

PPN-01-585/30.07.2021, PPN-01-586/30.07.2021 and PPN-01-589/02.08.2021 DECISION No. PPN-01-585/2021 Sofia, 04/07/2022 The Commission for the Protection of Personal Data (PCPD) in composition: Chairman: Vencislav Karadjov and members: Tsanko Tsolov and Maria Mateva at a meeting held on 02/23/2022, on the basis of Art. 10, para. 1 of the Personal Data Protection Act, respectively 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 relation to the processing of personal data and on the free movement of such data (Regulation /GDPR), submitted for review on the merits appeals No. PPN-01-585/30.07.2021, PPN-01-586/30.07.2021 and PPN-01-589/02.08.2021, filed respectively by R.T., H.T. and K.S. 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 complaints filed by R.T., H.T. and K.S. with identical claims presented, namely for illegal processing of their personal data - three names and a single civil number, through published on the website of the "Bulgarian Republican Federation of Cynology" association, in the "News" section, Instructions from a registration judge, regarding IOS , 04.07.2021, in which the same are contained. In addition, Mrs. K.S. claims that the court's instructions were also published on the Facebook page of the association, a fact which it established on 29.07.2021. The complainants claim that their personal data were published without their knowledge and consent by G.H., R.H. and their son NH, who are site administrators. They add that they have informed the H. family about the committed violation, requesting that their personal data be deleted from the instructions published on the website and on the association's Facebook profile. They are asking the commission to investigate the case. Evidence is attached to the complaints - a screen printout of "Instructions No. 20210710215619/13.07.2021, on the occasion of application No. 20210710215619/10.07.2021 by A.T. on base Art. 22, para. 5 of the ZTRRYULNC containing three names and EGN of the appellants. In order to clarify the case from a factual point of view and on the basis of Art. 36, para. 1 of the APC for official collection of evidence, screen prints were made, objectified in Protocol PPN-01-585#1/09.08.2021, of published on the website <https://brfk.bg>, in the "News" section, Instructions from judge of entries regarding the IOS 04/07/2021. It was found that as of the date of the reference - 09/08/2021, the published instructions contained three names, but no uniform social security numbers, of the natural persons who appealed to the CPLD. Given the information published on the website <https://brfk.bg> and the clarification that it is the official website of the "Bulgarian Republican Federation of Cynology" association, relevant evidence is requested from the association, including a certified copy of internal rules and/or Policy for

protection of personal data regarding the processing of personal data by the association, technical and organizational measures taken to protect personal data, instruction, order or other act for training the employees of the association, in particular those who publish information on the site, and also information and results of an internal audit performed on the case, if one has been assigned. A copy of the complaints has been sent to the association for familiarization, with instructions regarding the legal possibility to express a written opinion on the presented statements. At a meeting of the commission held on 13.10.2021, the complaints were accepted as regular - they contain the required details, namely: there are data on the complainants, the nature of the request, date and signatures, the passively legitimized parties are indicated - the persons against whom they were filed the complaints. The complaints have as their subject - unlawful processing - distribution of the personal data of the complainants - three names and a single civil number, through published on the website of the "Bulgarian Republican Federation of Cynology" association, in the "News" section, Instructions from a judge on entries in which the same are contained and published on the Facebook page of the association. Complaints were submitted within the period under Art. 38 of the Labor Code by natural persons with a legal interest against passively legitimized natural persons who are claimed to be administrators of personal data within the meaning of Art. 4, para. 7 EU Regulation 2016/679. However, given the content of the information and documents published on the site, the commission constitutes ex officio, as a respondent in the proceedings, the association "Bulgarian Republican Federation of Cynology", in its capacity as a personal data administrator. Referred body competent to make a decision - 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 Regulation 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 given the absence of the negative prerequisites under Art. 27, para. 2 of the APC, the complaints were accepted as admissible and were combined for consideration in one administrative proceeding, in view of the fact that the rights and obligations of the parties stem from the same factual situation, were filed against the same persons and are within the competence of the same administrative body - CPLD. The following are constituted as parties to the proceedings: applicants - R.T., H.T. and K.S. and defendants - G.H., R.H. and N.H., passively legitimized, and association "Bulgarian Republican Federation of Cynology" - ex officio constituted

party. An open hearing has been scheduled for consideration of the complaints on the merits on 08.12.2021, the same, due to irregular notification of the parties in the proceedings, postponed to 23.02.2021 at 13:00. In order to clarify the case from a factual point of view, relevant evidence and information have been requested from the defendants, insofar as there is no information and evidence about the date on which the instructions containing the uniform civil registration numbers of the applicants were published on the website of the association and its Facebook page. In response, the chairman of the association does not contest the statements presented by the applicants, even on the contrary in opinions PPN-01-586#6/03.12.2021 and PPN-01-586#6/03.12.2021, with identical content, he admits, that the instructions were published in the form in which they were received by the association, and subsequently the uniform civil numbers of the applicants were deleted. However, it does not specify when, as a date, the instructions with and without the applicant's personal identification number were published. Given the statements made by the chairman of the association - G.H. claims that the data were commissioned for publication by R.H. - former coordinator, during a period in which she was not an employee of the association, a certified copy of a contract or other act governing the relationship between them was requested from Mr. H. on the assignment of processing/publication of personal data on the association's website, received from court instructions and scheduled technical and organizational measures for the protection of personal data, rules, instructions, order or other act, regulating the procedure for publishing documents containing personal data on the website of the association and its Facebook page. In response with a cover letter PPN-01-589#4/27.01.2022, the chairman of the association attached a copy of the training plan, undated, policy for the protection of personal data, adopted on 01.02.2019 and instructions No. 20210710215619/ 13.07.2021 according to the inventory of the Registration Agency. A request from the complainant K.S., addressed to the CPLD, to withdraw the complaint is also attached. In connection with the latter, Mr. H. informed that on 01.12.2021 Mrs. K.S. she called him to apologize "for the inconvenience caused by the complaints". On the essence of the dispute, Mr. H. points out that the instructions containing personal data - EGN were available on the association's website for 20 minutes, but he considers that no harm resulted from the latter for the applicants, especially since the instructions are accessible and published in the Registry Agency "for months". Claims that N.H. has no relation to the published instructions, and the actions of Mrs. R.H. by publishing the information on the website of the association are for the purpose of informing the members of the association and the community of cynologists, due to false and defamatory statements made. I do not take any position on the allegations of publication of the instructions on the Facebook page of the association. In view of the request

submitted by the defendant to withdraw the complaint PPN-01-589/02.08.2021, instructions were sent to K.S., indicated as the applicant, to inform the CPLD whether it supports the request for the removal of the commission. A confirmatory answer was received from Mrs. K.S., in view of which the present decision on the substance of the dispute does not concern the complaint filed by her, insofar as the latter was withdrawn, after the open meeting was held, and a separate individual administrative act was issued on the occasion of the same the commission. At the meeting of the commission held on 23.02.2022, the complaints were considered in substance. The parties - regularly notified, do not appear, are not represented. 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 the administrative proceedings, requiring the presence of established actual facts and considering the evidence collected and the allegations made, the commission accepts that, considered in substance, appeals PPN-01- 585/30.07.2021 and PPN-01-586/30.07.2021 are well-founded. The subject of the complaints are allegations of unlawful processing - distribution of the personal data of the complainants - three names and a single civil number, through published on the website of association "Bulgarian Republican Kennel Federation", in the "News" section, Instructions No. 20210710215619/13.07.2021 by an official for the entries in which they are contained. The parties do not dispute that on 29.07.2021 on the official page of the "Bulgarian Republican Federation of Cynology" association, in the "News" section, instructions No. 20210710215619/13.07.2021 according to the inventory of the Registration Agency, addressed to the association, were published for allowing entry in the TRRULNC under the account of the association of circumstances regarding the representative of the association and the governing bodies, in this case the Management Board, its named composition and mandate. The instructions contain personal data for the applicants in the amount of three names, social security number and position held in the association, insofar as they are part of the management body of the association, H.T. - Deputy Chairman of the Management Board, and Mrs. R.T. – member of the Management Board.

It is not in dispute that the instructions were published on the website of the association without deleting the uniform civil numbers of the applicants. Subsequently, the data was deleted, as can be seen from an official inquiry made on 09.08.2021, regarding the content of the instructions published on the site, objectified in Protocol PPN-01-585#1/09.08.2021, it was found that in the accessible on the website, the instructions contain three names, but no uniform social security numbers, of the individuals who appealed to the CPLD.

Undoubtedly, the administrator of the site, respectively the administrator of personal data in relation to the data published on

the association's website, is the association "Bulgarian Republican Federation of Cynology", in view of which the latter's obligation is to process the data in accordance with the requirements of the GDPR and the GDPR, including in accordance with the principles under Art. 5 of the GDPR, in particular the principles of legality and "reducing data to a minimum" - Art. 5, § 1, letters "a" and "c" of the GDPR, especially since access to the site is unlimited and free. No evidence was gathered that the passively legitimized parties N.H. had any relation to the publication of data on the site. and G.H., in his personal capacity. Regarding R.H. and given the statements made by the chairman of the association that she published the data on the association's website, it should be noted that regardless of whether the person is an employee of the controller or a processor, in whatever capacity she was as an external coordinator, the regulation introduces for the controller – the association, the same obligations: namely, that the data be processed lawfully and in accordance with the principles of Art. 5 of the GDPR, the data shall be processed only on the instructions of the administrator and under his control. Therefore, and with a view to applying the norms of the Regulation, it does not matter whether the person is an external processor or an employee of the administrator - the responsibility in both cases lies with the administrator, and the latter's objection that the information was incorrectly uploaded by a person external to the company cannot be shared by the commission, as a circumstance excluding the responsibility of the administrator.

The actions of the administrator of personal data, the association "Bulgarian Republican Federation of Cynology", by publishing instructions on the site without erasing the applicant's personal identification number, are illegal - carried out without the presence of any of the conditions for the legality of the processing, as far as undisputed that the same was done without the knowledge and consent of the appellants. The processing is not necessary for the performance of a contract to which the data subject is a party, is not necessary to comply with a legal obligation that applies to the controller, is not necessary to protect the vital interests of the data subject or another natural person, or for the performance of a task of public interest, there is no legitimate interest of the administrator overriding the interest of the persons whose data are published. To the extent that the personal data administrator is not an authority, the hypothesis of processing personal data in the exercise of official powers is also inapplicable. In this regard, for the sake of completeness, it should be noted that for the Registration Agency there is a basis for publishing the act - the instructions by lot of the association in fulfillment of its obligations arising from the ZTRRYULNC. However, such a legal obligation to publish the act is not provided for the association, the addressee of the instructions, in view of which the comparison made by the association between the actions of the association and the

Registration Agency is untenable, insofar as it concerns different administrators of personal data subject to different legal regulation , in this case special in relation to the Registration Agency regarding legally established obligations regarding its activity.

By publishing the instructions on the website of the association, without deleting the applicant's personal identification number, a violation of the principle of "reducing the data to a minimum" was committed. According to the latter, personal data processed, in this case published, by the administrator should be appropriate, related to and limited to what is necessary in relation to the purposes for which they are processed. Insofar as the purpose of the association is to inform its members about the circumstances subject to registration regarding the composition of the management bodies of the association, to achieve the latter it is necessary and sufficient to indicate the three names of the person and the position held by him and entered in the register at the Registration Agency , and indicating the personal identification number of the persons is excessive.

Given the established violation and insofar as the violation is the first for the administrator and measures have been taken to terminate it, even before informing the association about the administrative proceedings initiated before the CPLD, the commission considers the exercise of corrective authority under Art. 58, § 2, letter "b" of the GDPR - official warning. Finds that in view of the established factual situation and the evidence collected in the file, the measures under Art. 58, § 2, letters "a", "c", "d", "e", "f", "g" and "j" of Regulation EU 2016/679 are inapplicable, and the imposition of a sanction - disproportionate to what was admitted violation, its duration and the subsequent actions taken by the administrator. Taking into account the purpose of the punishment, which should have a deterrent and warning function, the nature and severity of the violation, the public relations it affects, the categories of personal data affected, the commission considers that the corrective authority exercised undoubtedly meets the effectiveness sought by the LLDP and Regulation 2016/679 and deterrent effect, while at the same time not violating the principle of proportionality and the requirement of proportionality.

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

RESOLVE:

1. Declares complaints No. PPN-01-585/30.07.2021 and PPN-01-586/30.07.2021 as well-founded.
2. Based on Art. 58, § 2, letter "b" of the GDPR sends an official warning to the association "Bulgarian Republican Federation of Cynology", in its capacity as the administrator of personal data, for an admitted violation of Art. 5, § 1, letter "a" "c" of the

GDPR regarding instructions No. 20210710215619/13.07.2021 published on the website <https://brfk.bg> according to the inventory of the Registration Agency, containing uniform civil numbers of the persons referred to the CPLD.

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/

Download files

Decision on appeals No. PPN-01-585/30.07.2021, PPN-01-586/30.07.2021 and PPN-01-589/02.08.2021

print