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»Practice» Decisions of the CPDP for 2019

»Decision on appeal with registration № PPN-01-742 / 04.09.2018 Decision on appeal with registration № PPN-01-742 / 04.09.2018

ANSWER

№ PPN-01- 742/2018

Sofia, March 22, 2019

The Commission for Personal Data Protection composed of: Tsanko Tsolov, Tsvetelin Sofroniev, Maria Mateva and Veselin Tselkov at a regular meeting held on 06.02.2019, objectified in Minutes № 6, pursuant to Art. 10, para. 1, item 7 of the Personal Data Protection Act, considering an appeal with registration № PPN-01-742 / 04.09.2018, in order to rule took into account the following:

The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA).

The Commission for Personal Data Protection has received a complaint from Mr. PP, with registration № PPN-01-742 / 04.09.2018, with allegations of illegal processing of his personal data by Mr. L. .H.

The applicant informed that Mr L.N. has processed his personal data without his consent. He stated that his personal data had been used to lodge a complaint with the municipality of T., filed with № ****. He claims that he does not know where Mr. L.N. with his personal data. Asks the Commission to clarify this issue and hold accountable those who provided access to this data. Attaches the complaint filed in the municipality of T. by Mr. L.N.

In the conditions of the official principle laid down in the administrative process and the obligation of the administrative body for official collection of evidence and clarification of the actual facts relevant to the case, Mr. P.P. was notified by letter ex. № ****, for the necessary requisites contained in the complaint in connection with Art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration (PDKZLDNA). Pursuant to Art. 30, para. 2 of the APC, he was given a 3-day period from the receipt of the letter, in which to indicate the person against whom his complaint is directed, with the necessary individualizing data. He was told that failure to remedy the deficiencies in the request would lead to the termination of the proceedings. In a letter with ent. № ****, Mr. P.P. has provided the necessary information in full with evidence attached to it.

Pursuant to Art. 36 of the APC with a letter ref. № ****, the mayor of the Municipality of T. requested information and opinion on the complaint. In the term provided, with a letter ent. № ****, the Mayor of the Municipality of T. expressed an opinion on the lack of processing of personal data of Mr. PP from their side. They enclose a complaint № ****, lodged with them by Mr L.N. with the attached documents.

With a letter ent. № ****, from the District Prosecutor's Office - T., an effective decree was received for refusal to initiate pre-trial proceedings on file № **** on the list of RP - T. The file before RP - T. was instituted on appeal with a similar subject, such as the current one submitted to the CPDP by Mr. P.P.

The Complaint submitted to the CPDP with registration № PPN-01-742 / 04.09.2018 is fully compliant with the requirements for regularity, according to Art. 30, para. 1 of the PDKZLDNA, namely: there are data about the complainant, nature of the request, date and signature.

One of the tasks of the Commission referred to in Art. 57, § 1, b. "E" of Regulation (EU) 2016/679, is to consider complaints lodged by the data subject and to investigate the subject matter of the complaint, as appropriate. The procedure for dealing with complaints by the supervisory authority is not explicitly regulated in the Regulation, and in this connection the procedure adopted in the national law of the Member State is applicable. In the Republic of Bulgaria the proceedings are conducted in accordance with the Administrative Procedure Code (APC), and end with an individual administrative act. According to Art. 27, para. 2 of the APC, the administrative body checks the preconditions for admissibility of the request with which it is seised. The legislator binds the assessment of the admissibility of the request with the presence of special requirements established by law (or normative acts of a higher degree), for which the administrative body monitors ex officio, according to Art. 27, para. 2, item 6 of the APC. Such requirements are also regulated in Regulation (EU) 2016/679.

The Commission for Personal Data Protection, as a supervisory body within the meaning of Art. 51, § 1 of Regulation (EU) 2016/679, is responsible for monitoring and enforcing the Regulation in order to protect the fundamental rights and freedoms of individuals with regard to the processing and to facilitate the free movement of personal data within the Union . In Art. 2, § 2, b. "C" of the Regulation provides that it does not apply to the processing of personal data by a natural person in the course of purely personal or domestic activities.

In the present case, the subject of the complaint is the processing of personal data by a natural person through "collection" and "use" actions in order to file a complaint against Mr. P.P. in the Municipality of T. These actions are entirely personal, therefore

the complaint should be declared inadmissible, as it is outside the material scope of Regulation (EU) 2016/679.

In view of the obligation of the administrative body to establish the preconditions for admissibility of the request, regulated in the provision of art. 27, para. 2, item 6 of the APC, it has been established that they are not present in a complaint with registration № PPN-01-742 / 04.09.2018 and the attached additions to it.

In this case, the appeal is inadmissible on the grounds of Art. 2, § 2, b. "C" of Regulation (EU) 2016/679, in connection with Art. 27, para. 2, item 6 of the APC and Art. 10, para 1, item 7 of LPPD, according to which protection is due in respect of natural persons against acts and actions of administrators violating their fundamental rights and freedoms, and in particular their right to protection of their personal data.

In view of the above, there is an obstacle to the exercise of the powers of the administrative body, therefore the Commission for Personal Data Protection

HAS DECIDED AS FOLLOWS:

Pursuant to Art. 27, para. 2, item 6 of the APC, in connection with Art. 38, para. 2 of LPPD and Art. Art. 2, § 2, b. "C" of Regulation (EU) № 2016/679 leaves without consideration, as inadmissible and terminates the administrative proceedings on an appeal with reg. № PPN-01-742 / 04.09.2018, filed by PP, against n L.N.

The decision of the Commission for Personal Data Protection may be appealed before the Administrative Court of Lovech within 14 days of its announcement.

MEMBERS:

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Maria Mateva / p /

Veselin Tselkov / p /

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