

UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW

ELA Module „Privacy and data protection, transparency and access to information in education” – polish case

EduLaw - Law and Rights Modules
in Teacher Training Programmes

Kaunas (Lithuania), 4-10 June 2017

EduLaw Wojciech Zoń
zon.wojciech@vip.onet.pl

Co-funded by the
Erasmus+ Programme
of the European Union

UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW

Facts of the case

There was a conflict between the complainant and the school over the complainant's allegation that his son had been “physically and mentally bullied” at school, which led to the situation where the complainant had moved his children to other institutions. M. P. (complainant) submitted to the principal letters describing the situation and urging him to inform of actions taken by the school in the matter.

UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW

Facts of the case

As a result, the school took steps that, in the opinion of the principal, were to clarify the situation and prevent similar incidents in the future. The complainant argued that at the meeting of the Association's Board and at the Parents' Council meeting his letters, the teachers' notes and summaries of the psychologist's consultations were read. According to the complainant, both bodies discussed the case of his family described in the above letters without his authorization to make the correspondence public.

UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW

**General for Personal Data Protection
Protection of the Republic of Poland (GIODO)**

On those grounds, the complainant lodged the complaint with the Inspector General for Personal Data Protection in which he requested the removal of his family's personal data and reinstated compliance with the law.

UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW

**General for Personal Data Protection
Protection of the Republic of Poland (GIODO)**

The school principal explained to the Inspector that he had informed the Board about the incident at school involving the complainant and his children under the provisions of the Education System Act. During the meeting of the Parents' Council (and also at the Board's meeting) he read the above-mentioned correspondence of M. P. and the school, the teacher's notes and the psychologist's opinion.

UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW

**General for Personal Data Protection
Protection of the Republic of Poland (GIODO)**

The principal, the Chairman of the Parents' Council and the President of the Association stated that he had never provided the data of the complainant and his relatives to other persons, and the personal details of those persons were no longer processed, as the children of the complainant were no longer pupils of that school – hence the photocopies of the complainant's and his children's documents had been removed and destroyed.

UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW

**General for Personal Data Protection
Protection of the Republic of Poland (GIODO)**

Therefore, the **Inspector dismissed the complaint** of M.P. The complainant **requested the Inspector to re-examine the case - without success.**

M.P. **appealed the Inspector's decision to the court of first instance.**

UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW

The court of first instance

The court revoked the appealed decision and the preceding decision. The court noted that the Inspector had collected the evidence in a negligent manner and used incomplete documents presented by the school in the present case. According to the Court of First Instance, given the incomplete nature of the documents, at the present stage it was not possible to determine whether they contained or not so-called sensitive data.



UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW



The court of first instance

In addition, the Inspector had not verified if documents containing sensitive data were properly stored by the school principal. The information confirming the destruction of any documents under supervision by the Association's Board or their return to the school principal was also missing. The court also stated that the Parents' Council and the Founding Body of the school did not deal with individual issues, but with general matters.



UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW



The court of second instance

The Inspector **appealed to the court of higher instance**, but **the latter fully shared the opinion of the court of first instance**, ordering the Inspector to reconsider the case.



UNIVERSITY OF BIAŁYSTOK
FACULTY OF LAW



The end

Wojciech Zon
zon.wojciech@vip.onet.pl