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»Decision on the appeal with registration № Ж-651 / 21.10.2016 Decision on the appeal with registration № Ж-651 /

21.10.2016

ANSWER

№ Ж-651/2016

Sofia, January 22, 2018

The Commission for Personal Data Protection ("the Commission") composed of: members - Tsvetelin Sofroniev, Maria Mateva and Veselin Tselkov, at a regular meeting held on 13.12.2017, pursuant to Art. 10, para. 1, item 7 of the Personal Data Protection Act considered an admissibility of a complaint with registration № G-651 / 21.10.2016, filed by T.Y.M.

The complainant informed that on the day of filing the complaint she received an e-mail inviting her to update her account because a sale had been made from another browser with a PayPal card.

Mrs. T.Y.M. states that it does not own PayPal and does not buy with one. She claims that someone used her personal data and business e-mail to register and buy.

Asks the Commission to take the necessary steps to prevent abuse.

Attached to the complaint are (by letters entered № P-8322 / 09.11.2016, P-8465 / 14.11.2016, P-8840 / 25.11.2016 and P-8907 / 29.11.2016). ) letters received by e-mail.

After confirmation of the complaint in due course - it is fully compliant with the requirements for regularity according to Art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration (PDKZLDNA), namely: there are data about the complainant, the nature of the request, date and signature.

Considered admissible, it is procedurally inadmissible.

According to Art. 27, para. 2 of the Administrative Procedure Code (APC), the administrative body checks the prerequisites for the admissibility of the request with which it is seised. The legislator links the assessment of the admissibility of the request with the presence of special requirements established by law, for which the respective administrative body monitors ex officio (Article 27, paragraph 2, item 6 of the APC). Such requirements are regulated in the Personal Data Protection Act (PDPA).

Powers of the Commission under Art. 10, para. 1, item 7 of the LPPD is to consider complaints against acts and actions of

personal data controllers, which violate the rights of individuals under the LPPD. The presence of a personal data controller as a respondent in the proceedings under the LPPD is an absolute procedural prerequisite for the admissibility of the respective complaint and for the development of the proceedings.

In the present case, the action brought by Ms T.Y.M. a complaint is directed against an unknown person.

In view of the above and the impossibility to individualize and constitute a controller of personal data - passively legitimized party in the proceedings, it is necessary to conclude the inadmissibility of the complaint given the bilateral nature of the proceedings and the need for a respondent.

Apart from the stated ground of inadmissibility, it is not clear from the complaint whether personal data have been processed and to what extent. On the contrary, the letters attached to the complaint required the applicant to disclose information about herself, namely: address, e-mail, telephone number, credit card number, etc. This is evidenced by the letters received, attached to the complaint, in which nowhere is there a specific address, but only the general "dear customer". This leads to the conclusion that the personal data of Ms. T.Y.M. they are not processed, and the letters sent to her are intended to be provided by her.

The Commission for Personal Data Protection, taking into account the facts and circumstances presented in the present administrative proceedings, pursuant to Art. 27, para. 2, item 6 of the APC in connection with Art. 10, para. 1, item 7 of the LPPD,

HAS DECIDED AS FOLLOWS:

Leave the appeal with registration № Ж-651 / 21.10.2016, filed by T.Y.M.

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:

Tsvetelin Sofroniev / p /

Maria Mateva / p /

Veselin Tselkov / p /

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