

Decision on appeal with registration № PPN-01-221 / 01.03.2019 DECISION» PPN-01-221 / 2019 Sofia, 21.02.2020

Commission for Personal Data Protection ("Commission" / "CPDP") composed of: members - Tsanko Tsolov, Maria Mateva and Veselin Tselkov, at a regular meeting held on 22.01 .2020, based on Art. 10, para. 1 of the Personal Data Protection Act in connection with Art. 57, paragraph 1, letter "e" of Regulation 2016/679, considered a complaint reg. № PPN-01-221 / 01.03.2019, filed by M.S. The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA). The applicant informed that she lived in \*\*\*. Some of her neighbors wanted video cameras to be installed inside the corridors on each floor of the apartment building. Some of the neighbors did not agree with this decision. Despite the disagreement of all residents, a camera was placed at the entrance to the block, above the stairs and the electrical panel. The camera in question is being monitored by LM, who is an official house manager through his company K.K. "Ltd. Mrs. M.S. considers that the condominium has not taken a formal decision to install the camera, because no protocol has been disclosed to show that such a decision has been taken. Her judges, who did not agree with the installation of the camera, asked for the minutes of the condominium meeting, but were denied. The applicant considered that the decision taken, if any, was contrary to the Constitution of the Republic of Bulgaria and the Personal Data Protection Act. In the conditions of the official principle laid down in the administrative process and in fulfillment of art. 26 of the APC, the person against whom the complaint is directed has been notified for the commencement of the 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 replied that the complaint was unfounded. The representative "K.K. "EOD states that as a manager of the condominium, on October 25, 2018 he fulfilled the wish of the residents to install a video surveillance system in the building. The implementation is a result of a decision of the General Meeting, held and voted, as evidenced by the minutes № 2 / 11.10.2018, with a quorum of 57%. Given the decision taken by the representatives of the condominium with a majority of 54% of those present, the manager of the company believes that the legal requirement is met. According to Art. 16, para. 7 of the LSMA, the protocol was placed at the indicated places in the condominium. No reports of irregularities were reported. Attached to the opinion is Minutes № 2 / 11.10.2018 and a draft of the decision to install the camera. 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 (SG No. 10 of 2016), 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 § 44, para. 2 of the TFP of LPPD by a natural person with a legal interest. It is the subject of an allegation of unlawful processing of the complainant's personal data and is directed against a controller of personal data. The complaint was referred to a competent body to rule - the Commission for Personal Data Protection, which according to its powers under Art. 10, para. 1 LPPD in connection with Art. 57, paragraph 1, letter "e" of Regulation 2016/679 and Art. 38, para. 1 of the LPPD considers complaints filed by data subjects in violation of their rights under Regulation 2016/679 and LPPD. The Commission for Personal Data Protection is an independent supervisory body that protects individuals when processing their personal data and when accessing such data, as well as monitoring compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council. of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (in short the "Regulation" or Regulation 2016/679) and the Personal Data Protection Act (PDPA). One of the tasks of the CPDP under Art. 10, para. 1 LPPD in connection with Art. 57 (1) (f) of Regulation 2016/679 is to examine complaints lodged by data subjects and to investigate the subject matter of the complaint, as appropriate. The expediency of considering the complaints is procedurally developed in Art. 38, para. 4 of the LPPD - when the complaint is obviously unfounded or excessive, with a decision of the Commission the complaint may be left without consideration. Regulation 2016/679 and the Personal Data Protection Act (PDPA) set out the rules regarding the protection of individuals in connection with the processing of their personal data, as well as the rules regarding the free movement of personal data. The aim is to protect the fundamental rights and freedoms of individuals, and in particular their right to the protection of personal data. The subject of the complaint is video surveillance. Video surveillance in its essence is a set of actions - recording and storage with automatic means - video surveillance system, which falls within the concept of "processing" within the meaning of Art. 4, item 2 of Regulation (EU) 2016/679. The data from the video surveillance system allow the persons to be identified in accordance with the provision of art. 4, para. 1, item 1 of Regulation 2016/679. In connection with the subject of the complaint, the CPDP assigned an inspection with the subject: to establish whether a video surveillance system has been built, what are its technical parameters and scope. The inspection established the following: "At the address indicated in the complaint there is a six-storey residential building consisting of four entrances, and the applicant's apartment is located on the first floor in entrance B of the inspected site. It is established that in January 2019, for the purposes of preventive security activities, a video surveillance camera was installed following a decision of the general meeting of the condominium. The camcorder has a resolution that allows the

identification of individuals and is equipped with an SD memory card, which provides storage of video footage for about a month, after which they are deleted in the order of their receipt. The camera is mounted by K.K. EOOD with manager LM, who on the basis of a contract with the condominium has performed the functions of a professional house manager. The contract expired in August 2019 and has not been renewed. The inspection team found that the video camera was dismantled at the time of the inspection. According to L.M. the video camera was removed by the applicant with the help of other residents at the entrance on 13 October 2019, i.e. two months after the expiration of the contract for activities as a professional house manager of "K.K." Ltd. After this moment, no video surveillance is carried out at the address. L.M. found the camcorder disconnected and discarded at the entrance, and the memory card was not taken. L.M. has downloaded the information from the memory card, containing the latest video footage from the camera, to an office computer in the office of "K.K." Ltd., where it is stored at the time of the inspection. The inspection team was shown the video footage of the dismantling of the camera by the residents at the entrance. The video recording of the camera included the entrance door at the entrance from the inside, as well as a door to a common service room at the entrance. According to L.M. on the information board at the entrance were placed information stickers warning about the video surveillance, which were subsequently pasted by residents at the entrance.

"Video surveillance is, in essence, a permanent and continuous processing of personal data. As it was terminated at the time of the decision of the body and is no longer carried out, the processing of personal data is not carried out and the complaint is unfounded. In addition to the above, it should be noted that the file presents a decision of the condominium for video surveillance, objectified in Protocol № 2 of 11.10.2018. There is no evidence that the decision was challenged in court under ZUES. The CPDP does not have the power to make incidental control for the legality of the decision of the condominium, given the explicitly provided court order, in view of which the decision is considered valid. The processing of personal data by personal data controllers, both in the public and in the private sphere, is lawful and admissible if there is any of the alternative legal grounds exhaustively listed in Art. 6 (1) of Regulation (EU) 2016/679: (a) the data subject has consented to the processing of his or her personal data for one or more specific purposes; (b) the processing is necessary for the performance of a contract to which the data subject is a party or for taking steps at the request of the data subject prior to the conclusion of the contract; (c) the processing is necessary to comply with a legal obligation to which the controller is subject; (d) the processing is necessary in order to protect the vital interests of the data subject or another natural person; (e) the processing is necessary for the performance of a task in the public interest or in the exercise of official authority conferred on the

administrator; (f) the processing is necessary for the legitimate interests of the controller or a third party, except where such interests take precedence over the interests or fundamental rights and freedoms of the data subject which require the protection of personal data, in particular where the data subject is kid. In the case under consideration, before the termination of the video surveillance, the same was carried out lawfully on the grounds of Art. 6, paragraph 1, letter "c" of Regulation 2016/679 - the processing is necessary to comply with a legal obligation that applies to the administrator. The obligation of "K.K. EOOD derives from Art. 23, para. 1, item 1 of the ZUES, according to which the manager of the condominium organizes the implementation of the decisions of the general meeting. As mentioned, a decision of the condominiumThus motivated and on the grounds of Art. 38, para. 4 of LPPD in connection with Art. 38, para. 1 of the Rules of Procedure of the CPDP and its administration, the Commission for Personal Data Protection

HAS DECIDED AS FOLLOWS:

Leaves a complaint reg. № PPN-01-221 / 01.03.2019, filed by MS against K.K. EOOD, without being considered as obviously unfounded.

This decision may be appealed within 14 days of its service through the Commission for Personal Data Protection before the Administrative Court of Vratsa.

MEMBERS:

Tsanko Tsolov

Maria Mateva / p /

Veselin Tselkov / p /

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