rules set out in the directly applicable provisions of European Union law on *de minimis* aid;
- 3) constitutes State aid compatible with the rules of the internal market of the European Union, the admissibility of which has been established by the competent authorities of the European Union.

Article 106 The provisions of Articles 189d-189f and Article 189k of the Act of 14 June 1960. - Code of Administrative Procedure shall not apply.

Art. 107. 1. Whoever processes personal data, although the processing is not permitted or he is not entitled to process it,

shall be liable to a fine, restriction of liberty or imprisonment of up to two years.

(2) Where the act referred to in paragraph (1) concerns data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, bio-metric data processed for the purpose of uniquely identifying a natural person, data concerning health, sexuality or sexual orientation,

shall be liable to a fine, restriction of liberty or imprisonment of up to three years.

Art. 108. 1.¹⁵ Whoever prevents or hinders the controller from carrying out the control of compliance with the provisions on personal data protection,

shall be liable to a fine, restriction of liberty or imprisonment of up to two years.

2.¹⁶ The same penalty shall be imposed on a person who, in connection with the pending proceedings for the imposition of an administrative fine, fails to provide the data necessary to determine the basis for the assessment of the administrative fine or provides data which make it impossible to determine the basis for the assessment of the administrative fine.

¹⁴ Amendments to the consolidated text of the aforementioned Act were announced in the Journal of Laws of 2019, item 924, 1018, 1495, 1520, 1553 and 1556.

¹⁵ Designation of paragraph 1 given by Article 161(6) of the Act referred to in reference 3.

¹⁶ Added by Article 161(6) of the Act referred to in reference 3.

Chapter 12
Regulatory changes

Articles 109-157 (omitted)¹⁷⁾

Chapter 13
Transitional and adaptation provisions

Article 158. 1. The person acting as an information security administrator on 24 May 2018, as referred to in the Act repealed in Article 175, shall become a data protection officer and shall perform his/her function until 1 September 2018, unless before that date the controller notifies the President of the Office of the appointment of another person as a data protection officer, in the manner specified in Article 10(1).

2. The person who has become the Data Protection Officer pursuant to paragraph 1 shall continue to perform his/her function also after 1 September 2018 if, by that date, the controller notifies the President of the Office of his/her designation in the manner set out in Article 10(1).

3. The person referred to in paragraph 1 may be dismissed by the controller without notifying the President of the Office of the appointment of another person as data protection officer, where the controller is not obliged to appoint a data protection officer.

4. A controller who, before the date of entry into force of this Act, has not appointed an information security administrator as referred to in the Act repealed by Article 175, shall be obliged to appoint a data protection officer pursuant to Article 37 of Regulation 2016/679 and notify the President of the Office of his/her appointment, by 31 July 2018.

5. The processor obliged to appoint a data protection officer pursuant to Article 37 of Regulation 2016/679 shall appoint a data protection officer and notify the President of the Office of the appointment of the data protection officer, in the manner set out in Article 10(1), by 31 July 2018.

Article 159. 1 The current provisions shall apply to inspections initiated on the basis of the Act repealed in Article 175 and not concluded before the date of entry into force of this Act.

(2) Authorisations and service cards issued before the date of entry into force of this Act shall remain valid until the completion of the controls referred to in paragraph 1.

Art. 160. 1. Proceedings conducted by the Inspector General for Personal Data Protection initiated and not concluded before the date of entry into force of this Act shall be conducted by the President of the Office.

2. The proceedings referred to in paragraph 1 shall be carried out on the basis of the Act repealed in Article 175, in accordance with the principles set out in the Act of 14 June 1960. - Code of Administrative Procedure (Journal of Laws of 2018, item 2096 and of 2019, item 60, 730 and 1133).

3. Actions taken in the proceedings referred to in paragraph 1 shall remain effective.

4. Proceedings under Chapter 6 of the Act repealed in Article 175 shall be discontinued. A decision to discontinue proceedings shall not be issued.

Article 161 The entity to which the request or application referred to in Article 19a of the Act repealed in Article 175 was addressed before the date of entry into force of this Act shall be obliged to provide the President of the Office with a response to the request or application within 30 days from the date of entry into force of this Act.

Art. 162. 1. In the case of enforcement proceedings conducted on the basis of an enforcement title issued by the Inspector General for Personal Data Protection before the date of entry into force of this Act and not concluded before the date of entry into force of this Act, the President of the Office shall become the creditor.

(2) The acts performed by the Inspector General for Personal Data Protection in the proceedings referred to in paragraph 1 shall remain effective.

Article 163. In enforcement proceedings initiated pursuant to the provisions of the Act amended by Article 110 and not concluded before the date of entry into force of this Act, the reminders sent, enforcement titles, decisions containing the position of the Inspector General for Personal Data Protection and other actions performed by the Inspector General for Personal Data Protection, as a creditor, shall remain effective.

¹⁷⁾ Posted in Notice.

Art. 164. Proceedings on the position of the General Inspector for Personal Data Protection, as a creditor, initiated pursuant to Article 34 of the Act amended by Article 110 and not concluded before the date of entry into force of this Act shall be conducted by the President of the Office.

Article 165 The hitherto implementing regulations issued on the basis of Article 22a of the Act repealed under Article 175 shall remain in force until the date of entry into force of implementing regulations issued on the basis of Article 47 of this Act, but not longer than 12 months from the date of its entry into force.

Article 166 (1) As of the entry into force of this Act, the Inspector General for Personal Data Protection shall become the President of the Office.

(2) A person who has been appointed to the position of the Inspector General for Personal Data Protection pursuant to the Act repealed by Article 175 shall remain in office until the expiry of the term for which he or she was appointed.

(3) The Deputy Inspector General for Personal Data Protection appointed prior to the date of entry into force of this Act shall become, as of the date of entry into force of this Act, the Deputy President of the Office referred to in Article 36(1).

Article 167 (1) As of the date of entry into force of this Act, the Office of the Inspector General for Personal Data Protection shall become the Office.

(2) As of the date of entry into force of this Act, employees working in the Office of the Inspector General for Personal Data Protection shall become employees of the Office. The provision of Article 23¹ of the Act of 26 June 1974. - Labour Code (Journal of Laws of 2019, item 1040, 1043 and 1495) shall apply accordingly.

Article 168. As of the date of entry into force of this Act, the property of the State Treasury held by the Office of the Inspector General for Personal Data Protection shall become property held by the Office.

Article 169 The receivables and liabilities of the Office of the Inspector General for the Protection of Personal Data on the date of entry into force of this Act shall become receivables and liabilities of the Office.

Article 170 Where the Inspector General for Personal Data Protection has not submitted the report referred to in Article 20 of the Act repealed in Article 175 by the date of entry into force of this Act, the report shall be submitted by the President of the Office by 31 July 2018.

Article 171. 1. In court, court-administrative or administrative cases initiated and not concluded before the date of entry into force of this Act, in which the Inspector General for Personal Data Protection was a party or participant, the President of the Office shall become a party or participant as of the date of entry into force of this Act.

(2) In judicial, judicial-administrative or administrative cases initiated and not concluded before the date of entry into force of this Act in which the Office of the Inspector General for Personal Data Protection was a party or participant, the Office shall become a party or participant as of the date of entry into force of this Act.

Article 172 The President of the Office shall issue the first communication referred to in Article 54(1)(1) within 3 months of the entry into force of this Act.

Article 173 A Council shall be created.

Article 174. 1. The maximum limit of expenditure from the state budget for the performance of tasks under this Act shall be in a year:

- 1) 2018 - PLN 19,639,000;
- 2) 2019 - PLN 13,541,000;
- 3) 2020 - PLN 13,860,000;
- 4) 2021 - PLN 13,860,000;
- 5) 2022 - PLN 13,860,000;
- 6) 2023 - PLN 13,860,000;
- 7) 2024 - PLN 13,860,000;
- 8) 2025 - PLN 13,860,000;
- 9) 2026 - PLN 13,860,000;
- 10) 2027 - PLN 13,860,000.

2. The President of the Office shall monitor and evaluate the utilisation of the expenditure limit referred to in paragraph 1 at the end of each quarter.

3. Where the maximum limit on expenditure adopted for a given financial year, as defined in paragraph 1, is exceeded or threatened to be exceeded, and where, in the period between the beginning of the calendar year and the date of the last assessment referred to in paragraph 2, the part of the annual limit proportionally attributable to that period is exceeded by at least 10%, a corrective mechanism shall be applied to reduce the expenditure of the State budget resulting from the financial effect of this Act.

4. The authority competent to implement the corrective mechanism referred to in paragraph 3 shall be the President of the Office.

Chapter 14

Final provisions

Article 175.¹⁸⁾ The Act of 29 August 1997 on the protection of personal data (Journal of Laws of 2016, item 922 and of 2018, items 138 and 723) shall be repealed with the exception of Article 1, Article 2, Article 3 (1), Articles 4-7, Articles 14-22, Articles 23-28, Art. 31 and Chapters 4, 5 and 7, which shall remain in force with regard to the processing of personal data for the purposes of the identification, prevention, detection and combating of criminal offences, the conduct of proceedings relating to such offences and the enforcement of judgments thereon, orderly penalties and coercive measures to the extent specified in the provisions constituting the basis of action of the services and authorities authorised to perform tasks in this respect, until the date of entry into force of the provisions implementing Directive 2016/680 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 by competent authorities for the purposes of prevention, investigation, detection and prosecution of criminal offences and the execution of penalties, on the free movement of such data and repealing Council Framework Decision 2008/977/JHA (Official Journal of the EU L 119 of 04.05.2016, p. 89).

Article 176 The Act shall enter into force on 25 May 2018.

¹⁸⁾ The provisions of Article 1, Article 2, Article 3(1), Articles 4 to 7, Articles 14 to 22, Articles 23 to 28, Article 31 and Chapters 4, 5 and 7 of the Act of 29 August 1997 on the protection of personal data retained in force pursuant to Article 175 of the Act of 10 May 2018 on the protection of personal data (Journal of Laws. item 1000) ceased to be in force on 6 February 2019 pursuant to Article 107 of the Act of 14 December 2018 on the protection of personal data processed in connection with preventing and combating crime (Journal of Laws of 2019, item 125), which entered into force on 6 February 2019.