

Home » Practice » Decisions of the CPLD for 2022 » Decision on appeal with reg. No. PPN-02-480/07.10.2021 Decision on appeal with reg. No. PPN-02-480/07.10.2021 DECISION no. PPN-02-480/2021 Sofia, 03.11.2022 The Commission for the Protection of Personal Data (PCPD) in composition: Chairman: Ventsislav Karadjov and members: Tsanko Tsolov, Maria Mateva and Veselin Tselkov at a meeting held on 14.09. 2022, based on Art. 10, para. 1 of the Personal Data Protection Act in connection with Art. 57, § 1, letter "f" of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the processing of personal data and on the free movement of such data (Regulation , GDPR), examined the merits of complaint No. PPN-02-480/07.10.2021. The administrative proceedings are in accordance with Art. 38 of the Personal Data Protection Act (PAPA). The Commission for the Protection of Personal Data was referred to complaint No. PPN-02-480/07.10.2021, submitted by A.Ya. against a political party, with allegations of illegal processing of his personal data by including them in a list of persons (page **, line ***) supporting the registration of the political entity to participate in the national elections held on 11.07.2021 representatives. The complainant claims that he discovered the violation after conducting an electronic inquiry at the Central Election Commission, a copy of which is attached. He declares that he did not sign in support of the registration of the political entity and did not give his consent to the processing of his personal data for the specific purpose. In view of the principles of equality of the parties and truthfulness advocated in the administrative process, the political party was informed about the administrative proceedings initiated in the case, and was given the opportunity to submit a written opinion on the allegations presented in the complaint. Evidence relevant to the case of the lawful processing of the applicant's personal data, a certified copy of internal rules and/or the Personal Data Protection Policy regarding the processing of personal data by a political party in the electoral process, technical and organizational measures taken to protect personal data are required. data, instruction, order or other act for training the party representatives to collect personal data in the electoral process, as well as information and results of an internal audit carried out in the case, if one has been assigned. In response, a written opinion was filed, without attached evidence, about the unfoundedness of the complaint, with arguments that the data of the complainant "were entered by him personally" in the lists, and it is excluded that they were entered by a party activist. In addition, it is stated that the signatures were collected in public places, in accordance with the current legislation and the internal rules of the party, without checking the identity of the persons, inasmuch as the latter is perceived as "only the authority of the police". It is expressly stated that the possibility that the applicant is ill-intentioned towards the party and deliberately aims to defame it is not excluded. In the

conditions of the official initiation and to clarify the case from the factual side, the CEC was requested in response and by letters PPN-02-480#4/29.03.2022 and PPN-01-762#5/31.03.2022. , with identical content, a copy is provided on page 92, line 915 of the list of persons supporting the registration of a political entity for participation in the elections for national representatives held on 11.07.2021. The Commission for the Protection of Personal Data is an independent state body that protects individuals in the processing of personal data and access to such data, as well as monitoring compliance with the GDPR and the GDPR. In order to exercise its powers, the commission must be validly referred. Complaint PPN-02-480/07.10.2021 contains the required details specified in the provision of Art. 28, para. 1 of the Regulations for the activities of the Commission for the protection of personal data and its administration, namely: there are data on the applicant, the nature of the request, date and signature, in view of which it is regular. The subject of the complaint is the allegations of unlawful processing of the complainant's personal data - names and uniform civil number by the political party by including them in the CEC's list of persons supporting the registration of the political entity for participation in the elections held on 11.07.2021 for members of parliament. According to data from the file, results of an inquiry carried out on the website of the CEC, the complainant learned about the violation he claimed on 07.10.2021. In this regard, and considering the statutory deadlines for registration of participants in the election process in the Electoral Code, and insofar as the CPLD has been referred with a complaint on the same date on which the alleged violation was established, concerning misuse of personal data in the electoral process when registering a political entity to participate in the elections held on 11.07.2021, the conclusion follows that the complaint was filed within the period under Art. 38, para. 1 of the Labor Code. The complaint was filed by a natural person with a legal interest, against a proper party - a personal data controller. Referred to is competent to rule - CPLD, which according to its powers under Art. 10, para. 1 of the Labor Code in connection with Art. 57, § 1, letter "f" of Regulation (EU) 2016/679, considers complaints against acts and actions of the controllers of personal data, which violate the rights of data subjects related to the processing of personal data, being not available the exceptions under Art. 2, § 2, letter "c" and Art. 55, § 3 of the GDPR given the fact that the case does not concern processing activities carried out by an individual in the course of purely personal or domestic activities and/or activities carried out by the courts in the performance of their judicial functions. For the stated reasons and the absence of the negative prerequisites under Art. 27, para. 2 of the APC, at a meeting of the commission held on 13.04.2022, the complaint was accepted as admissible and the following were constituted as parties to the proceedings: complainant A.Ya. and respondent – a political party. Given the conflicting statements of the parties and

with a view to clarifying the case from a legal and factual point of view, it was allowed to carry out a handwriting examination of the signature on page **, line *** of the list of voters supporting the registration of the political party submitted to the CEC in the elections for people's representatives held on 11.07.2021. The complainant was notified of the possibility to present comparative material for research, but despite the instructions given by the commission, within the period specified by the CPLD, and after it, comparative material for the preparation of an admitted expertise was not provided. An open meeting has been scheduled to consider the merits of the complaint on 14.09.2022 at 1:00 p.m. in the administrative building of the CPLD in the city of Sofia, Prof. Blvd. Tsvetan Lazarov" No. 2, Meeting Room, 4th floor, of which the parties are regularly notified. The complainant was again informed that by the date of the hearing he should submit evidence in support of his claims, given their challenge by the respondent and the allocation of the burden of proof in the trial. He was again informed that in order to clarify the case from a legal and factual point of view, precisely in order to establish the truth, respectively the falsity of the signature, it was allowed to carry out a handwriting examination of the signature on page **, line *** of the presented in the CEC, a list of voters supporting the registration of the political party for participation in the process elections, for the purposes of which it should present comparative research material. At an open meeting of the CPLD held on 14.09.2022, the complaint was examined on its merits. The parties - regularly notified, do not appear, do not represent themselves. In its capacity as an 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 APC, requiring the presence of established actual facts, and considering the evidence collected and the allegations made, the commission accepts that the substantively reviewed complaint No.

PPN-02-480/07.10.2021 is unfounded. The subject of the complaint is the allegations of unlawful processing of the complainant's personal data - names and uniform civil number by the political party by including them in the CEC's list of persons supporting the registration of the political entity for participation in the elections held on 11.07.2021 for members of parliament. It is a well-known fact that on 11.07.2021, elections for people's representatives were held. By decision of the CEC No. 136-NS Sofia, May 26, 2021, the political party was registered to participate in the elections. To the application for registration of the political entity, the same filed with entry No. 3/24.05.2021 in the register of parties for participation in the elections, a list containing the three names, the uniform civil number and handwritten signature of 3030 voters supporting the registration of the political entity, the same personal data, as they are sufficient for indisputable individualization of persons.

The evidence collected in the file, in particular the materials presented by the CEC, testify that the applicant's personal data, in

the amount of three names and a single civil number, are present on page **, line *** of the list of voters supporting the registration of the political party to participate in process elections. A signature is placed against the person's names and uniform civil number. Attached by Mr. A.Ya. evidence, reports from the CEC, testify only to the use of his personal data by the political entity, but not that the processing is illegal. The complainant's claims of processing his personal data for the specific purpose without his knowledge and consent are not supported by the evidence collected in the case file. The same are contested by the defendant, and despite the specific instructions given to the complainant on the allocation of the burden of proof in the trial, Mr. n A.Ya. does not commit evidence in support of his claims, does not provide comparative material for the preparation of an examination of the signature placed on page **, line *** of the list of voters submitted to the CEC, supporting the registration of the political party for participation in the elections held on 11.07. 2021 elections for people's representatives. In this regard, with a view to distributing the burden of proof in the process, in the event of a challenge by the defendant and due to the lack of procedural activity on the part of the applicant, the complaint should be dismissed as unfounded and unproven, as far as the principle of truth under Art. 7 of the APC, the administrative acts are based on actually established facts of the case. In the specific case, in the appendices to the application for registration of the party, a list of voters supporting its registration for participation in the specific elections, against the names and uniform civil number of the applicant, a handwritten signature was placed, testifying to the consent of the person to process the data for the specific purpose . There is no evidence that the signature was signed by a person other than Mr. A.Ya., considering that the processing of his personal data, in the hypothesis of their provision by a political entity to the CEC, in a legally regulated procedure under the Electoral Code, for the registration of the political party to participate in the specific elections, is lawful according to an argument from Art. 6, § 1, letter "a" of the GDPR. Evidence to the contrary has not been engaged, and for completeness it should be noted that the complainant's inaction cannot be compensated ex officio, insofar as according to Art. 36, para. 2 of the APC, the parties should provide assistance to the authority in gathering evidence.

Based on the above and based on Art. 38, para. 3 of the Personal Data Protection Act, the Personal Data Protection Commission,

RESOLVE:

Announces complaint PPN-02-480/07.10.2021 filed by A.Ya. against a political party as baseless and unproven.

The decision is subject to appeal within 14 days of its delivery, through the Commission for the Protection of Personal Data

before the Administrative Court of Sofia - city.

CHAIRMAN:

MEMBERS:

Vencislav Karadjov /p/

Tsanko Tsolov /p/

Maria Mateva /p/

Veselin Tselkov /p/

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