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»Practice» Decisions of the CPDP for 2020

»Decision on appeal with registration № PPN-02-554 / 09.10.2019 Decision on appeal with registration № PPN-02-554 / 09.10.2019

ANSWER

№ PPN-02-554 / 2019

Sofia, March 4, 2020

The Commission for Personal Data Protection (CPDP) composed of: Chairman: Ventsislav Karadzhov and members: Tsanko Tsolov and Veselin Tselkov at a meeting held on January 29, 2020, pursuant to Art. 10, para. 1 of the Personal Data Protection Act, in connection with Art. 57, § 1, letter "e" of EU Regulation 2016/679 filed a complaint № PPN-02-554 / 09.10.2019, filed by M.U.

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 M.U. containing allegations of illegal processing of her personal data in the election process without her knowledge and consent, namely her registration as a member of a sectional election commission in Sofia. She asks to be written off by the sectional election commission and informs that she has been nominated by a coalition as a candidate for municipal councilor in the municipality of Sm.

No evidence was attached to the complaint.

The complaint was submitted electronically from the email address \*\*\*\*\* and is not signed with a handwritten or qualified electronic signature. In this regard, pursuant to the provision of Art. 30, para. 1 of the Administrative Procedure Code (APC) and the provision of Art. 28, para. 2 of the Rules of Procedure of the Commission for Personal Data Protection and its administration, a letter was sent to the complainant № PPN-02-544 # 2 / 08.11.2019 with instructions that the complaint does not contain the statutory details, namely missing signature, in view of which it is irregular and should be confirmed within 3 days of receipt of the notice.

In connection with clarifying the case from a legal and factual point of view, outlining the subject of the complaint and passive legitimacy of the respondent party in the proceedings, the complainant was informed that within the specified period she should specify against whom she filed the complaint. a legal entity, respectively a political entity - party and / or coalition, which

claims that it has misused its personal data, with a view to its constitution as a party to the proceedings, as well as to specify the elections in connection with which the violation was committed. She was informed that in case of non-compliance with the given instructions, the initiated administrative proceedings will be terminated.

The letter was sent to the address for correspondence indicated in the complaint and evident from the delivery notice was received on 19.11.2019, but within the specified 3-day period and so far the given instructions have not been fulfilled.

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 LPPD and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016

In order to exercise its powers, the Commission must be properly seised.

In Art. 28, para. 1 of the PDKZLDNA the obligatory requisites are indicated, which should contain the request, with which the CPDP is addressed - data about the applicant, the nature of the request, date, signature, as well as indication of the person against whom the complaint is filed. The signature is a mandatory requisite of the request, and it should be noted that according to Art. 30, para. 1 of the APC when the written request is not signed and if it is suspected that it comes from the citizen indicated in it, the administrative body should request its confirmation with handwritten or electronic signature within three days of receiving the notice, with consequences termination of proceedings. .

Complaint № PPN-02-544 / 09.10.2019 was filed electronically and was not signed with a qualified electronic signature, therefore it does not contain all the statutory and mandatory details. The complainant was informed that she should confirm her complaint by duly signing and depositing it with the Commission. Within the statutory term and so far the given instructions have not been fulfilled and the complaint has not been confirmed, which according to the argument of art. 29, para. 1, item 1 of the PDKLDNA is an obstacle for its consideration by the CPDP. As an additional argument for the irregularity of the complaint and leaving without consideration is the fact that there is no passively legitimized party - a person against whom it is filed, as well as specification of the subject, as far as the elections are not specified. .

There are prerequisites under Art. 56, para. 2 of the APC, respectively Art. 28, para. 3 of PDKZLDNA, for termination of the proceedings - the complaint is not signed and the person against whom it is filed is not indicated, and after instructions given by the body to eliminate the shortcomings in the request, they are not removed and the complaint is not confirmed.

Guided by the above and on the grounds of Art. 56, para. 2, in connection with art. 30, para. 1 of the APC and Art. 28, para. 3

and Art. 29, para. 1, item 1 of the PDKZLDNA, the Commission for Personal Data Protection,

HAS DECIDED AS FOLLOWS:

Leave without consideration the complaint № PPN-02-554 / 09.10.2019, filed by M.U., as irregular and terminates the initiated administrative proceedings.

The decision is subject to appeal within 14 days of its service, through the Commission for Personal Data Protection before an administrative court at the permanent address of the applicant.

THE CHAIRMAN:

MEMBERS:

Ventsislav Karadzhov

Tsanko Tsolov

Veselin Tselkov / p /

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