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»CPDP opinion on live video streaming at municipal council meetings via mobile devices of citizens present CPDP opinion on live video streaming at municipal council meetings via mobile devices of citizens present

OPINION

ON

THE COMMISSION FOR THE PROTECTION OF PERSONAL DATA

Reg. № NDMSPO-01-8 / 04.01.2019

Sofia, February 4, 2019

SUBJECT: Live video broadcasting (livestreaming) at municipal council meetings, via mobile devices of citizens present.

The Commission for Personal Data Protection (CPDP) composed of members: Tsanko Tsolov, Tsvetelin Sofroniev, Maria Mateva and Veselin Tselkov, at a meeting held on 30.01.2019, considered a request for opinion / ent. № NDMSPO-01-8 /

04.01.2019 / by the Municipality of R., which raises the question of the legality of the actions of live video broadcasting

(livestreaming) at meetings of the municipal council via mobile devices of citizens present in the context of the application of the provision of art. 28, para. 1, assoc. 1 of the Law on Local Self-Government and Local Administration (LLSGA) - "Sessions of the municipal council and its commissions are open."

Legal analysis:

The Law on Local Self-Government and Local Administration (LLSGA) regulates the terms and conditions for the functioning of the bodies of local self-government and local administration. Local self-government is an expression of the right and the real opportunity of the citizens and the bodies elected by them to decide independently all issues of local importance, which the law has provided in their competence / arg. Art. 17 of LLSGA /.

Also, the bodies of local self-government and the supporting municipal administration should carry out their activities in compliance with the principles of openness and accessibility, proclaimed in Art. 2, para. 1, item 2 of the Administration Act (LA), which is applied in a subsidiary manner for them as well / arg. Art. 1, para. 3 of ZA /.

The provision of Art. 28, para. 1 of the LGMSA stipulates that the meetings of the municipal council and its commissions are open, and exceptionally the municipal council may decide to close individual meetings. The open meeting is an expression of

the public beginning in the performance of the functions of the local self-government bodies.

According to para. 2, the citizens may attend the meetings of the municipal council and its commissions, occupying the places specially designated for them. They have the right to speak, to ask questions, opinions and proposals within the competence of the municipal council, the mayor or the municipal administration, of public interest, and to receive answers in the manner, manner and time specified in the rules of organization and activity of the municipal council, its commissions and its interaction with the municipal administration / arg. Art. 28, para. 3 in conjunction with Art. 21, para. 3 of the LGMSA.

The material scope of Regulation (EU) 2016/679 (General Data Protection Regulation - DPO) provides that it applies to the processing of personal data in whole or in part by automatic means, as well as to the processing of other personal data that are part of a register of personal data or which are intended to form part of a register of personal data / arg. Art. 2 of ORZD /.

On the other hand, activities related to the processing of personal data by a natural person within the framework of purely personal or domestic activities remain outside the material scope of the Regulation, provided that they have no connection with professional or commercial activity / arg. Art. 2, § 2, b. "C" in conjunction with rec. 18 of the ORD.

According to Art. 4, item 2 of the ORD "processing" of personal data means "any operation or set of operations performed with personal data or a set of personal data by automatic or other means such as collection, recording, organization, structuring, storage, adaptation or change , retrieve, consult, use, disclose, transmit, distribute or otherwise make the data available, arrange or combine, restrict, delete or destroy. "

In connection with the above, undoubtedly the broadcasting / transmission of the meetings of the municipal council via mobile devices of the citizens present is an action of personal data processing, which disseminates the image and / or sound of the persons participating in the meeting.

Video streaming is a method of transmitting data over the Internet, and it is aimed at an indefinite number of people who can access it. Technically, it is possible to make a video along with the live broadcast, which can be stored in the device itself or in a "cloud" space.

In view of the fact that the municipal council deals with issues of local importance, as well as taking into account the principles under which it operates (openness, accessibility and publicity), it can be concluded that live broadcasting at its open meeting via mobile devices. the citizens participating in it could be considered as processing in the performance of a task of public interest / arg. Art. 6, § 1, b. "E" of the ORD /, which is one of the alternative grounds for the lawfulness of the processing of

personal data. In this regard, it should be taken into account the fact that there is already an established practice in the Republic of Bulgaria for video streaming at meetings of public authorities, e.g. of the Sofia Municipal Council, the Supreme Judicial Council, etc.

At the same time, in order to ensure the necessary conditions for effective work of local governments, it is permissible and appropriate in the regulations for the organization and activities of the municipal council provides specific rules, such as. prior notification by the citizens for making videos and broadcasting live at its open meetings.

In addition, the making of a video recording (without live broadcast) by a citizen during an open meeting of the municipal council and its subsequent use only for his personal and domestic needs should be qualified as an activity outside the material scope provided in Art. 2 of the ORZD.

In view of the above and on the grounds of Art. 58, § 3, b. "B" of Regulation (EU) 2016/679, the Commission for Personal Data Protection states the following

OPINION:

1. Live broadcasting (livestreaming) at an open meeting of the municipal council through mobile devices of the citizens participating in it could be considered as processing of personal data in the performance of a task of public interest / arg. Art. 6, § 1, b. "E" of the ORZD / in the context of the application of the principles of openness and accessibility, on the basis of which the local self-government bodies exercise their functions.

2. It is admissible and appropriate in the regulations for the organization and activity of the municipal council to provide specific rules for making videos and broadcasting live at its open meetings.

MEMBERS:

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Maria Mateva / p /

Veselin Tselkov / p /

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