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» Decision on appeal with reg. No. PPN-01-569/05.09.2022 Decision on appeal with reg. No. PPN-01-569/05.09.2022

ANSWER

No. PPN-01-569/2022

Sofia, 03.11.2022

The Commission for the Protection of Personal Data (CPDP) in composition: in composition: Chairman: Ventsislav Karadjov and members: Tsanko Tsolov, Maria Mateva and Veselin Tselkov at a meeting held on 19.10.2022, on the basis of Art. 10, para. 1 of the Personal Data Protection Act, respectively Art. 57, § 1, letter "f" of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the processing of personal data and on the free movement of such data (Regulation /GDPR), submitted for consideration complaint No. PPN-01-569/05.09.2022.

Administrative proceedings are in accordance with Art. 38 of the Personal Data Protection Act (PAPA).

The Commission for the Protection of Personal Data has received a complaint filed with entry no. No. PPN-01-569/05.09.2022 according to the inventory of the CPLD, containing allegations of illegal processing of personal data of G.G. in the electoral process, by including them in a list of persons supporting the registration of a political party for participation in the elections for people's representatives held on 02.10.2022.

The complaint was submitted from an email address with an attached image of the result of a check made on the CEC website on 09/03/2022.

The complaint was filed electronically and was not signed with a qualified electronic signature. The sender is individualized with only two names. In this regard, pursuant to the provisions of Art. 30, para. 1 of the Administrative Procedure Code (APC) and the provision of Art. 28, para. 2 of the Rules of Procedure of the Commission for the Protection of Personal Data and its Administration, a letter No. ППН-01-569#1/26.09.2022 was sent to the complainant with instructions that the complaint does not contain the legally defined requisites, namely a signature and three names of the sender, in view of which the same is irregular and should be confirmed within 3 days of receiving the message to this effect. It is specified that in the event of failure to comply with the given instructions in time, the initiated proceedings will be terminated.

The letter was sent on 28/09/2022 to the email address from which the complaint was submitted, and its receipt was confirmed the same day by the addressee. Within the statutory 3-day period and up to now, no actions have been taken to confirm the complaint, or to implement the instructions given by the CPLD.

The Commission for the Protection of Personal Data is an independent state body that protects individuals in the processing of their personal data and access to such data, as well as monitoring compliance with the GDPR and the GDPR.

In order to exercise its powers, the commission must be validly referred.

In Art. 28, para. 1 of the PDKLDNA, the mandatory requisites that must be contained in the request with which the CPLD is referred, including names and signature of the sender, and it is expressly stated that the CPLD does not consider requests that are not signed by the sender (Art. 38a of LLLD, Article 29, Paragraph 1, Item 1 of the PDKLDNA). According to Art. 30, para. 1 of the APC when the written request is not signed and in case of doubt that it originates from the citizen named in it, the administrative body should request its confirmation with a handwritten or electronic signature within three days of receiving the notification to this effect. The legislator has indicated that in case of non-confirmation within the deadline, the proceedings should be terminated. Analogous is the provision of Art. 29, para. 2 and 3 of the PDKZLDNA.

The complaint does not contain all legally defined and mandatory details. The complaint was filed electronically and was not signed with a qualified electronic signature, full information about the submitter regarding names is missing, as the complaint contains only two names for the person. The complainant was informed that he should confirm his complaint, but the statutory deadline and the instructions given so far have not been fulfilled, which, according to an argument from Art. 29, para. 1, item 1 of the PDKLDNA is an obstacle to its consideration by the CPLD. The prerequisites under Art. 56, para. 2 of the APC, in connection with Art. 30, para. 1 of the APC, respectively Art. 28, para. 3 of the PDKZLDNA, to terminate the proceedings insofar as the complaint has not been signed and after instructions given by the authority to eliminate the deficiency in the request, it has not been confirmed.

Based on the above and based on Art. 56, para. 2, in connection with Art. 30, para. 1 of the APC and Art. 38 a of the Labor Code, Art. 28, para. 3 and Art. 29, para. 1, item 1 of the PDKZLDNA, the Commission for the Protection of Personal Data,
SOLVE :

It leaves appeal No. PPN-01-569/05.09.2022 out of consideration as irregular and terminates the initiated administrative 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 of Sofia - city.

CHAIRMAN:

MEMBERS:

Vencislav Karadjov /p/

Tsanko Tsolov /p/

Maria Mateva /p/

Veselin Tselkov /p/

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