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»Practice» Decisions of the CPDP for 2018

»Decision on appeal with registration № PPN-01-333 / 18.05.2018 Decision on appeal with registration № PPN-01-333 / 18.05.2018

ANSWER

№ PPN-01-333 / 2018

city of Sofia, August 2, 2018

Commission for Personal Data Protection (CPDP) composed of: Chairman: Ventsislav Karadzhov and members: Tsvetelin Sofroniev, Maria Mateva and Veselin Tselkov at a regular meeting held on 11.07.2018, objectified in Minutes № 31/2018, considering complaint with registration № PPN-01-333 of 18.05.2018, in order to rule took into account the following:

The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA).

The Commission for Personal Data Protection has been seised with a complaint filed by SS, S. village, A. municipality, B. district against "B.T.K." EAD, UIC *****, registered office and address of management Sofia ***** and, represented by A.I.D. The complaint was filed by mail and addressed to BTC. EAD, with a copy to the Commission for Personal Data Protection and the Commission for Consumer Protection.

In the complaint S.S. states that he is a subscriber of "BTC" EAD for many years and that he uses only a home phone, that he paid his bills regularly, but because it was the time of mobile phones, the landline became redundant. In this regard, S.S. visited the office of "BTK" EAD in the city of A. to submit an application for closing the phone. On the spot in the office he was informed that he had a contract concluded on August 22, 2017 for a period of 24 months. S.S. he was amazed, for his memory had not yet betrayed him. Points out that the contract with "BTK" EAD or any other document has not been signed for at least 3-4 years, respectively has not concluded a contract dated 22.08.2017. He requested to be provided with a contract, his request was granted and on 11.05.2018 received a copy of the same. S.S. found that that contract constituted an additional agreement which lacked the requisites, namely particulars of the person who had concluded it. It contained only his data - names and a unique civil number. A declaration was attached to the agreement. Both documents were "signed" by him. Given the situation, S.S. he contacted the police department in the town of A., presenting a sample of his signature for graphological examination. In the appeal, S.S. insists "BTC" EAD to terminate this contract immediately and close his phone.

Based on the above, S.S. Requests the Commission for Personal Data Protection to verify who and how uses his personal data.

Attached to the complaint are: Supplementary agreement to the Contract for electronic communications services № ***** dated 22.08.2017, Annex № 1, declaration dated 22.08.2017, supplementary agreement to the Contract for electronic communications services for termination of service from 11.05.2018

During an inspection regarding the regularity of the filed by S.S. complaint it is established that it does not meet the requirements of Art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration, respectively Art. 29, para. 2 of the Code of Administrative Procedure (APC), as it does not contain the full name of the complainant and is not signed by him.

Based on the above, with a letter with ref. № PPN-01-333 / 2018 # 1 of 15.06.2018 of S.S. was informed, within 3 days from the date of receipt of the letter, to confirm with his own hand or electronic signature the complaint and to indicate his full name, indicating that in case of non-confirmation of the complaint and / or failure to eliminate the irregularities, the specified term, the initiated administrative proceedings will be terminated.

The letter was sent to the address indicated in the complaint: S. village, A. municipality, B. district, through Bulgarian Posts EAD.

From the notice for delivery with bar code № ID PS 1113 00NUBQ 5 it is established that a letter with ref. № PPN-01-333 / 2018 # 1 of 15.06.2018 was received on 20.06.2018 personally by SS, as the 3-day term for confirmation of the complaint and elimination of the irregularities in the same has expired on June 25, 2018

Within the specified period and so far, the complaint has not been confirmed and the shortcomings in the same have not been eliminated by S.S.

The requirements for regularity of the complaint are specified in Art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration, respectively Art. 29, para. 2 of the Code of Administrative Procedure, as the lack of any of the above details makes it irregular. Compliance of the complaint with the requirements of the law regarding its regularity is an absolute positive procedural prerequisite for the proper exercise of the right to appeal and is a prerequisite for the admissibility of administrative proceedings.

According to Art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration,

respectively Art. 29, para. 2 of the Code of Administrative Procedure, the request should contain the full name and address of the person from whom it originates, the nature of the request, date and signature.

According to Art. 30, para. 2 of the Rules of Procedure of the Commission for Personal Data Protection and its administration, respectively Art. 30, para. 1 and para. 2 of the Administrative Procedure Code, when the request is not signed and contains deficiencies, the administrative body requires its confirmation by hand or electronic signature of the applicant / applicant and elimination of irregularities, within 3 days of receipt of the notice, indicating that failure to confirm of the request and / or failure to eliminate the irregularities within the specified period, this will cause the termination of the proceedings.

According to Art. 30, para. 3 of the Rules of Procedure of the Commission for Personal Data Protection and its administration, respectively Art. 56, para. 2 in connection with Art. 30, para. 1 and para. 2 of the Administrative Procedure Code, the administrative body shall terminate the proceedings in the cases when the complaint is not confirmed and / or the shortcomings in it are not eliminated within the indicated term.

In view of the above, the Commission for Personal Data Protection should leave without consideration a complaint with Reg. № PPN-01-333 of 18.05.2018 as irregular and terminate the initiated proceedings.

Thus motivated and on the grounds of Art. 30, para. 3 of the Rules of Procedure of the Commission for Personal Data Protection and its administration, respectively Art. 56, para. 2 in connection with Art. 30, para. 1 and para. 2 of the Administrative Procedure Code, the Commission for Personal Data Protection

RESOLVED

Leave without consideration a complaint with reg. EAD, UIC *****, registered office and address of management Sofia, **** and, represented by A.I.D., as irregular and terminates the administrative proceedings.

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.

THE CHAIRMAN:

MEMBERS:

Ventsislav Karadzhov

Tsvetelin Sofroniev / p /

Maria Mateva / p /

Veselin Tselkov / p /

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