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»Practice» Decisions of the CPDP for 2018

»Decision on appeal with registration № PPN-01-195 / 28.03.2018 Decision on appeal with registration № PPN-01-195 / 28.03.2018

ANSWER

№ PPN-01-195 / 2018

Sofia, July 30, 2018

Commission for Personal Data Protection ("Commission" / "CPDP") composed of: Chairman - Ventsislav Karadzhov and members - Tsanko Tsolov, Tsvetelin Sofroniev, Maria Mateva and Veselin Tselkov, at a regular meeting held on June 27, 2018, on grounds of art. 10, para. 1, item 7 of the Personal Data Protection Act, respectively Art. 57, para. 1, p. "E" of Regulation (EU) 2016/679, considered a complaint with Reg. № PPN-01-195 / 28.03.2018, filed by I.P.P. against PD 98 OOD and A. AD.

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

The complainant informs that on 05.05.2017 he started working in "PD.98" Ltd. as a technical assistant. The nature of his work is video surveillance and security in "A." AD - town of D.

One month before the complaint was lodged, surveillance cameras were installed in the working room, without explanation and without the consent of the staff. Mr. I.P.P. states that this issue is not raised in his employment contract either.

Attached to the complaint are: employment contract, additional agreement and decision of the TEMC.

In the conditions of the official principle in the administrative process and the obligation of the administrative body to collect evidence and clarify the actual facts relevant to the case, the companies against which the complaint was filed are required to submit written statements with relevant evidence.

With a letter ex. № PPN-01-195 / 2018 # 1 / 27.04.2018 "A." Ltd. was notified on the basis of Art. 26 of the APC for the initiated administrative proceedings. The company expresses an opinion with registration № PPN-01-195 # 5 / 11.05.18 for unfoundedness of the complaint.

The Executive Director informed that the company represented by him owns production and administrative buildings on the territory of the town of D., and for the purposes of security has engaged the private security company "PD.98" Ltd. The

installation of video surveillance equipment in the premises of employees of the security company is not the subject of the contract, but as can be seen from Annex № 2 to the Security Contract № \*\*\*\*\*, the security company is provided with premises for video surveillance equipment for the purposes of contract performance. Given the brief statement of the facts, the representative of the company considers that it is not clear in which exact room Mr. I.P.P. performs its work, and access to the premises for use of video surveillance provided for use is not provided to third parties, external to the security company.

Attached to the opinion are: an extract from the security contract and Annex № 2 thereto.

With a letter ex. № PPN-01-195 / 2018 # 2 / 27.04.2018 "PD.98" OOD was notified on the grounds of Art. 26 of the APC for the initiated administrative proceedings. The company expresses an opinion with registration № PPN-01-195 # 4 / 10.05.18 for unfoundedness of the complaint.

The manager informs that on 05.05.2017 an employment contract was concluded between I.P.P. and "PD.98" Ltd. as a technical assistant.

On January 26, 2018, the company decided to install surveillance cameras in the working hall of the employees performing security activities in site "A." AD, D., in order to preserve their security, having in mind the frequent cases of encroachments on employees working in the field of security.

The manager stated that the employees were informed by a deliberate order. An inscription is placed in a visible place, stating that the workroom is under video surveillance.

He notes that the employer has broad rights with regard to the measures he decides to take in order to maintain the security of employees. Moreover, it has an obligation to ensure a safe working environment and to take all necessary measures to ensure such an environment. According to Art. 5, para. 2, item 1 of the LPPD - the processing of a certain category of personal data is allowed when necessary for the implementation of specific rights and obligations of the administrator in the field of labor legislation.

The manager adds that the company's main activity is the protection of property of individuals and legal entities, for which it has a license under the PPA, which explicitly states that security can be done by technical means.

Attached to the opinion is an order concerning the right of access and preservation of the security of the staff in the duty room in "A." AD.

The Commission has received a request for withdrawal of the complaint, submitted by Mr. I.P.P. and filed with reg. №

The Commission for Personal Data Protection is an independent state body that protects individuals when processing their personal data, when accessing this data, as well as monitoring compliance with Regulation (EU) 2016/679 and the Personal Data Protection Act. data (LPPD).

According to the applicable at the time of referral to the Commission Art. 38, para. 1 of LPPD - in case of violation of his rights under the law, every natural person has the right to refer to the Commission for Personal Data Protection. The same right is granted to data subjects by Art. 77, para. 1 of Regulation (EU) 2016/679.

The procedure for dealing with complaints to the supervisory authority is not detailed in the Regulation - this is left to the Member States. The proceedings in the Republic of Bulgaria are developed in accordance with the provisions of the LPPD and the Administrative Procedure Code (APC), ending with an individual administrative act. On the basis of the specified art. 38, para. 1 of LPPD (respectively Art. 77, para. 1 of the Regulation) and according to the provision of Art. 24, para. 1 of the APC on the initiative of IPP before the CPDP an administrative proceeding was initiated on a complaint reg. № PPN-01-195 / 28.03.2018 with a request for issuance of an individual administrative act.

In the course of the proceedings before the CPDP and in its capacity as a party on whose initiative it was instituted, the complainant exercised his right to request termination of the administrative proceedings on the complaint. With a request reg. № PPN-01-195 # 3 / 08.05.18 Mr. I.P.P. inform the Commission that it withdraws its complaint. The application contains all the legally required requisites and in it the complainant has categorically and clearly expressed her will to withdraw from the CPDP.

Given the fact that as of the date of submission of the application the initiated administrative proceedings have not been completed and in view of the fact that Mr. I.P.P. is an actively legitimized person within the meaning of Art. 56, para. 1 of the APC, the Commission finds that the prerequisites referred to in the provision for termination of the administrative proceedings on the complaint are present. Pursuant to the cited provision, the administrative body before which administrative proceedings are pending should terminate the same at the request of the party on whose initiative it was initiated.

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. 56, para. 1 of the APC,

HAS DECIDED AS FOLLOWS:

Terminates the administrative proceedings on a complaint with registration № PPN-01-195 / 28.03.2018, filed by I.P.P. against PD 98 OOD and A. AD, due to assignment of the administrative body.

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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