

Decision on appeal with registration № PPN-01-602 / 19.07.2018 DECISION» PPN-01-602 / 2018 Sofia, 16.04.2019

Commission for Personal Data Protection ("Commission" / "CPDP") composed of: members - Tsanko Tsolov, Tsvetelin Sofroniev and Veselin Tselkov, at a regular meeting held on 27.02 .2019, based on Art. 10, para. 1, item 7 of the Personal Data Protection Act, considered on the merits a complaint with registration № PPN-01-602 / 19.07.2018, filed by MP against lawyer **** and Municipality K. The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA). The complainant informed that on 25 June 2018 she was questioned as a witness in a civil case in District Court S. At the next open hearing the plaintiff's lawyer - lawyer ****, presented written information about her marital status, children and relatives with the plaintiff . Mrs. M.P. states that she did not consent to the provision of such data, the lawyer did not request a court certificate or other permission from the court for them, and this information does not relate to the subject matter of the dispute. Considers that there are none of the grounds for processing personal data to justify the actions of the procedural defender of the plaintiff and the employees of the Municipality of K., who issued the documents. The applicant considered that her rights had been violated, both under the LPPD and her personal space, and that of her children through unauthorized access, disclosure and handling by a municipal official and a lawyer. Attached to the complaint are certificates of kinship, heirs, death certificates and a statement from the Municipality of K. In the conditions of the official principle laid down in the administrative process and in compliance with Art. 26 of the APC, the persons against whom the complaint is directed have been notified for the commencement of proceedings. The opportunity under Art. 34, para. 3 of the APC for expressing an opinion with relevant evidence on the allegations presented in the complaint. The Commission received an opinion from the Municipality of K. The mayor of the municipality noted that the allegations in the complaint did not correspond to reality. The documents described and attached to the complaint were issued on the basis of two court certificates with ref. № **** on gr.d. № ****. according to the inventory of the District Court - S. The conditions under which the provision of personal data by the administrator to third parties is admissible are regulated in Art. 4, para. 1 ZZLD. According to item 1 of the said provision, the processing is admissible if it is necessary for the fulfillment of a normatively established obligation. The Civil Registration Act (CRA) is a special law that establishes an obligation of the Municipality as an administrator to provide data on civil registration to a third party - District Court C. In Art. 106, para. 1, item 1 of the Civil Procedure Act, the persons to whom the targeted data should be provided are listed. The text of Art. 106 of the Civil Procedure Act presupposes that the Municipality assesses the

existence of statutory powers of the respective body requesting data from the civil registration, the existence of a legal text or an act of the judiciary obliging the administrator to provide the data. In view of the above, the mayor considers that there was no violation in the processing of the complainant's personal data. Two court certificates are attached to the appeal. Lawyer **** points out that he is an authorized procedural representative under gr.d. № ***** according to the inventory of the District Court S. In connection with the case, his client has submitted an application to the court for the issuance of 2 court certificates to the GRAO department at the Municipality of K. In this case the procedure under Art. 147 and Art. 148 of the Civil Procedure Code for gathering evidence on newly emerged facts and circumstances of the case. Having determined that the taking of this evidence was relevant, admissible and necessary, the court issued the court certificates in question in order to gather the necessary evidence. In view of the above, lawyer **** considers that his actions did not violate Regulation 2016/679. Attached to the opinion are: application for issuance of court certificates, 2 court certificates, minutes of an open court hearing. In order to exercise its powers, the Commission must be properly seised. The considered complaint contains the obligatorily required requisites, specified in art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration, namely: there are data about the complainant, nature of the request, date and signature, in view of which it is regular. The appeal is procedurally admissible - filed within the term under Art. 38, para. 1 LPPD by a natural person with a legal interest. It concerns the allegation of unlawful processing of the complainant's personal data and is directed against personal data controllers. The complaint is addressed to a competent body to rule - the Commission for Personal Data Protection, which according to its powers under Art. 10, para. 1, item 7 of the LPPD considers complaints against acts and actions of the personal data controllers, which violate the rights of individuals under the LPPD. At a meeting of the Commission held on January 23, 2019, the complaint was accepted as procedurally admissible and as parties in the administrative proceedings were constituted: complainant - MP and respondent - lawyer **** and the Municipality of K., in their capacity of administrators of personal data. The parties have been regularly notified of the meeting of the Commission for consideration of the complaint on the merits scheduled for 27.02.2019. The parties did not appear and did not represent themselves at the hearing on the merits. In this factual situation, the Commission examined the complaint on the merits, considering it unfounded, based on the following conclusions: Regulation 2016/679 and the Personal Data Protection Act (PDPA) lays down rules regarding the protection of individuals in connection with the processing of their personal data. The aim is to protect the fundamental rights and freedoms of individuals, in particular their right to protection of personal data. According to the legal

definition of Art. 4, para. 1, item 1 of Regulation (EU) 2016/679 "personal data" means any information relating to an identified or identifiable natural person ("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. The documents attached to the complaint, issued by the GRAO Department of the Municipality of K., contain three names, a single civil number, marital status and family ties of the complainant and third parties, which data represent personal data, as through them the person can be indisputable individualized. The conditions under which the processing of personal data of individuals is admissible are defined in Art. 6 (1) of Regulation 2016/679. The processing should be carried out in the presence of at least one of the alternative conditions, which is a prerequisite for the legality of the processing. From the collected evidence it is evident that under gr.d. № ***** according to the inventory of the District Court S. two court certificates were issued with ref. № ****, by virtue of which the plaintiff in the case to obtain from the Municipality of K., GRAO Department with evidence of the marital status of MP, as well as the existence of a kinship between MP and R.V. Pursuant to the issued court certificate, the Municipality of K. has issued the relevant documents. Art. 186 of the Code of Civil Procedure (CPC) provides that for proof in the claim proceedings the official documents and certificates are submitted by the parties. The court may request them from the relevant institution or provide the party with a court certificate on the basis of which it can obtain them. The institution is obliged to issue the requested documents or to explain the reasons for their non-issuance. In this sense, for the controller of personal data Municipality K. has arisen a legal obligation to fulfill the order of the court certificate, which is the basis for processing personal data under Art. 6 (1) (c) of Regulation 2016/679. Regarding the processing of personal data by a lawyer ****, according to Art. 2, para. 2 of the Law on Advocacy (Law) - in practicing the legal profession the lawyer is guided by the legitimate interests of the client, which he is obliged to protect in the best way with legal means. In Art. 40, para. 2 Задв. it is again the duty of the lawyer to be guided by the rule of law and to protect the rights and legitimate interests of his client in the best possible way. As can be seen from the evidence gathered, Atty. **** has requested a reference from GRAO to protect the interests of his client in the civil case № ***** on the list of the District Court - S., using the order provided for this - through a court certificate issued under Art. . 186 Code of Civil Procedure. In view of the above, the lawyer as a controller of personal data has also processed personal data for compliance with a legal obligation that applies to him. Ms. MP's assertion that the information provided did not relate to the subject matter of the dispute was a matter of proof in

the proceedings and was decided by the court in accepting the request for a court certificate. The judgment of the court is not subject to supervision by the CPDP, as according to Art. 55 (3) of Regulation 2016/679, the supervisory authorities are not competent to supervise the processing activities carried out by the courts in the performance of their judicial functions. The Commission for Personal Data Protection, taking into account the facts and circumstances presented in the present administrative proceedings and on the grounds of Art. 38, para. 3 LPPD, DECIDES: Leaves the complaint reg. № PPN-01-602 / 19.07.2018, filed by MP against the Municipality of K. and lawyer ****, without respect as unfounded. Pursuant to Art. 133, para. 2 of the APC, the decision is subject to appeal within 14 days of its service, through the Commission for Personal Data Protection, before the Administrative Court of Sofia - city.

MEMBERS:

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Veselin Tselkov

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