

Decision on appeal with registration № PPN-01-198 / 30.03.2018 DECISION» PPN-01-198 / 2018 Sofia, January 18, 2019

Commission for Personal Data Protection (CPDP) composed of: Chairman: Ventsislav Karadzhov and members: Tsanko Tsolov, Tsvetelin Sofroniev and Maria Mateva at a meeting held on 07.11. 2018, based on Art. 10, para. 1, item 7 of the Personal Data Protection Act, respectively Art. 57, § 1 (f) of 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 (Regulation / General Regulation), considered on the merits a complaint № PPN-01-198 / 30.03.2018, filed by V.N. The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA). The Commission for Personal Data Protection was seised with a complaint filed by V.N. against SK, in his capacity as manager of a condominium located in *****. The applicant claims that on 26 March 2018, during an e-mail check, she found that her personal data in the amount of three names, address, telephone and a unique civil number were distributed, sent to 84 e-mail addresses, "whose addressees are all owners of real estate at address ****, some of whom live at the address, as well as tenants / temporary occupants, bank employees and third parties who do not even inhabit the condominium ". He adds that the documents containing the specified personal data are attached to an email sent on March 26, 2018 at 20:36 by S.K. - condominium house manager. Considers that Mr. S.K. has intentionally violated her rights under the LPPD by disseminating her personal data to the addressees of the e-mail without her knowledge and consent, without deleting her data from the attached documents. He claims that Mr. SK, in his capacity as manager of the condominium, is not registered as a personal data controller, in view of which he considers that he has no right to process personal data. Asks the Commission to investigate the case. Relevant evidence in the case is attached to the complaint. In the conditions of the official beginning of the administrative process and the obligation of the administrative body to collect evidence and clarify the actual facts relevant to the case, official information was requested from Sofia Municipality, Izgrev district for the house manager, respectively the Chairman of the Management Board. property (EU) located in *****. In response, a certified copy of the Notice for election of the Chairman and members of the Management Board of the condominium is presented, as well as the minutes of the General Meeting of the condominium held on 28.11.2016. S.K. Mr. SK was informed of the administrative proceedings instituted in the case, in the course of which he expressed an opinion that the complaint was unfounded, together with the relevant evidence attached to it. Mr. S.K. informs that on the occasion submitted by V.N. A claim has been filed in the town of № ***** according

to the inventory of the Sofia District Court with a subject request for revocation of decisions of the condominium located in *****. She added that given the outcome of the dispute with a ruling in the case of 11.05.2018, Ms. V.N. was sentenced to pay the condominium expenses in the amount of BGN 300. It indicates that many of the owners of individual condominiums turned to him in his capacity as Chairman of the EU Management Board for information on the subject and progress of the case. He added that on this occasion on March 26, 2018 electronically - by email provided to EU members submitted by Ms. V.N. claims to the court, as well as the response filed by him in the case given his capacity as a representative of the owners in the EU. Mr. S.K. denies the applicant's allegations that the documents containing personal data were also sent to third parties who were not owners. Considers his actions to be correct and lawful in view of his capacity as a representative of the EU, claiming that what was stated by Ms. V.N. violation of the LPPD in view of the fact that the documents in the case were provided only to persons who are owners of sites in the EU and who are parties to the case against the EU on the initiative of Ms. V.N. He asks the Commission to dismiss the complaint as unfounded. In the course of the proceedings, Mr S.K. provides additional evidence in support of its allegations. The Commission for Personal Data Protection is an independent state body that protects individuals in the processing of personal data and in accessing such data, as well as monitoring compliance with the Personal Data Protection Act and 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 (Regulation / General Regulation). In order to exercise its powers, the Commission must be properly seised. The appeal shall contain the obligatory requisites, specified in the provision of 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, the 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 of LPPD by a natural person with a legal interest against a competent party - natural person - personal data controller within the meaning of ZUES and Art. 3, para. 1 of LPPD, respectively Art. 4, para. 7 of the EU General Regulation 2016/679. The subject-matter is the unlawful processing of the applicant's personal data through actions for their dissemination by S.K. - Chairman of the EU Management Board, up to 84 addressees by e-mail sent on 26.03.2018 with attached documents containing personal data about the complainant in the amount of three names, address, telephone number and PIN. The complaint was referred to a competent body to rule - the CPDP, which according to its powers under Art. 10, para. 1, item 7 of LPPD / respectively Art. 55, § 1 of Regulation (EU) 2016/679, considers complaints against acts and actions of personal data

controllers, which violate the rights of individuals related to the processing of personal data, as there are no exceptions under Art. 2, § 2, letter “c” and “d” and Art. 55, § 1 of Regulation (EU) 2016/679, given that the case does not concern treatment activities carried out by a natural person in the course of purely personal or domestic activities, activities carried out by courts or activities carried out by competent authorities for prevention purposes, the investigation, detection or prosecution of criminal offenses or the execution of penalties imposed. For the stated reasons and in view of the lack of prerequisites from the category of negative under Art. 27, para. 2 of the APC, at a meeting of the Commission held on 10.10.2018 the complaint was accepted as admissible and as parties to the proceedings were constituted: complainant - V.N. and respondent - SK, in his capacity of Chairman of the Management Board of condominiums located in *****. The parties were informed of the open hearing to consider the merits of the complaint and were instructed to distribute the burden of proof in the process. At a meeting of the CPDP held on November 7, 2018, the complaint was considered on the merits. The applicant - regularly notified, did not appear, did not represent herself. The respondent - S.K. - regularly informed, appears in person. He disputes the complaint and asks the Commission to disregard it as unfounded on the grounds set out in a written statement lodged in the proceedings. In his capacity of administrative body and in connection with the need to establish the truth of the case, as a basic principle in administrative proceedings, according to Art. 7 of the Code of Administrative Procedure, requiring the existence of established facts, given the written evidence gathered and the allegations made by the parties, the Commission considers that considered on the merits complaint № PPN-01-198 / 30.03.2018 is unfounded. In issuing the decision, the Commission shall take into account the change in the legal framework in the field of personal data protection in the period from the processing of personal data to the ruling on the merits of the request addressed to the administrative body. Recognizes the fact that from 25.05.2018 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 applies (Regulation), which has direct effect. In the absence of an explicit provision, it considers that existing relationships which are not pending and concern legal facts and the consequences arising from them before the application of the Regulation should be assessed according to the substantive law in force at the time of their occurrence. In the specific case, such are the material provisions set out in the LPPD in view of the fact that the legal facts and legal consequences related to the processing of data concern a one-time action performed on March 26, 2018, ie. before the application of the General Regulation, and in addition it should be borne in mind that the applicable substantive provision of Art. 4, para. 1 of LPPD corresponds to the

provision of art. 6 (1) of the Regulation and does not contradict it. From the evidence gathered in the case file, it was indisputably established that the applicant was the owner of an apartment № **, located in a condominium building with address *****. It is not disputable between the parties, and it is evident from the letter reg. № PPN-01-198 # 3 / 20.04.2018 from Sofia Municipality, Izgrev district that Council of condominiums was elected SK, the same performing this function as of March 26, 2018, and as of the date of the Commission's ruling on the merits of the complaint. It is also undisputed that on the occasion filed by V.N. claim with legal grounds art. 40, para. 1 of the Condominium Management Act for annulment of decisions of the General Assembly of condominiums, adopted on 22.02.2017, a civil case was initiated № ***** on the inventory of the Sofia District Court (SDC) for 2017. with plaintiff parties: - V.N. and respondent - condominium in the town of *****, represented by the Manager SK As can be seen from the evidence, the statement of claim was filed on 26.04.2017, and with Order № **** of 11.05.2018 the proceedings in the case were terminated due to the delay of the claim and in view of the outcome of the dispute Ms. V.N. was ordered to pay the condominium expenses in the amount of BGN 300.

It is not disputable between the parties, but it is evident from the evidence in the file on March 26, 2018 in the course of the court proceedings, Mr. SK has sent electronically from his own e-mail address an e-mail with attachments: a claim to the RCC with ent. № ****, application to the SRS with ent. № **** and a complaint from Ms. V.N. to Mr SK, in his capacity as Chairman of the EU Management Board, containing the applicant's personal data in the amount of three names, address, email, telephone number and a single civil number. Attached to the same email are files containing two written replies of Mr. S.K. to the SCC concerning a civil case initiated in the case. The email was sent to the following 84 email addresses: *****.

It is evident from the evidence presented by the respondent, namely a list of real estate owners in a building in the EU regime with specified e-mail addresses for correspondence with them, as well as additional evidence, including a written declaration by D.Ch. owner of apartments ** and ** in the condominium and printout of electronic correspondence between Mr. SK and D.I. - owner of the app. **, is that the emails to which the documents containing the complainant's personal data in her capacity as plaintiff in the civil case were sent, including the complainant's email **** and the respondent's email ***, were provided by EU property owners whose decision is appealed as an address for correspondence with them electronically.

The Personal Data Protection Act regulates the protection of the rights of individuals in the processing of their personal data. The purpose of the law is to guarantee the inviolability of the person and privacy by ensuring the protection of individuals in the event of improper processing of related personal data.

The three names, address and unique civil number of the persons are information which in the sense of art. 2, para. 1 of the LPPD has the characteristic of personal data given the fact that through it the persons can be indisputably individualized.

Pursuant to §1, item 1 of the Additional Provisions of the LPPD, the provision of personal data is an action for their processing and should be carried out in accordance with the provisions of the LPPD.

From the evidence gathered in the administrative file it is necessary to conclude that the processing of personal data of the applicant, by providing a copy of the statement of claim, which contains them, to owners of objects in a building in condominium, whose decision is appealed, is lawful, in the presence of the condition for admissibility of the processing referred to in Art. 4, para. 1, item 7 of LPPD. These actions of the condominium manager are necessary to realize the legitimate interests of third parties - condominium owners to be informed about the claim, to get acquainted with it and to participate in civil proceedings and civil proceedings, including and to exercise the legal opportunity provided to them under Art. 23, para. 5 of the LSMA, each owner to participate in the case against the condominium represented by the manager. In this connection, although the applicant did not consent to the provision of her personal data to third parties other than the Condominium Manager, the same was lawful in view of the existence of another of those referred to in the provision of Art. 4, para. 1 of LPPD conditions for admissibility of processing. The allegations made by the applicant in the opposite direction are unfounded and should be disregarded, as the conditions set out in Art. 4, para. 1 of the LPPD are alternatively listed and the legality of processing requires the presence of at least one of these conditions, and not all at once.

In view of the above and in view of the provisions of the Condominium Management Act, it must be concluded that the processing of the applicant's personal data by Mr SK, in his capacity as Chairman of the Condominium Management Board, was lawful. The documents containing the applicant's personal data were provided to the e-mail addresses provided by the owners of the condominiums for correspondence with them. Processing is necessary for the realization of the legitimate interests of both the controller of personal data and third parties to whom personal data are disclosed, to protect their rights and participate in civil proceedings, interests that take precedence over the interests of the individual whose personal data is disclosed. Personal data is provided for specific, well-defined and legitimate purposes and no data may be further processed in a way incompatible with these purposes.

Guided by the above and on the grounds of Art. 38, para. 2, in connection with art. 10, para. 1, item 7 of the Personal Data Protection Act, respectively Art. 57, § 1 (f) of Regulation (EU) 2016/679 of the European Parliament, the Commission for

Personal Data Protection,

HAS DECIDED AS FOLLOWS:

Dismisses as unfounded the complaint № PPN-01-198 / 30.03.2018 filed by V.N. against S.K.

The 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 /

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