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»Decision on appeal with registration № PPN-02-509 / 18.06.2018 Decision on appeal with registration № PPN-02-509 / 18.06.2018

ANSWER

№ PPN-02-509 / 2018

Sofia, October 2, 2018

The Commission for Personal Data Protection ("the Commission") composed of: Chairman - Ventsislav Karadzhov and members - Tsanko Tsolov, Tsvetelin Sofroniev, Maria Mateva and Veselin Tselkov, at a regular meeting held on 18.07.2018, pursuant to Art. 57, para. 1, p. "E" of Regulation (EU) 2016/679, considered the admissibility of a complaint with registration № PPN-02-509 / 18.06.2018, filed by I.T.C. against NAFA.

The complainant informed that information regarding the drafting of acts for administrative violations against him was published on the page "Stop poaching in the Ogosta dam" on the social network "Facebook". As can be seen from the information about the page, the NARA employee is the one who prepares the materials.

Mr. I.T.C. considers that the statement on the page contains circumstances surrounding the administrative acts prepared against him, as well as a photo of him and his car, without his knowledge and consent.

The applicant considers that his civil rights and the security of information for official use have been violated. Asks to check the publications on the Internet and take the necessary measures.

A screen printout and the e-mail address of the publication are attached to the complaint.

In the course of the proceedings, an official printout of the publication indicated in the complaint was prepared, filed in the file with protocol reg. № PPN-02-509 # 1 / 26.06.2018.

The complaint of I.T.C. is fully compliant with the requirements for regularity, according to Art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration (PDKZLDNA), namely: there are data about the complainant, the nature of the request, date and signature. It is procedurally inadmissible.

One of the tasks of the Commission referred to in Art. 57, § 1, b. "E" of Regulation 2016/679, is to consider complaints filed by data subjects and to investigate the subject of the complaint, as far as appropriate. The procedure for dealing with complaints

before the Data Protection Commission is not regulated in the Regulation, but is left to the discretion of each Member State. In the Republic of Bulgaria the proceedings are developed by the order of art. 38, para. 1 of the Personal Data Protection Act in connection with Art. 21 et seq. Of the Administrative Procedure Code (APC) and ends 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 seised. The legislator links the assessment of the admissibility of the request with the presence of special requirements established by law, for which the respective administrative body monitors ex officio (Article 27, paragraph 2, item 6 of the APC). Such requirements are derived from Regulation (EU) 2016/679.

The Commission for Personal Data Protection, as a supervisory body within the meaning of Art. 51, para. 1 of Regulation (EU) 2016/679, is responsible for monitoring the implementation of 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. 4, item 1 of the Regulation, a legal definition of the term "personal data" is given - any information related to an identified natural person or a person who can be identified ("data subject"); an identifiable natural person is a person who can be identified, directly or indirectly, in particular by an identifier such as name, identification number, location data, online identifier or one or more features specific to the natural, the physiological, genetic, mental, intellectual, economic, cultural or social identity of that individual.

As can be seen from the screen printout prepared during the production, the data revealed in the publication are: "Ivan by the nickname Gesho", as well as a photo of a man.

By virtue of Art. 9 of the Civil Registration Act (CRA) the name of a Bulgarian citizen born on the territory of the Republic of Bulgaria consists of first name, father's name and surname. This stipulates that the names of Bulgarian citizens consist of three parts. "Small") the name of a person who is not a public figure is not enough. In addition, it is a well-known fact that the name Ivan is one of the most common names in the country. Even the mention of a nickname, which also resembles a commonly used abbreviation of one of the most common names (Geshe), does not lead to the individualization of the person. Regarding the published photo, it actually shows a person, but he is turned with his back and his face is not visible, which also can not lead to the recognizability of the data subject.

It follows that the information used in the publication - the person's first name, nickname and photo on the back, does not lead to the individualization of the applicant to an indefinite number of persons and in this sense his personal data are not

processed in the publication.

In view of the above and on the grounds of Art. 57, para. 1, p. "E" and Art. 4, item 1 of Regulation (EU) 2016/679 in connection with Art. 27, para. 2, item 6 of the APC, the Commission for Personal Data Protection

HAS DECIDED AS FOLLOWS:

Leave without consideration as a procedurally inadmissible complaint with registration № PPN-02-509 / 18.06.2018, filed by I.T.C. against NAFA, and terminates the proceedings instituted under it.

This decision is subject to appeal within 14 days of its service, through the Commission for Personal Data Protection, before the Administrative Court Sofia - city.

THE CHAIRMAN:

MEMBERS:

Ventsislav Karadzhov

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Maria Mateva / p /

Veselin Tselkov / p /

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