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»Practice» Decisions of the CPDP for 2018

»Decision on the appeal with registration № PPN-01-28 / 18.01.2018 Decision on the appeal with registration № PPN-01-28 / 18.01.2018

ANSWER

№ PPN-01-28 / 2018

Sofia, May 8, 2018

The Commission for Personal Data Protection (CPDP) composed of Ventsislav Karadzhov and members: Tsanko Tsolov, Tsvetelin Sofroniev and Maria Mateva at a regular meeting held on 14.03.2018 and presented in the minutes № 12 / 14.03.2018. , pursuant to Art. 10, para. 1, item 7 of the Personal Data Protection Act, considered on the merits a complaint reg. № PPN-01-28 / 18.01.2018, filed by C.N.M.-N. TF EOOD v. Ch.D., for violation of the Personal Data Protection Act.

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

The applicant, in her capacity as manager of TF EOOD, informed that she owned a house, *****, which was co-owned with a house № ** of the same complex, with owner Č.D.

The applicant stated that Mr Č.D. installed a video surveillance camera in their common plot, which was aimed at their common yard and monitored the applicant's house.

Mrs. C.N.M.-N. considers these actions to be discriminatory and illegal. He asks for an inspection and establishment of the committed violation.

In view of the allegations in the appeal, the relevance of the provision of Art. 1, para. 9 of the LPPD, according to which this law does not apply to the processing of personal data carried out by individuals for their personal or domestic activities.

The reasons for the proposal are related to the specific place where the camera is installed, as well as the lack of an allegation for filming public spaces or places outside the property co-owned by the parties.

It is considered relevant and in support of this proposal the ruling of the Court of Justice of the European Union in case № C-212/13 with a subject for a preliminary ruling for interpretation of Art. 3 (2) of Directive 95/46 / EC - the term "in the course of (entirely) personal or domestic activities" - recording with a video surveillance camera at the entrance to the home of the person using the recording system, in public space and at the entrance to a neighboring house ", As worded from the Opinion

of the Advocate General.

The above ruling analyzes a situation in which an individual "has installed and used a video surveillance system located under the roof of his family home... with the sole reason for using this camera is the protection of his own and his family's property, health and life" - p. 12, item 13 of the Court's judgment of 11 December 2014.

In addition, the statement states that "Article 3 (2), second indent of Directive 95/46 / EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data must be interpreted as meaning that the use of a video surveillance system to record video of people stored on a long-term storage device, namely a hard disk, which is installed by an individual in his family home to protect property, health and life to the owners of the house, as the system also covers public places, does not constitute the processing of personal data in the performance of purely personal or domestic activities within the meaning of this provision. '

As a result of the cited ruling, as well as as a result of the binding nature of the decisions of the Court of Justice of the EU, the conclusion is made for a narrow consideration of the exception in Art. 1, para. 9 of the LPPD, according to which the processing of personal data for personal and domestic activities excludes the application of the provisions of the special LPPD, only in cases of allegations of filming in public places or others outside the property of the individual who installed video cameras.

The specific subject of the complaint № PPN-01-28 / 018.01.2018 concerns allegations of installed cameras only in the home of Ch.D., as a land property with identifier *****, evident from the attached sketch, is co-owned and of the applicant.

In this sense, the conclusion is appropriate, in accordance with the ruling of the Court of Justice of the European Union in case № C-212/13, that Mr. Ч.Д. has installed a video surveillance system in his home solely for the protection of his own property and his personal peace and privacy, given that the provision of Art. 1, para. 9 of the LPPD.

In addition, it is noted that the complaint was filed by C.N.M.-N., in her capacity as manager of TF EOOD. The provision of Art. 1, para. 1 of the LPPD regulates the protection of the rights of individuals in the processing of their personal data. In the present case, the Commission has been the subject of a complaint lodged by a legal person.

In view of the obligation of the administrative body to establish the preconditions for admissibility of the request, regulated in the provision of art. 27, para. 2 of the Administrative Procedure Code, the opinion is expressed that in the current administrative proceedings they are not present, therefore the inadmissibility of the complaint № PPN-01-28 / 18.01.2018 and

termination of the administrative proceedings is declared, as the complaint remains without consideration.

In this regard and on the grounds of Art. 27, para. 2, item 6 of the AP, the CPDP ruled with the following

ANSWER:

Based on the provision of Art. 27, para. 2, item 6 of the APC in connection with Art. 1, para. 1 and para. 9 of LPPD, due to the fact that the processing of personal data was performed for personal and domestic purposes, leaves without consideration as inadmissible and terminates the administrative proceedings on a complaint with registration № PPN-01-28 / 18.01.2018 filed by Ts. N.M.-N., in her capacity of manager of TF EOOD against Ch.D.

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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