

**PRESIDENT
PERSONAL DATA
PROTECTION OFFICE**

Mirosław Wróblewski

Warsaw, 30.04.2026

DS.523.3372.2024. [REDACTED].

DECISION

Pursuant to Article 105(1) of the Code of Administrative Procedure of 14 June 1960 (Journal of Laws 2024, item 572), Article 60(8) 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) (hereinafter: GDPR), after conducting an administrative procedure regarding the complaint of [REDACTED] (residence: [REDACTED]) the use of personal data for undefined forms of “artificial intelligence technology” by [REDACTED] (registered office: [REDACTED]), and the resulting violation of Articles 5(1) and (2), Article 6(1), Article 9 (1), Article 12 (1) and (2), Article 13 (1) and (2), 17 (1) (c), 18 (1) (d), 19, 21 (1) and 25 GDPR, President of the Personal Data Protection Office

discontinues the proceedings.

JUSTIFICATION

The Personal Data Protection Office received a complaint from [REDACTED] (residence: [REDACTED]) (hereinafter: Complainant) represented by [REDACTED] (registered office: [REDACTED]) regarding the the use of personal data for undefined forms of “artificial intelligence technology” and the consequent violation of Articles 5(1) and (2), Article 6(1), Article 9 (1), Article 12 (1) and (2), Article 13 (1) and (2), 17 (1) (c), 18 (1) (d), 19, 21 (1) and 25 GDPR by [REDACTED] (registered office: [REDACTED]) (hereinafter: Company).

In the complaint, the Complainant pointed out, first and foremost, that the Company has no legitimate interest under Article 6(1)(f) of the GDPR, nor any other legal basis, for processing vast amounts of data in connection with the planned changes to its privacy policy. Furthermore, the Company had not specified the purposes for which the data was to be processed.

In view of the above, the Complainant requested the President of the Personal Data Protection Office (hereinafter: PUODO) to adopt interim measures as a matter of urgency pursuant to Article 66, in order to prevent the imminent processing of the Complainant's personal data – that of millions of EU/ EEA residents without their consent, to thoroughly investigate the matter in accordance with Article 58(1) of the GDPR, and to prohibit the use of personal data for the purposes of unspecified 'artificial intelligence technology' without the Complainant's consent in the form of an opt-in – and, consequently, also without the consent of other data subjects.

In the course of the administrative proceedings, PUODO established the following facts:

- 1) On 5 June 2024 the Complainant, represented by [REDACTED], lodged a complaint with PUODO regarding the use of personal data for unspecified forms "artificial intelligence technology and the resulting irregularities in [REDACTED]'s data processing. Attached to the complaint was, amongst other things, an email sent from the address [REDACTED] and addressed to the complainant on 31 May 2024. The purpose of this message was to inform the complainant of an update to the Privacy Policy in connection with the development of artificial intelligence at [REDACTED]. The content of the message indicates that [REDACTED] is preparing to expand its AI functions in the Complainant's region and, as a result, will henceforth rely on a legal basis known as legitimate interest for the use of the Complainant's data to develop and improve AI at [REDACTED]. According to the message, the updates to [REDACTED]'s Privacy Policy are due to come into effect on 26 June 2024 (evidence: the Complainant's letter of 5 June 2024).
- 2) On 17 June 2024 PUODO identified the case as having a cross-border nature in accordance with Article 4(23) of the GDPR. Therefore, on 19 June 2024, the case was referred through the Internal Market Information System (hereinafter: IMI) to the Irish supervisory authority (Data Protection Commission) (hereinafter: DPC) in order to accept the case to be handled by this body as a leading supervisory authority within the meaning of Article 56(1) of the GDPR. On the same day, the PUODO informed the Complainant of the referral of the complaint to the DPC. (evidence: memo of 17 June 2024, PUODO's letter of 19 June 2024)
- 3) On 20 June 2024, DPC identified itself in the IMI system, in notification number 650538.1, as the lead supervisory authority. Furthermore, in a letter addressed to PUODO, DPC confirmed receipt of the complaint and stated that it had assigned it a reference number (C-24-6-1045) (evidence: letter from DPC PUODO of 20 June 2024)
- 4) On 22 April 2025, DPC, via the IMI System in notification no. 766260.1, forwarded to PUODO a preliminary draft decision together with the DPC's letter to the Complainant, stating that the Complainant had five working days to submit comments on the content of the preliminary draft decision. On the same day,

PUODO sent a letter to the Complainant, in which he forwarded the preliminary draft decision together with the DPC's letter to the Complainant and requested that any comments be submitted by 30 April 2025. The Complainant did not respond to the letter, which was delivered on 9 May 2025 – as evidenced by the Official Certificate of Delivery attached to the case file. (evidence: letter from PUODO to the Complainant of 25 April 2025, Official Certificate of Delivery of 9 May 2025)

- 5) On 25 July 2025, the DPC, via the IMI System, in notification 807059.1, forwarded to the PUODO a letter to the Complainant in which it provided an update on the progress of the complaint, as well as information on the Complainant's rights under the Data Protection Act 2018. On the same day, the PUODO forwarded the DPC's letter to the Complainant, requesting that she familiarise herself with its content. (evidence: letter from PUODO to the Complainant of 25 July 2025)
- 6) On 22 August 2025, via the IMI system in notification number A60 DD 818007.1, DPC submitted to PUODO a draft decision issued pursuant to Article 60(8) of the GDPR, the text of which is set out below:

DRAFT DECISION

This is a draft decision of the Data Protection Commission of Ireland ("DPC") in relation to DPC complaint reference C-24-6-1045 (hereinafter referred to as the "Complaint") submitted with the Urząd Ochrony Danych Osobowych ("the Recipient SA") by [REDACTED] ("Complainant") against [REDACTED] ([REDACTED]).

This draft decision is made pursuant to the powers conferred on the DPC by section 113 of the Data Protection Act 2018 ("the Act") and Article 60 of the General Data Protection Regulation ("GDPR").

Background to the Complaint

1. The Complainant noted [REDACTED]'s intention to update its privacy policy with effect from 26 June 2024. The changes to the privacy policy related to (a) the additional use of public data collected from its users for research into and the development of AI technologies, and (b) the implementation of AI technology into its products. [REDACTED] noted one of the new uses for the data it collects would be in "support[ing] research in areas like artificial intelligence and machine learning". The data collected by [REDACTED] includes personal data, provided as part of user profiles as well as content created and posted using [REDACTED]'s products.
2. The Complainant, having reviewed [REDACTED]'s proposed changes, noted a number of concerns including; [REDACTED]'s reliance on legitimate interest as its legal basis for

processing pursuant to Article 6(1)(f) GDPR, the implementation of data subject rights requests with regard to this processing and the nature of AI technologies, and, the implementation of appropriate safeguards for the proposed processing pursuant to Article 25 GDPR.

3. *The Complainant proceeded to lodge the Complaint with the Recipient SA on 6 June 2024.*

Preliminary Matters

4. *Upon receipt, the DPC assessed the Complaint in order to determine: (i) the scope of the Complaint; (ii) that [REDACTED] was the controller for the processing at issue within the meaning of the GDPR; and (iii) that the DPC was the competent supervisory authority to handle the Complaint.*

Scope of the Complaint

5. *In light of the facts set out above, the DPC determined that the scope of the Complaint consisted of the following matters:*
 - a. *Article 6 - Lawfulness of processing,*
 - b. *Article 12 - Transparent information, communication and modalities for the exercise of the rights of the data subject,*
 - c. *Article 13 - Information to be provided where personal data are collected from the data subject*
 - d. *Article 17 - Right to erasure*
 - e. *Article 18 - Right to restriction of processing*
 - f. *Article 21 – Right to object*
 - g. *Article 25 – Data protection by design and default*

[REDACTED] as Controller

6. *Pursuant to Article 4(7) GDPR, a controller is “the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law”.*
7. *The DPC was satisfied that [REDACTED] was the controller, within the meaning of Article 4(7) GDPR, in respect of the processing activities to which the Complaint related.*

Competence of the DPC

8. *Pursuant to Article 56(1) GDPR, “the supervisory authority of the main establishment or of the single establishment of the controller or processor shall be competent to act*

as lead supervisory authority for the cross-border processing carried out by that controller or processor". It follows that the DPC is only competent to act as the lead supervisory authority in relation to the Complaint if (i) [REDACTED]'s main or single establishment in the Union was located in Ireland at the relevant time (i.e. in the context of this Complaint, at the time the Complainant submitted their requests to [REDACTED]), and (ii) the Complaint concerns cross-border processing as defined in the GDPR.

9. Pursuant to Article 4(16) GDPR, a controller's "main establishment" is "...the place of its central administration in the Union" where "decisions on the purposes and means of the processing of personal data are taken".
10. The DPC was satisfied that [REDACTED]'s main establishment, as defined in Article 4(16) GDPR, in the Union was located in Ireland at the relevant time.
11. Pursuant to Article 4(23) GDPR, cross-border processing is defined as either "(a) processing of personal data which takes place in the context of the activities of establishments in more than one Member State of a controller or processor in the Union where the controller or processor is established in more than one Member State; or (b) processing of personal data which takes place in the context of the activities of a single establishment of a controller or processor in the Union but which substantially affects or is likely to substantially affect data subjects in more than one Member State."
12. The DPC was satisfied that the Complaint concerned cross-border processing as defined in Article 4(23) GDPR.
13. Accordingly, the DPC was satisfied that it was competent to act as lead supervisory authority in respect of the Complaint in accordance with Article 56 GDPR.

Examination by the DPC

14. Prior to receiving the Complaint, the DPC was in intensive engagement with [REDACTED] with regard to the implementation of the changes in the version of its privacy policy it had issued to the users of its platforms, which it had indicated would come into effect from 26 June 2024.
15. The DPC received the Complaint from the Complainant, and assessed that its scope concerned the proposed processing outlined in [REDACTED]'s changes to its privacy policy.

16. *In June 2024, the DPC requested that █████ pause the training of AI using EU/EEA user personal data, to provide time for the DPC and the DPC's peers, the European Supervisory Authorities, to evaluate the use of legitimate interest as a correct legal basis for the proposed AI training, as well as other related matters.*
17. *█████ agreed to voluntarily pause the processing, and the amendment to its privacy policy, which resulted in no EU/EEA user data being used for AI training under the proposed changes.*
18. *Having received the Complaint from the Recipient SA, the extent to which the details of the Complaint related to the paused processing activity, and a preliminary examination of the material referred to it by the Recipient SA, the DPC considers that:*
 - a. *The pause on the roll out of the AI model resulted in the personal data not being processed as previously indicated in █████'s correspondence to the complainant, which had initiated the complaint. As this processing had not taken place, an examination of Article 6 – Lawfulness of processing was no longer required.*
 - b. *As the processing of personal data had not taken place as outlined by the proposed changes to █████'s privacy policy, there was no processing the 4 Complainant required further information regarding. Therefore, the obligations under the GDPR, including the right to transparent information, communication and modalities for the exercise of the rights of the data subject - under Article 12, were no longer valid.*
 - c. *As the processing of personal data had not taken place as outlined by the proposed changes to █████'s privacy policy, there was no processing for which the Complainant needed to be provided further Information where personal data are collected from the data subject. As this processing had not taken place, these rights under - Article 13 GDPR raised in this complaint no longer required examination.*
 - d. *As the processing of personal data had not taken place as outlined by the proposed changes to █████'s privacy policy, there was no processing to which the Complainant could request erasure of their data from, therefore, making the right to make an erasure request under Article 17 is no longer valid.*
 - e. *As the processing of personal data had not taken place as outlined by the proposed changes to █████'s privacy policy, there was no processing which the Complainant could request be restricted, therefore making the right to a restriction of processing request under Article 18 no longer valid.*

- f. As the processing of personal data had not taken place as outlined by [REDACTED], there was no processing to which the Complainant could object, therefore making the right to object under Article 21 no longer valid.*
- g. As the processing of personal data had not taken place as outlined by the proposed changes to [REDACTED]'s privacy policy, there was no processing which needed to be assessed for data protection by design and default, under Article 25 GDPR.*

Proposal for dismissal in accordance with Article 60(8) GDPR

- 19. The proposed processing outlined in [REDACTED]'s privacy policy was paused and did not occur, as such, the Complainant's personal data was not processed on this occasion at the time of receipt of the complaint. [REDACTED] has since issued a revised policy that outlines its currently intended processing activities.*
- 20. In line with section 113(2)(a) of the 2018 Act and Article 57(1)(f) of the GDPR the DPC provisionally considers there has been no infringement of the GDPR within the scope of this complaint. The DPC therefore dismisses this complaint pursuant to section 113(2)(a) of the Act and Article 57(1)(f) of the GDPR.*
- 21. Pursuant to Article 60.8 GDPR, "By derogation from paragraph 7, where a complaint is dismissed or rejected, the supervisory authority with which the complaint was lodged shall adopt the decision and notify it to the complainant and shall inform the controller thereof."*
- 22. Therefore, the DPC hereby proposes that the Recipient SA shall adopt a decision to dismiss this complaint pursuant to Article 60(8) GDPR.*

(Evidence: Memo of 8 December 2025)

After examining all the evidence gathered in the case, the PUODO weighed the following.

In accordance with Article 56(1) of the GDPR, the supervisory authority of the main establishment or of the single establishment of the controller or processor shall be competent to act as lead supervisory authority for the cross-border processing carried out by that controller or processor in accordance with the procedure provided in Article 60. Pursuant to Article 60(3) of the GDPR, the lead supervisory authority shall, without delay,

communicate the relevant information on the matter to the other supervisory authorities concerned. It shall without delay submit a draft decision to the other supervisory authorities concerned for their opinion and take due account of their views. In accordance with Article 60(6) of the GDPR where none of the other supervisory authorities concerned has objected to the draft decision submitted by the lead supervisory authority within the period referred to in paragraphs 4 and 5, the lead supervisory authority and the supervisory authorities concerned shall be deemed to be in agreement with that draft decision and shall be bound by it.

In accordance with Article 60(7) of the GDPR the lead supervisory authority shall adopt and notify the decision to the main establishment or single establishment of the controller or processor, as the case may be and inform the other supervisory authorities concerned and the Board of the decision in question, including a summary of the relevant facts and grounds. The supervisory authority with which a complaint has been lodged shall inform the complainant on the decision. However, pursuant to Article 60(8) of the GDPR, by derogation from paragraph 7, where a complaint is dismissed or rejected, the supervisory authority with which the complaint was lodged shall adopt the decision and notify it to the complainant and shall inform the controller thereof.

The above-mentioned provisions have been analysed by the European Data Protection Board (hereinafter: the EDPB), which states in paragraph 225 of Guidelines 02/2022 on the application of Article 60 GDPR, "Thus, a decision dismissing or rejecting a complaint (or parts of it) should be construed as a situation where the LSA has found, in handling the complaint, that there is no cause of action regarding the complainant's claim, and no action is taken in relation to the controller. In such case, the complaint has to be dismissed or rejected via the decision adopted by the complaint receiving SA, as the case may be."

EDPB in the above mentioned guidelines further states in point 238 that "The CSA, when issuing a decision, must give full effect to the draft decision, which is binding on LSA and other CSAs under Article 60(6) and/or the EDPB binding decision following Article 65(1)(a)."

The DPC, acting as lead supervisory authority pursuant to Article 56(1) GDPR, transmitted a draft decision pursuant to Article 60(3) GDPR in which it indicated that the draft decision is issued in accordance with Article 60(8) GDPR. The PUODO accepted the draft decision and did not express any reasoned and relevant objection to it. Having regard to the content of Article 60(6) GDPR, this means that the PUODO has agreed with the DPC on the draft decision and is bound by it.

Pursuant to Article 60(8) GDPR, the PUODO, as the authority with which the complaint was lodged, is competent to adopt the final decision on the case, notify it to the Complainant and inform the controller thereof.

Firstly, it should be clarified that the only person entitled to lodge a complaint with the data protection authority is the data subject, i.e. the person who believes that their personal data is being processed unlawfully. The administrative proceedings conducted by the PUODO at the request of the data subject are limited to examining the processing of

the personal data of the person initiating those proceedings. The subject of these proceedings, as raised by the Complainant, is the Company's use of personal data for unspecified forms of "artificial intelligence technology".

The definitions of 'personal data' and 'processing' provided by the provisions adopted by the EU legislator in GDPR are the basis for a proper understanding of the scope of the powers and duties of PUODO. According to the definition set out in Article 4(1) of the GDPR, personal data means "any information relating to an identified or identifiable natural person ('data subject')". The term 'processing', on the other hand, means 'any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adapting or altering, retrieving, consulting, using, disclosing by transmission, dissemination or otherwise making available, aligning or combining, restricting, erasing or destroying" (Article 4(2) of the GDPR).

Processing therefore takes place from the moment personal data is collected until it is deleted or destroyed. In this regard, the judgment of the Supreme Administrative Court (hereinafter: NSA) of 28 June 2011, case no. I OSK 1264/10, remains relevant. In that judgment, the NSA stated that 'the first operation on personal data to which the Act in question [the Personal Data Protection Act] applies is the collection of data. (...) 'Collection' means the acquisition or coming into possession of personal data, i.e. the obtaining of actual control over the data by an entity other than the data subject. This concept cannot in any way encompass the mere request for the disclosure of personal data. A 'request' for personal data is, in fact, a factual act that precedes the collection of personal data. It does not yet constitute the processing of personal data and is therefore not an act covered by the Personal Data Protection Act".

In view of the above, it is essential from the perspective of personal data protection to determine whether the Company processed the Complainant's personal data in the present case. As is apparent from the draft decision issued by the DPC, the Complainant's data was not processed in the manner complained of.

It must therefore be concluded that the proceedings in this case have become devoid of purpose and are to be discontinued. This is because, pursuant to Article 105(1) of the Code of Administrative Procedure, where proceedings have become devoid of purpose, the administrative authority shall issue a decision to discontinue the proceedings.

The subject matter of the proceedings relates to the application by a public authority of the substantive provisions of administrative law. Legal doctrine states that: "the lack of subject-matter of administrative proceedings, as provided for in Article 105(1) of the Code of Administrative Procedure, means that one of the elements of the substantive legal relationship is missing, and therefore a decision resolving the matter on its merits cannot be issued. The grounds for discontinuing proceedings may exist even before the proceedings are initiated, which will only become apparent during the proceedings, or they may arise during the course of the proceedings, i.e. in a case already pending before the administrative authority" (B. Adamiak, J. Borkowski, Code of Administrative Procedure. Commentary, C. H. Beck, Warsaw 2005, p. 486).

As emphasised in legal literature and case law, a public authority's determination that the condition referred to in Article 105(1) of the Code of Administrative Procedure has been met obliges it to discontinue the proceedings; for where that condition is met, there are no grounds for deciding the case on its merits, and continuing the proceedings in such a case would render them defective, with a significant impact on the outcome of the case. The proceedings may also become devoid of purpose as a result of a change in the factual circumstances of the case. This position of the authority is also reflected in the case law of the Supreme Administrative Court, e.g. in the judgment of 27 June 1997 (I SA/Wr 871/96) of the – of the Branch Office in Wrocław, in which it was stated that “proceedings are deemed to be devoid of purpose when the authority clearly establishes that there are no legal or factual grounds for a substantive examination of the case”. This means that all elements of the legal and factual situation under examination are such that proceedings aimed at clarifying all these circumstances in the case are unnecessary.

In this factual and legal situation, the President of Personal Data Protection Office ruled as in the operative part.

Under the authority of the President
of the Personal Data Protection Office
Head of the Cross-border Proceedings Unit
International Cooperation Department
[REDACTED]

The decision is final. On the basis of Article 7(2) of the Act of 10 May 2018 on the protection of personal data (Journal of Laws 2019, item 1781) in conjunction with Article 13(2), Article 53(1) and Article 54 of the Act of 30 August 2002 - Proceedings before Administrative Courts (Journal of Laws 2024, item 935, as amended), a party dissatisfied with this decision has the right to lodge a complaint with the Voivodship Administrative Court in Warsaw within 30 days from the date of its delivery to the party. The complaint is submitted via the President of the Personal Data Protection Office (address: Personal Data Protection Office, ul. Stanisława Moniuszki 1A, 00-014 Warsaw). The entry from the complaint is 200 PLN. A party has the right to apply for exemption from court costs or the right to assistance.