

Home »Practice» Decisions of the CPDP for 2018 »Decision on appeal with registration № PPN-01-3 / 02.01.2018 Decision on appeal with registration № PPN-01-3 / 02.01.2018 DECISION» PPN-01-3 / 2018 Sofia, 01.08.2018 The Commission for Personal Data Protection (CPDP) composed of: Tsanko Tsolov, Maria Mateva and Veselin Tselkov at a meeting held on 25.04.2018, pursuant to Art. . 10, para. 1, item 7 of the Personal Data Protection Act, considered on the merits a complaint reg. № PPN-01-3 / 02.01.2018, filed by L.I.L. 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 LIL, in which allegations of illegal access to her personal data by DSK Bank EAD were made through a reference made on 22.12.2017 on electronically in the NSSI database concerning data on her employment and insurance status. The complainant informs that she was in an employment relationship with DSK Bank EAD, which was terminated on 18.12.2017. She claims that on 22.12.2017, after the termination of her relations with the company, an employee of the bank working in the Directorate "Real Estate" has made a reference through the electronic access provided by the NRA to the company and has generated from the database of the NRA a report on its insurance status and the existence of registered employment contracts to which it is a party. The complainant alleged that access to her personal data by her former employer was illegal - without her knowledge and consent and without a legal basis and in violation of her rights under the LPPD. In this regard, he asks the Commission to investigate the case and engage the administrative and criminal liability of the company. Attached to the complaint is a copy of the Order for termination of employment contract № 125 / 20.11.2017, according to the inventory of DSK Bank EAD. 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, a written statement was requested from DSK Bank EAD. In response, the company expressed an opinion without any attached evidence. They informed that the applicant was an employee of the bank appointed to a position in the Real Estate Directorate and added that on 18.12.2017 the employment relationship between the parties was terminated. They claim that an official inspection of the proceedings instituted by the Commission established that on 22.12.2017 an employee of the bank, who has access for official purposes, made a reference to the individual account of Ms. L.I.L. . in the electronic register for social security of the National Social Security Institute. They point out that the reference was made without grounds and outside the official duties of the employee, in violation of the law and the internal rules of the company and actions have been taken to impose disciplinary sanctions on responsible employees. They inform that the bank will take additional organizational measures to prevent future violations. 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 control over compliance with the Personal Data Protection Act. In order to exercise its powers, the Commission must be properly seised. The appeal shall contain the obligatory requisites, specified in the provision of 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, the nature of the request, date and signature, in view of which it 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. The subject is illegal access by DSK Bank EAD to personal data of the complainant concerning her insurance and employment status by accessing them electronically on 22.12.2017. 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. The presence of a personal data controller is an absolute procedural prerequisite for the admissibility of the complaint. The complaint was directed against DSK Bank EAD, which is evident from the evidence gathered and the allegations of the parties that it has the capacity of a controller of personal data in respect of the complainant. An official reference in the Electronic Register of Personal Data Administrators and the registers kept by them established that the company is registered as a personal data administrator with an identity card. № 7302 and 12 registers requested. At a meeting of the Commission held on March 28, 2018, the complaint was accepted as procedurally admissible and as parties to the proceedings were constituted: complainant - L.I.L. and respondent - DSK Bank EAD. In order to clarify the case on the legal and factual side, the respondent requested additional evidence, which was provided in response and by letter PPN-01-3 # 11 / 16.04.2018. In the course of the proceedings the NSSI ex officio requested and provided information on access to the complainant's personal data containing the information files of the NSSI by DSK Bank EAD on 22 December 2017 through the Web Service service. At a meeting of the CPDP held on April 25, 2018, the complaint was considered on the merits. The applicant - regularly notified, did not appear, did not represent herself. The respondent party - DSK Bank EAD - regularly notified, represented by legal counsel P. The procedural representative of the company maintains the written opinion expressed during the administrative proceedings, does not dispute the complaint and confirms the violation. He claims that the company has taken measures and the perpetrators have been served with orders for disciplinary sanctions, a copy of which he presents at the meeting. In his capacity of 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 Code of Administrative Procedure, requiring the existence of established

facts, given the collected written and oral evidence and the allegations of the parties, the Commission considers that considered on the merits of the complaint № PPN-01-3 / 02.01.2018 is justified. The subject is illegal access by DSK Bank EAD to the complainant's personal data concerning her insurance and employment status by accessing them electronically on 22 December 2017. From the evidence gathered in the administrative file, It is not disputed that the complainant was in an employment relationship with the company, which was terminated as of 18.12.2017. It is not disputed that between the NSSI and DSK Bank EAD a contract has been concluded for providing information on social security activities and CSR in accordance with the Rules on the terms and conditions for concluding contracts for the provision of information and information products for information processing and social security activities, the company is given the opportunity to verify data on the insurance of individuals, data from the register for employment contracts, data on the insurance contributions paid by the insurer. As can be seen from the evidence collected on 22.12.2017 in the interval between 12:27 and 12:34 through the Web Service service and username ****, provided for access to the NSSI database of DSK Bank EAD , by entering a single civil number of the complainant, her personal data stored in the NSSI database were accessed and inquiries were made about the current situation (social security) and a reference for registered employment contracts with the person. As can be seen from the evidence in the file, the references were made by employees of the company - D.V. and N.V. the same in office in the company, respectively **** and *****. Apart from that and evident from the evidence on 21.12.2017, the personal data of the complainant were also available by J.R. on duty *****. It is common ground between the parties that the data were available without a legal basis - without the consent of the applicant and without a condition for admissibility of the processing. This conclusion is also suggested by the employees D.V., J.R. and N.V. written explanations of the case, as well as the respondent's arguments for the access, motivated by the interest of the applicant's former colleagues to establish "who is her new employer". According to the legal definition of Art. 2, para. 1 of the LPPD, the data on individuals contained in the NSSI database undoubtedly have the quality of personal data, and access to data is an action for their processing - their access should be carried out in accordance with the provisions of the LPPD, when undertaken by the administrator of personal data accessing the data of the necessary technical and organizational measures to protect the data from accidental or unlawful destruction, accidental loss, or from unauthorized access, alteration or dissemination, as well as from other illegal forms of processing. In view of the evidence gathered in the file, it must be concluded that the personal data controller has not taken the necessary technical and organizational measures to protect the complainant's personal data from unauthorized access, or that

such measures are clearly insufficient, given that the NSSI registers The personal data of the complainant were accessed by the mentioned employees of the company, without this being related to their official duties and after the termination of the legal relationship with the complainant. to personal data of individuals in the registers maintained by the NSSI, led to the unauthorized access to personal data of the complainant on 21-22.12.2017 by the said employees of the company through the username provided to DSK Bank EAD * ***** for official access to the NSSI, the same result of non-compliance of the obligation imposed on the personal data controller under Art. 23, para. 1 of the LPPD. In the context of its operational autonomy, the Commission considers that, in view of the nature of the infringement found, the imposition of coercive administrative measures (mandatory prescribing or setting a deadline for remedying the infringement) is inappropriate and inappropriate in this case. of its performance and is irremovable. Giving a deadline for eliminating the violation is pointless. It, as a coercive administrative measure, is applicable in a case in which the commission of the respective violation continues or the same is remediable. In the present case, as noted, this is impossible.

The Commission for Personal Data Protection has the power to issue a mandatory prescription to the controller of personal data, but it concerns situations in which the controller has not fulfilled its obligation, which omission can be remedied by performing the missed actions and objectifying the required by law conduct.

Only the property sanction, as a measure of administrative coercion, is the most appropriate and effective measure. It should be noted that in addition to a purely sanction measure, a reaction of the state to the violation of the statutory rules, the property sanction also has a disciplinary effect, in view of the non-commission of the same violation in the future. The administrator is obliged to know the law and to comply with its requirements, moreover, that he owes the necessary care provided by the LPPD and arising from his subject of activity, human and economic resources.

Motivated by the above and within its operational independence, the Commission imposes an administrative penalty on the personal data controller for violating the provisions of the LPPD, considering that it will have an educational impact and contribute to compliance by the controller with the established legal order. In determining the amount of the administrative penalty, the Commission considers as an aggravating circumstance and grounds for imposing a sanction above the minimum provided by law for this violation the fact that the violation was committed repeatedly and the fact that the violation is not first for the controller. who has entered into force with Decision № 512 / 24.10.2016 of the CPDP a sanction for violation of Art. 23, para. 1 of the LPPD.

Guided by the above and on the grounds of Art. 38, para. 2, in connection with art. 10, para. 1, item 7 of the Personal Data Protection Act, the Commission for Personal Data Protection,

HAS DECIDED AS FOLLOWS:

1. Declares the complaint № PPN-01-3 / 02.01.2018 to be well-founded.
2. On the grounds of art. 42, para. 9 of the LPPD imposes on DSK Bank EAD with UIC 121830616, with registered office and address of management Sofia, 19 Moskovska Str., In its capacity of personal data administrator, an administrative penalty - a property sanction in the amount of 2 BGN 500 (two thousand five hundred levs) for violation of Art. 23, para. 1 of the LPPD.

After the entry into force of the decision, the amount of the imposed penalty to be paid in cash at the box office of the Commission for Personal Data Protection, located in Sofia, Blvd. "Prof. Tsvetan Lazarov "№ 2 or transferred by bank transfer:

Bank of the BNB - Central Office,

IBAN: BG18BNBG96613000158601,

BIC BNBGBGSD

Commission for Personal Data Protection, BULSTAT 130961721

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.

MEMBERS:

Tsanko Tsolov

Maria Mateva / p /

Veselin Tselkov / p /

Downloads

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