



ISSN: 2941-430X

## Comment on a decision

### Critical summary of the ruling of the Supreme Administrative Court of 14 July 2022 (Ref. III OSK 2776/21) with special consideration of Canon 220

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**Zusammenfassung:** Der Kläger beschwerte sich gegen zwei römisch-katholische Pfarreien wegen der Verarbeitung seiner personenbezogenen Daten und forderte deren Löschung. Der Präsident des Amtes für den Schutz personenbezogener Daten (DPA) lehnte ein Verfahren ab, da die katholische Kirche gemäß Artikel 91 DSGVO eigene Datenschutzregelungen und eine unabhängige Aufsichtsbehörde hat. Das Provinzverwaltungsgericht Warschau und das Oberste Verwaltungsgericht bestätigten diese Entscheidung. Die Gerichte betonten die verfassungsrechtlich garantierte kirchliche Autonomie und die Anpassung ihrer Datenschutzregelungen an die DSGVO. Canon 220 schützt den guten Ruf und die Privatsphäre der Gläubigen. Die Unabhängigkeit des kirchlichen Datenschutzbeauftragten und die Balance zwischen Datenschutz und religiöser Autonomie wurden anerkannt. Kritiker fordern jedoch eine stärkere staatliche Kontrolle zur besseren Überwachung der kirchlichen Datenschutzregelungen.

**Abstract:** The plaintiff complained against two Roman Catholic parishes about the processing of his personal data and demanded their deletion. The President of the Office for Personal Data Protection (DPA) refused to initiate proceedings, as the Catholic Church has its own data protection regulations and an independent supervisory authority in accordance with Article 91 GDPR. The Provincial Administrative Court in Warsaw and the Supreme Administrative Court upheld this decision. The courts emphasised the constitutionally guaranteed autonomy of the Church and the adaptation of its data protection regulations to the GDPR. Canon 220 protects the good reputation and privacy of the faithful. The independence of the church's data protection officer and the balance between data protection and religious autonomy were recognised. However, critics are calling for greater state control to better monitor the church's data protection regulations.

**Keywords:** Datenschutz, Kirchliche Autonomie, Datenschutzbeauftragter, Jurisdiktionskonflikt

**Keywords:** Data protection, ecclesiastical autonomy, data protection officer, conflict of jurisdiction

*Hier geht es zum Urteil - you may find the decision here:*

<https://orzeczenia.nsa.gov.pl/doc/B4C6C91ECF>

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**Facts of the case**

The plaintiff lodged a complaint against two Roman Catholic parishes because they were processing his personal data. He demanded the deletion of his data and turned to the President of the Office for the Protection of Personal Data (DPA). The DPA refused to initiate proceedings, as the Catholic Church has its own data protection regulations and an independent supervisory authority in accordance with Article 91 GDPR. The plaintiff brought the case before the Provincial Administrative Court in Warsaw, which upheld the DPA's decision. Finally, he lodged an appeal in cassation with the Supreme Administrative Court, which also ruled in favour of the church.

The court confirmed the competence of the church's data protection officer and the effectiveness of the church's data protection regulations in accordance with the GDPR. The Catholic Church had established its own data protection regulations and an independent supervisory authority in accordance with Article 91 GDPR. These regulations had been adapted to the GDPR and implemented in good time before it came into force. The court also emphasised the constitutionally guaranteed autonomy of the Church, which allows it to issue and implement its own data protection regulations. Surprisingly, the court based this on a provision from the Codex iuris canonici 1983. Canon 220 protects the good name and the right to privacy of the faithful. These principles are integrated into the church's data protection regulations. The protection of personal data within the Church is carried out in accordance with the principles enshrined in canon law, which ensure a balance between data protection and religious autonomy. The church data protection officer acts independently and is not bound by instructions from other church bodies. This independence is guaranteed by church regulations. The role of the church data protection officer complies with the requirements of the GDPR, even if the exact structure and organisation may differ from state supervisory authorities.

The judgement underlines the limits of state control over church data protection regulations. The autonomy of the church in the area of data protection is recognised and respected. Canon 220 guarantees the protection of privacy and reputation within the church structure (see Hoeren, Kirchen und Datenschutz, Essen 1986; Martina Tollkühn, Kirchliches Datenschutzgericht, Mainz 2021). The implementation of these principles through church data protection regulations is fundamentally positive. Nevertheless, it remains questionable whether the

independence of the church data protection officer and compliance with the GDPR can be sufficiently monitored by the church. The decision also highlights possible tensions between church autonomy and the expectations of state control mechanisms, particularly with regard to the enforcement and review of data protection regulations. The transparency of the church's data protection regulations and the ability to effectively monitor compliance are potential weaknesses. The church data protection officer is part of the church hierarchy, which could lead to conflicts of interest. Critics might point out that stronger state control or at least closer cooperation between state and church supervisory authorities would be necessary in order to better protect the rights of those affected. Closer dovetailing between church and state data protection authorities could help to address these challenges and strengthen the protection of data subjects.