

Decision on appeal with registration № PPN-01-285 / 30.04.2018 DECISION» PPN-01-285 / 2018 Sofia, 10.05.2019 Personal Data Protection Commission (CPDP, Commission) composed of, Chairman - Ventsislav Karadzhov and members: Tsanko Tsolov, Tsvetelin Sofroniev and Veselin Tselkov at a regular meeting held on 06.03.2019 and objectified in protocol № 11 / 06.03.2019, on the grounds of art. 10, para. 1 of the Personal Data Protection Act (PDPA) in conjunction with Art. 57, § 1, b. "E" of Regulation (EU) 2016/679, considered on the merits a complaint with reg. № PPN-01-285 / 30.04.2018, filed by DD, IT, DH, P .H., L.P., P.P., M.A. and AA, parents of students from the school (UZ). The administrative proceedings are by the order of art. 38 of the LPPD. The Commission for Personal Data Protection has been seised with a complaint Reg. by ET "*****". The complaint states that in February 2018 a contract was submitted for signing by the parents, as legal representatives of the students for an organized excursion from ET "*****". They inform that in the provided contracts the personal data of the children were filled in, in the volume of three names and a single civil number (PIN). The applicants stated that at that time, the availability of their children's personal data had not "aroused suspicion", as the trip had been organized by the school. It was also explained that the management of the school "officially distances itself from the organization of the excursion on the grounds that" the excursion is planned at the request of the students. " The parents counter-argue that the trip is organized "at the request of the students". The complainants are outraged by the fact that ET "*****" obtained our children's personal data without our explicit consent? Who has the personal data of forty children and, if appropriate, provides them to third parties? ". They ask for an inspection and for clarification of the factual situation and in case of violations of the application of the law. With a letter ex. № PPN-01-285 # 1 / 21.05.2018 ET "*****" was notified pursuant to Art. 26 of the APC for the initiated administrative proceedings. There is an opportunity to express an opinion and present evidence. The company has engaged a statement with registration № PPN-01-285 # 3 / 05.05.2018, which states that in early 2018 at the suggestion of teachers from U.Z. from ET "*****" was offered an organized group trip abroad for high school students. They inform that with the help of the school a list of students wishing to join the trip has been prepared, and the personal data of students are provided voluntarily by themselves and their parents for the purpose of the contract, for compulsory insurance and hotel reservation. It was also stated that for all students who wished to join the excursion, individual contracts were signed with their parents, including the applicants, and the only prepared but unsigned contract concerned the applicants' son I.T. and D.D., as for the latter it is stated that they initially expressed their oral consent, but subsequently did not sign and return the draft contract. The opinion stated

that, despite the applicants' allegations that they had not given their consent, "by signing the contract, they had given their unequivocal consent". They are informed about the purpose and scope of personal data processing, namely organizing a group trip under the law on tourism, concluding compulsory insurance, reservations and subsequent border control. They also inform that after signing the contracts, in the course of the explanatory campaign, some of the complainants complained about the way of organizing the trip and despite the written consent and the signed contracts, complaints were filed with the Consumer Protection Commission, the Ombudsman of Bulgaria. Regional Department of Education, Ministry of Tourism and Ministry of Education. They indicate that all inspections have ended with a statement of findings and an opinion on the absence of a violation. They believe that no violations of the law on personal data protection have been committed. As evidence are attached 4 pcs. contracts for organized group travel, signed by the applicants, 4 statements for termination of contracts, contract with insurance company ZAD "****", policy for personal data processing, protocol for verification of documents by the Consumer Protection Commission. With a letter ex. № PPN-01-285 # 2 / 21.05.2018 U.Z. has been notified on the grounds of Art. 26 of the APC for the initiated administrative proceedings. There is an opportunity to express an opinion and present evidence. In response, a statement was received with reg. tour operators, and learned about the process trip only after complaints from parents to various institutions and subsequent inspections. The school claims that they did not provide any personal data to students of ET "*****". With a letter ex. № PPN-01-285 # 15 / 06.12.2018 of the Commission, the school was requested information about the allegations of the parents that "the data were provided by the school to the travel agency". Explanations were also requested from Ms. M. and Ms. A. In response, the school engaged an opinion with reg. № PPN-01-285 # 17 / 27.12.2018, which again stated, that the school management did not initiate and organize a student trip, therefore did not collect offers and did not conclude contracts with tour operators, did not provide personal data to students of a travel agency. It is also stated that teachers, in their capacity as employees of the school, do not have the right to conclude contracts on his behalf for organized trips. Written explanations from Ms A. and Ms M. were also attached, in which it was explicitly stated that they had not initiated or organized a meeting between parents and the travel company ET "*****", they had not provided personal data, related to the contracts that are filled in by the parents. With letters ex. №№ PPN-01-285 # 7 / 19.07.2018, PPN-01-285 # 8 / 19.07.2018, PPN-01-285 # 9 / 19.07.2018, PPN-01-285 # 10 / 19.07.2018, PPN-01-285 # 11 / 19.07.2018 by the Commission based on the provisions of Art. 18, para. 1 of the APC, in conjunction with Art. 28, para. 4 of the Code of Civil Procedure, the applicants were required to provide documents showing the representative power of the

parents. These have not been deposited in the Commission's records by L.P., P.P., M.A. and A.A. With letters ex. №№ PPN-01-285 # 23 / 01.02.2019 and PPN-01-285 # 24 / 01.02.2019 of Mr. and Mrs. H., parents of R.H. and D.D. and I.T., parents of J.T. Letters were sent informing the parents that the children R.H. had been constituted as complainants. and J.T., given the fact that both are minors as of the date of filing the complaint with the commission, and according to the provision of Art. 4 of the Law on Persons and the Family, persons from 14 years of age to 18 years of age are minors. They perform legal actions with the consent of their parents or guardians. Instructions were given to the parents, according to the provision of Art. Art. 28, para. 1 of the Code of Civil Procedure (CPC), which states that able-bodied natural persons carry out court proceedings in person, and as evidenced by para. 2 of the same art. "Juveniles and persons with disabilities shall carry out legal proceedings in person, but with the consent of their parents or guardians." They have been informed that according to the provision of Art. 36, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration (PDKZLDNA), the complaint is a request seeking infringed rights of the applicant. According to Art. 27, para. 2 of the Administrative Procedure Code (APC), the administrative body checks the prerequisites for the admissibility of the request, and according to item 6 of the provision the assessment of admissibility is bound by the presence of special requirements regulated by law, in this case LPPD and PDKZLDNA. It is stated that in case of failure to eliminate the irregularity in the filed complaint, within 7 days of receiving the letter, the complaint proceedings will be terminated. A subsequent complaint was filed, filed with Reg. № PPN-01-285 # 27 (18) /07.02.2019, filed by J.T. - a student at U.Z. with confirmed actions and consent of the parents: D.D. - mother and I.T. - father against actions committed by U.Z. and ET "*****" with a subject similar to the initially filed complaint with reg. № PPN-01-285 / 30.04.2018. The Commission for Personal Data Protection is an independent state body that protects persons in the processing of their personal data and when accessing these data, as well as control over compliance with the Personal Data Protection Act. According to Art. 57, §. 1, item "e" of Regulation 2016/67, when referring it, the Personal Data Protection Commission considers complaints against acts and actions of personal data controllers, which violate the rights of data subjects. According to the provision of art. 36, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration (PDKZLDNA), the complaint is a request seeking protection for violated rights of the applicant. In order to exercise its powers, the Commission must be properly seised. Complaint reg. № PPN-01-285 / 30.04.2018 contains the obligatory required 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 (PDKZLDNA),

namely: there are data about the complainants, the nature of the request, date and signature, in view of which it is regular. The CPDP, according to the Rules of Procedure of the Commission for Personal Data Protection and its administration and contains the necessary normatively determined requisites for regularity. According to Art. 38, para. 1 of LPPD (as amended by SG No. 39 of 20 May 2011) and in view of the provision of § 44, para. 1 of the transitional and final provisions to the law amending the LPPD in case of violation of its rights under the LPPD, each individual has the right to refer to the Commission for Personal Data Protection within one year of learning of the violation, but not later than five years since its implementation. The complaint was filed within the term of art. 38, para. 1 of LPPD and is admissible. In Art. 27, para. 2 of the APC, the legislator links the assessment of the admissibility of the request with the presence of the requirements specified in the text. The applicability of the Personal Data Protection Act is related to the protection of individuals in connection with the processing of their personal data by persons having the capacity of administrators of personal data within the meaning of the legal definition of Art. 3 of the Act. At a meeting of the Commission held on 23.01.2019, objectified in Minutes № 3 / 23.01.2019 with respect to the persons LP, PP, MA, AA, the complaint was announced for inadmissible, in accordance with the provision of art. 36, para. 1 of the PDKZLDNA, according to which "the complaint is a request seeking protection of rights violated by the applicant", given that for LP, PP, MA and A.A. there is no legal interest in the complaint. In view of the fact that the applicants D.H., P.H. have provided a birth certificate for their daughter R.H., who is a minor at the time of filing the complaint, the applicants D.D. and I.T. they also provided a birth certificate, which shows that their son J.T. is a minor as of the date of filing the complaint and according to the provision of Art. 28, para. 2 of the Civil Procedure Code (CPC), the minors and the restricted persons shall perform the court proceedings personally, but with the consent of their parents or guardians, and according to the provision of Art. 4 of the Law on Persons and the Family, "persons from 14 years of age to 18 years of age are minors, they perform legal actions with the consent of their parents or guardians, but they can conclude simple small transactions to meet their current needs. and to have what they have acquired with their work "at a meeting of the Commission held on 23.01.2019, objectified in the minutes № 3 / 23.01.2019, the complaint was declared admissible and the complainant parties were constituted - J. T., represented by his parents D.D. and I.T. and R.H., represented by parents D.H. and P.H. with instructions to the parties for elimination of irregularities in the complaint, respondent parties - U.Z. and Agency "*****". The parties have been regularly notified of the meeting scheduled for March 6, 2019. In preparing this Decision, the change in the legal framework in the field of personal data protection in the period from the processing of personal data to the ruling on the

merits of the request addressed to the administrative body has been taken into account. It is also consistent with the fact that from 25.05.2018 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the 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 the rules on the protection of individuals with regard to the processing of personal data as well as the rules on the free movement of personal data. It is also noted that according to Art. 288 TFEU "The Regulation is an act of general application. It is binding in its entirety and directly applicable in all Member States. "According to Art. 15, para. 2 of the Law on Normative Acts (LNA) "if a normative act contradicts a regulation of the European Union, the regulation shall apply". According to the provision of § 44, para. 1 of the transitional and final provisions to the law for amendment and supplement of LPPD the proceedings instituted until 25.05.2018 and not completed before the entry into force of this law proceedings for violations of the law shall be completed according to the current order. The presence of a personal data controller is an absolute procedural prerequisite for the admissibility of the complaint. In the specific case, given the provision of Art. 4, item 7 of Regulation (EU) 2016/679 and in view of the evidence gathered in the file, it must be concluded that U.Z. and ET "*****" are administrators of personal data. It is not disputed in the case file that contracts have been concluded, signed by the parties for an organized trip between ET "*****" and LP, a parent of AP (have not provided a birth certificate of the child, which shows the representative power of the parents); M.A., parent of N.A. (have not provided a birth certificate of the child, which shows the representative power of the parents); D.H., parent of P.H. and R.H. (According to the administrative file, a birth certificate of R.H. was provided). Contradictory allegations have been made by parents, the school and the travel agency regarding the data included in the contracts for organized travel. It is noted that the administrative body does not have the competence to rule on the veracity of the documents drawn up, but from a comparison of the handwriting of the submitted contracts, it can be concluded that they are filled in by persons with different handwriting. According to the provision of art. 36, para 2, sentence two of the APC, the parties are obliged to provide the evidence in their possession. The parents who filed the complaint provided as evidence in the administrative file an unfilled form of the contract for organized travel and general conditions to the contract for organized travel. According to the file regarding the person JT, no evidence has been provided for a contract concluded for an organized trip between him, through his parents, and the travel agency ET "*****". According to the provision of art. 4, item 1 of the ORD, "personal data" means any information related to an identified natural person or a person who can be identified ("data subject"); an identifiable natural person is a person who can

be identified, directly or indirectly, in particular by an identifier such as name, identification number, location data, online identifier or one or more features specific to the natural, the physiological, genetic, mental, intellectual, economic, cultural or social identity of that individual. According to item 2 of the same art. "Processing" means any operation or set of operations carried out with personal data or a set of personal data by automatic or other means such as collecting, recording, organizing, structuring, storing, adapting or modifying, retrieving, consulting, using, disclosing, disseminating or otherwise making the data available, arranging or combining, restricting, deleting or destroying. According to Art. 8, para. 1 of the CPA, the contract is an agreement between two or more persons in order to create, settle or destroy a legal relationship between them. With the provisions of art. 84, para. 2 and para. 3 of the Law on Tourism stipulates that the contract for a tourist package is prepared in clear and understandable language. When the contract is made in writing, it must be written legibly. When concluding a contract for a travel package or without undue delay after its conclusion, the tour operator or travel agent shall provide the traveler with a copy of the contract or confirmation of the conclusion of the contract for a travel package on a durable medium. When the contract for a tourist package is concluded in the presence of the parties to the contract, the traveler is entitled to a copy of the contract on paper. In view of the above, it follows that for the travel agency there is a legal basis for processing personal data, according to the provision of Art. 6, letter "b" of the Regulation. Despite the allegations in the administrative file for a list, which contains the names of students who have expressed a desire to participate in the trip, school U.Z. categorically denies that he initiated such a trip, even more so that he provided the data to the students. The administrative file did not establish the available on such a list, which shows that in some form the personal data of children from the school of the travel agency were provided. Given the above, pursuant to Art. 10, para. 1 of the Personal Data Protection Act in connection with Art. 57, § 1, b. "E" of the Regulation and Art. 38, para. 3 of the Personal Data Protection Act, the Commission ruled with the following DECISION: 1. Announces a complaint with registration № PPN-01-285 / 30.04.2018, filed by LP, PP, M. A., A.A. for procedurally inadmissible, given the provision of Art. 36, para. 1 of PDKZLDNA in connection with art. 27, para. 2, item 6 of the APC, given the lack of legal interest in filing a complaint by these persons. 2. Announces a complaint with reg. № PPN-01-285 / 30.04.2018 for procedurally inadmissible in respect of D.H., P.H., parents of R.H. based on the provisions of Art. 27, para. 2, item 6 of the APC, in connection with Art. 38, para. 1 of LPPD, in conjunction with Art. 36, para. 1 of PDKZLDNA, in conjunction with Art. 18, para. 1 of the APC, in conjunction with Art. 28, para. 2 of the Civil Procedure Code and Art. 4 of the LHA, given the lack of representative power and the failure to eliminate the irregularity in the complaint. 3. Dismisses as

unfounded and unproven the complaint with registration PPN-01-285 / 30.04.2018, filed by the person J.T., with confirmation from his parents regarding U.Z. 4. Dismisses as unfounded the complaint with reg. PPN-01-285 / 30.04.2018, filed by the person J.T., with confirmatory actions of his parents regarding ET "*****", given the established grounds for admissibility for processing of personal data on the grounds of the provision of art. 6 (c) of the Regulation. The decision is subject to appeal within 14 days of its service through the Commission for Personal Data Protection before the administrative court within the meaning of Art. 133, para. 2 of the APC. CHAIRMAN: MEMBERS: Ventsislav Karadzhov / Tsanko Tsolov / Tsvetelin Sofroniev / Veselin Tselkov /

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