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» Decision on appeal with reg. No. PPN-01-219/19.03.2020 Decision on appeal with reg. No. PPN-01-219/19.03.2020

ANSWER

No. PPN-01-219/2021

Sofia, 14.07.2021

The Committee for the Protection of Personal Data (KPLD, the Commission) in composition, Chairman, Vencislav Karadzov and members: Tsanko Tsolov, Maria Mateva and Veselin Tselkov at a regular meeting held on 02.06.2021 and objectified in protocol No. 23/02.06.2021 d., on the basis of Art. 10, para. 1 of the Personal Data Protection Act (PPA) in conjunction with

Art. 57, § 1, b. "e" of Regulation (EU) 2016/679, considered a complaint with reg. No. PPN-01-219/19.03.2020, filed by S.S.

In the complaint of Mrs. S.S. it is stated that on 11/03/2020, at 18:42, she received on Viber from her relative, a photo showing photos of the house where she lives with her husband, published on Facebook, along with an announcement that the house for sale, with contact details given. She found that the original ad was from the wife of the appellant's husband's brother.

She says that the house is jointly owned by her, her husband and his brother A.S. Informs that she and her husband own  $\frac{3}{4}$  ideal parts and brother  $\frac{1}{4}$  ideal part of the house.

It also states that after long years of disputes over the division of jointly owned property, with Decision No. \*\*\*, under City Case No. \*\*\*, the property was put up for public sale, and to complete the procedure, Case No. \*\* was initiated \* according to the inventory of the PSI, as a public sale has been announced in the period from 15.03.2020 to 15.04.2020.

The complainant points out that she did not consent to the disclosure of her personal data

The complaint of S.S. is regular, all mandatory requisites according to Art. 28, para. 1 of the Regulations for the Activities of the Commission for the Protection of Personal Data (PDKZLDNA), namely: there are data on the complainant, the nature of the request, date and signature.

The procedure for considering complaints before the Personal Data Protection Commission is not regulated in Regulation (EU) 2016/679, but is left to the discretion of each member state. In the Republic of Bulgaria, the proceedings develop according to 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 prerequisites for the admissibility of the request with which it is referred, and

according to item 6 of the provision, the assessment of the admissibility is tied to the presence of special requirements regulated by law. Such requirements are regulated in the APC and Regulation (EU) 2016/679.

It should be pointed out that the complaint of Mrs. S.S. is directed against natural persons who do not have the status of controller of personal data.

The case concerns the processing of the applicant's personal data by a natural person who does not have the status of a personal data administrator. In addition, recital 18 of the Regulation explains that the Regulation does not apply to the processing of personal data of natural persons within the framework of a purely personal activity or an activity within the household that is not related to professional or commercial activity, and a clarification has been made, that personal activities or activities within the household could also include the maintenance of address books or participation in social networks and online activities undertaken in the context of these activities.

In view of the above, namely: the complaint is against a natural person who does not have the status of administrator of personal data, the conclusion of inadmissibility of the complaint is imposed.

And even if it is assumed that the natural person has the capacity of personal data administrators, the complaint is outside the material scope of the regulation, which excludes the application for processing personal data for personal and domestic activities. According to the administrative file, it is not disputed that the property, which was announced for sale through public sale is a single-family building that is in co-ownership mode. With the provision of Art. 32, para. 2 of the Civil Code states that "If a majority cannot be formed or if the decision of the majority is harmful to the common property, the district court, at the request of any of the co-owners, decides the matter, takes the necessary measures and, if necessary, appoints a manager of the common property". In the present case, it is clear that the dispute is precisely about a property that is jointly owned and no agreement was reached regarding its division, which is the reason why it was put up for public sale.

It should also be pointed out that by decree No. \*\*\*\* of the District Prosecutor's Office - the city of P. it was refused to initiate pre-trial proceedings. The decree described that the respondent against whom the complaint was directed confirmed that it had indeed posted on its personal Facebook profile a link to the website of the chamber of private bailiffs, where the notice of the scheduled public sale had been uploaded. From the information requested by the PSI, it is clear that the announcement for public sale contains a detailed description of the property, as well as the names of the three co-owners. From the information contained in the announcement in its totality, the same has the character of personal data, since it is in a volume sufficient to

individualize a specific person, however, it is used for personal purposes.

In this regard and by argument from Art. 2, § 2, letter "c" of the General Regulation on the protection of personal data and recital 18 of the Regulation, the complaint is procedurally inadmissible. Outside the material scope of both the GDPR and the General Regulation on the Protection of Personal Data, respectively outside the competence of the Commission, is the processing of personal data by natural persons within the framework of a purely personal activity that is not related to their professional or commercial activity.

Based on the above, on the basis of Art. 27, para. 2, item 6 of the APC in connection with Art. 2, par. 2, b. "c" and with Art. 57, par. 1, b. "e" from Regulation 2016/679, the Commission

RESOLVE:

Declares the complaint with Reg. No. PPN-01-219/19.03.2020, filed by S.S., procedurally inadmissible and terminates the proceedings.

The decision is subject to appeal within 14 days of its delivery, through the Commission for the Protection of Personal Data before the Administrative Court - Plovdiv.

CHAIRMAN:

MEMBERS:

Vencislav Karadjov /p/

Tsanko Tsolov /p/

Maria Mateva /p/

Veselin Tselkov /p/

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