Judgment of the District Court, 1st Civil Division in Cieszyn

In Section 1, the court dismisses the claim and finds that there was no violation of the Petitioner’s personal rights in the form of unjustified unequal treatment (discrimination) by the Respondent

In Section 2, the court awards PLN 950 (in words: nine hundred and fifty Polish zloty) from the Petitioner to the Respondent as reimbursement of legal costs.

**Justification** The assessment of whether the personal rights of the Petitioner have been infringed requires three prerequisites to be jointly fulfilled: the identification, existence and legal protection of a specific personal right, the infringement of the said right by an action which may be attributed to a specific person (in this case, the Petitioner) and the unlawfulness of the said action leading to the infringement of the personal right. In this case, the Petitioner based his claim on Article 24 in conjunction with Article 448 § 1 of the Civil Code.

 Therefore, referring to the first prerequisite, it must be considered that the right to equal treatment in horizontal relations cannot be regarded as a personal right. Personal rights are defined in doctrine as “values recognised by the legal system (i.e., high states of affairs), including the physical and psychological integrity of the human being, his individuality and dignity and position in society, which constitutes the premise of the self-realisation of the human being” (see: Z. Radwański, Prawo cywilne – część ogólna, Warsaw 2017, p. 162). It is therefore pointed out that it is a value closely related to the human being. The “equal treatment” referred to by the Petitioner does not exhibit any such characteristic. It may be regarded as a value (right), but it cannot be regarded as personal in nature.

 The question of the lawfulness of the infringement of a personal right was based on the assumption of its existence. The circumstances justifying such action include in particular: 1) acting within the legal order, i.e., an action allowed by the binding provisions of law, 2) demonstration of a subjective right, 3) consent of the injured party (subject to the waiver of such consent in certain cases) and 4) acting in the protection of a justified interest (cf. decision of the Supreme Court of 19 October 1989, II CR 419/89, LEX No. 8996). In the case in question, the Petitioner acted within the legal order – without infringing the universally binding provisions thereof, which means that one may not invoke unlawfulness in this case.

 Moreover, the request for the court to award an appropriate sum as financial compensation for the harm suffered, on the basis of Article 448 of the Civil Code, in addition to the prerequisites analysed above, which, as has been shown, were not fulfilled, requires the demonstration of the harm, which should be commensurate with the sum demanded, and with the fault. The Petitioner indicated only a vague “feeling of exclusion” without providing motivation for this phenomenon in any way. He also failed to provide justification for the demanded amount of PLN 9,000. The sum should correspond to the suffering incurred and should not constitute an equivalent for being unable to use the service.

 Moreover, it should be noted that the Respondent did not make any attempts to communicate with its Personal Data Inspector concerning confirmation (as the Respondent had obviously erred in an unjustified manner as to these facts) of the scope and basis of the data processed by the Respondent or in order to exercise the rights guaranteed thereto under Articles 17 and 18 of the GDPR, i.e., the right to deletion of data or limitation of data processing. This may indicate that the Petitioner’s claim for monetary compensation for harm is instrumental in nature, rather than a genuine concern for the privacy and security of his data - which, if the Petitioner does not exercise its right, may continue to be processed by the Respondent despite the Petitioner’s expectation of compensation from the Respondent.