

Decision on appeal with registration № PPN-01-539 / 05.07.2018 DECISION» PPN-01-539 / 2018 Sofia, 26.02.2019

Commission for Personal Data Protection ("Commission" / "CPDP") composed of: members - Tsanko Tsolov, Tsvetelin

Sofroniev and Veselin Tselkov, at a regular meeting held on 05.12 .2018, based on Art. 10, para. 1, item 7 of the Personal

Data Protection Act, considered on the merits a complaint with registration № PPN-01-539 / 05.07.2018, filed by H.G. against

**** school, Sofia. The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA). Mrs.

H.G. informed that on 13.04 she submitted a request to the director of **** school for access to the recordings from the internal

and external cameras of the school in connection with systematic harassment and beating of her daughter by her classmate.

The director refused to accept the application. On April 23, a written request was submitted, in which the school explained that

a commission should be appointed, to request the records from ***** school, where the storage servers are, and it is not

clear how this will evolve over time. In connection with the expiring period for storage of records, on 23.04. Mrs. H.G. informed

the management of ***** school. From there she was confirmed that the records were stored and provided to the deputy

director of **** school. On 25.05 the applicant was informed of the reply to the application, which was received on 28.05. The

answer explains that the recordings from the internal cameras were given to 05 RU-SDVR, and from the external cameras are

in Sofia Municipality. Mrs. H.G. considers that the controller did not respond to the request for access, which she objected to in

writing. She has not yet received a response to the objection. The applicant stated that, under the General Data Protection

Regulation, she was entitled to receive the record, which was her child's personal data. Attached to the complaint are:

application from April 13, 2018 to **** school, application from April 23, 2018 to **** school, answer with ref. № *** according to

the description of **** y-ще. In the conditions of the official principle laid down in the administrative process and the obligation

of the administrative body for official collection of evidence and clarification of the actual facts relevant to the case, **** u-will

be notified on the grounds of art. 26 of the APC for the initiated administrative proceedings. There was an opportunity to

express an opinion with relevant evidence, as received by the Commission. The school informs that they do not have their own

video surveillance system, it does not do so and therefore cannot provide the recordings. The records, which are located in 05

RU, were made by the system of ***** school. Colleagues from ***** school provided them and **** school handed them

over to an investigating police officer from 05 RU with a protocol for voluntary surrender. The principal said that the parents of

the other children in the class did not agree to the records being monitored by anyone other than the police. A statement from

the parents is attached in support of this statement. Informs that the school has no information about signals for personal data.

In connection with the complaint of Ms. H.G. An inspection was carried out by the Sofia-City RWU, for the results of which a statement of findings was attached. In order to exercise its powers, the Commission must be properly seised. The considered complaint contains the obligatorily required requisites, specified in 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, nature of the request, date and signature, in view of which the complaint 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. It is the subject of an allegation of unlawful processing of the complainant's personal data and is directed against a personal data controller. The complaint was referred to a competent body to rule - the Commission for Personal Data Protection, which according to its powers under Art. 10, para. 1, item 7 of the LPPD considers complaints against acts and actions of the personal data controllers, which violate the rights of individuals under the LPPD. At a meeting of the Commission held on 31.10.2018, the complaint was accepted as procedurally admissible and as parties in the administrative proceedings were constituted: complainant - H.G. and respondent - **** University, Sofia. The parties have been regularly notified of the open meeting of the Commission for consideration of the complaint on the merits scheduled for 05.12.2018. The applicant - did not appear, did not represent herself. The respondent is represented by the director of **** school personally and with a procedural representative. They dispute the appeal as unfounded. They present a report on the IP-addresses of the people in the school, which will testify that nothing of these IP-addresses has been sent to the CPDP. In the facts thus established, the Commission examined the complaint on the merits, finding it unfounded on the basis of the following conclusions: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General Data Protection Regulation, Regulation) lays down rules on the protection of individuals with regard to the processing of personal data, as well as regarding the free movement of personal data. The purpose of the Regulation is to protect the fundamental rights and freedoms of individuals, and in particular their right to the protection of personal data. The subject of the complaint is access to and receipt of a copy of personal data processed during video surveillance in the building of **** school. From the factual point of view, it is not disputable that the complainant has submitted to **** u-will be an application for access to personal data with ent. № ***. A response to the application was prepared with ref. № ***, served on 28.05.2018. Mrs. H.G. objected in writing to the reply that her request had not been

answered on the merits. Video surveillance in its essence is a set of actions - recording and storage with automatic means - video surveillance system, which falls within the concept of "processing" within the meaning of § 1, item 1 of the RD applicable at the time of video surveillance LPPD, and under Art. 4, item 2 of Regulation (EU) 2016/679 - applicable at the time of the decision of the supervisory authority. The data from the video surveillance system allow the persons to be identified in accordance with the provision of art. 2, para. 1 of LPPD, respectively Art. 4, para. 1, item 1 of Regulation 2016/679. The right of access to the processed personal data is not absolute and is subject to certain restrictions. In the applicable at the time of submission of the application and the answer to it art. 26, para. 2 of the LPPD stipulates that when personal data for a third party may be disclosed during the exercise of the right of access, the administrator is obliged to provide the respective natural person with access to the part of them relating only to him. The right of access under the applicable at the time of pronouncement of the supervisory body art. 15, para. 1 of the Regulation provides for the provision of information on whether personal data are processed, their volume and the information under letters "a" to "h". Paragraphs 3 and 4 of the same article regulate the receipt of a copy of the personal data processed, which, however, should not adversely affect the rights and freedoms of third parties. In the specific case, the review of the recording from video cameras was required, and in the complaint a request was made to receive the recording, which was made during the educational process, during which personal data of third parties were also processed. As can be seen from the declaration submitted by the parents of children in *** class, the parents of the other students do not agree that the personal data of their children be disclosed to third parties, except to those who have a reason. In view of the above, the applicant should not have access to the records or a copy thereof, as the rights of third parties would be affected. Indeed, the records were handed over to an employee of the 05-RU SDVR, but these bodies may process personal data for the exercise of their powers under the Criminal Procedure Code and the Law on the Ministry of Interior - grounds under Art. 4, para. 1, item 6 of LPPD, respectively Art. 6, para. 1, letter "e", proposed 2 of Regulation 2016/679. As for the procedure for exercising the right of access, two applications with answers to them have been attached to the file - with ent. № *** and answer with ref. № ***, as well as ent. № *** and answer ***. The answers contain information that the video surveillance is carried out by other administrators - ***** school and Sofia Municipality, where the recorders are, and the recordings themselves are provided and can be viewed in this case only by the competent authorities. bodies - 05-RU SDVR. Although the answers are essentially correct and lawful, when exercising the right of access, the controller should clearly and unequivocally answer that he refuses access and why he refuses - affecting

the rights of third parties and inability to provide access only to personal data of the applicant. The complaint alleges that a signal was sent to the CPDP on behalf of the complainant, which she did not submit. Indeed, the Commission received an inquiry through the Authority's website, which has a subject similar to the present complaint. The inquiry was answered to the specified e-mail, which was sent to Ms. H.G. In this regard, an official reference was made to the IP address from which the question was sent. As can be seen from the presented certificate for the IP addresses in **** school, the request was not sent from a business IP address. In view of the established, there is no illegal processing of personal data for the purposes of submitting the request by **** school. The Commission for Personal Data Protection, taking into account the facts and circumstances presented in the present administrative proceedings, and on the grounds of Art. 38, para. 2 of LPPD, DECIDES: Dismisses as unfounded the complaint with registration № PPN-01-539 / 05.07.2018, filed by H.G. against **** school, Sofia. This decision is subject to appeal within 14 days of its service, through the Commission for Personal Data Protection, before the Administrative Court Sofia - city.

MEMBERS:

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Veselin Tselkov

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