

Home »Practice» Decisions of the CPDP for 2018 »Decision on appeal with registration № PPN-01-14 / 11.08.2017 Decision on appeal with registration № PPN-01-14 / 11.08.2017 DECISION» PPN-01-14 / 2017 Sofia, 28.05.2018 Commission for Personal Data Protection ("Commission" / "CPDP") composed of: members - Tsanko Tsolov, Tsvetelin Sofroniev, Maria Mateva and Veselin Tselkov, at a regular meeting, held on March 28, 2018, on the grounds of Art. 10, para. 1, item 7 of the Personal Data Protection Act, considered on the merits a complaint with registration № PPN-01-14 / 11.08.2017, filed by A.D.A. against F.IN. AD. The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA). The complainant informed that on 10 August 2017 he appeared at the National Revenue Agency - Aksakov, Sofia in connection with a tax audit. An employee of the National Revenue Agency handed him 19 sheets of information about money transfers made by him and for him through the "Moneygram" system of the financial house "F.IN." AD. Documents were also served for his wife R.A.A. - 6 sheets. Mr. A.D.A. states that they have never used the services of Moneygram - neither to send nor to receive money. Therefore, he considers that there is a serious violation of his rights, the LPPD guarantees us. He claims that his personal data and that of his wife were processed illegally without their knowledge and consent. Asks the Commission to carry out an inspection on the grounds of Art. 12 of the LPPD and to impose a penalty on the personal data controller administrative penalty under Chapter Eight of the LPPD. To the appeal Mr. A.D.A. attaches copies of references for completed translations. Requests ex officio to request detailed information about the processed by the financial house "F.IN." AD personal data - his and his wife's. With a letter ex. № PPN-01-14 / 2017. # 3 / 31.10.2017, the complainant was required to present evidence of representative power in relation to his wife, as the complaint was not signed by her. The letter was returned in its entirety marked "unsolicited". In the conditions of the official principle in the administrative process and the obligation of the administrative body to collect evidence and clarify the actual facts relevant to the case, the respondent company was required to submit a written statement and relevant evidence. With a letter ex. № PPN-01-14 / 2017. # 4 / 31.10.2017 "F.IN." AD 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 with relevant evidence. The company undertakes an opinion reg. № PPN-01-14 # 6 / 13.11.2017 for unfoundedness of the complaint. The Executive Director informs that the company represented by him is one of the representatives offering the money transfer service through the MoneyGram system on the territory of the Republic of Bulgaria. The service is performed through agents on the territory of the country, based on concluded procurement contracts. As one of the representatives of the payment system, "F.IN." AD has summarized information related to the movement of funds at the

level of agents, and does not contain data on received or ordered remittances from customers of the service. Complete information with data on the performed transactions and with the data of the clients is processed and stored in the headquarters of "M.P.S." - USA (M.P.S., Inc., USA). When conducting inspections by inspection institutions regarding orders ordered or received through the MoneyGram system, "F.IN." AD makes inquiries to the headquarters of MPS, as it does not have the requested information. In the specific case, "F.IN." AD did not claim and state that the complainant and his wife were orderers or recipients of remittances, but only provided the National Revenue Agency with the information received from the headquarters (Annex № 1 and Annex № 2 to the opinion). It is evident from the presented reports that they do not contain personal data of specific individuals. A repeated request was made for an inspection to the headquarters of 05 RU - SDVR. From the information provided (Appendix № 3 and Appendix № 4) it is evident that A.D.A. and R.A.A. they are not orderers or recipients of remittances. Based on the negative results of the re-inspection, which included additional identification data of the persons, it is evident that the personal data of the complainant and his wife were not misused by "F.I.N." AD, as they are not contained in the database of "MPS". In addition, from the headquarters of "M.P.S." provide an explanation (Annex № 5 and Annex № 6) that the initial inspection was carried out incorrectly due to a search only by the names of the inspected persons. The Executive Director assures that it is not a question of illegal use and processing of personal data, but of a technical error made during the inspection by "MPS". The opinions annexed to the text are attached to the opinion. In order to exercise its powers, the Commission must be properly seised. Complaint № PPN-01-14 / 11.08.2017 contains the required details specified in 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, nature of the request, date and signature, in view of which the complaint is regular. The appeal is admissible in respect of A.D.A. - it has been submitted within the term under Art. 38, para. 1 of LPPD by a natural person with a legal interest. The subject-matter is an allegation of unlawful processing of the applicant's personal data. During the official inspection in the Register of personal data controllers and the registers kept by them by the Commission, it was established that the company, against which the complaint is directed, has fulfilled its obligation under Art. 17, para. 1 of LPPD and is registered as a personal data administrator with ident. № 54491 and requested register "Moneygram". The complaint was referred to a competent body to rule - the Commission for Personal Data Protection, which 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. At a meeting of the Commission held on

February 28, 2018, the complaint was declared admissible in respect of A.D.A. and inadmissible in respect of R.A.A. due to lack of representative power and referral to the Commission. Parties in the administrative proceedings have been constituted: complainant - A.D.A. and respondent - "F.IN." AD. The National Revenue Agency (NRA) has been established as an interested party. The parties have been regularly notified of the meeting of the Commission for consideration of the complaint on the merits scheduled for March 28, 2018. In order to clarify the case from a factual and legal point of view, the NRA requested an opinion. The National Revenue Agency commits an opinion with Reg. № PPN-01-14 # 15 (17) /03.04.2018. for the period from 01.01.2014 to 31.12.2016. In the course of the inspection the following actions were performed - with a request for documents and written explanations from third parties, from "F.IN." AD information was requested as to whether the complainant was a client of the said financial institution and whether the same payments had been made and received through the company's system. In response to the above request, a letter was received that A.D.A. is a client of "F.I.N." AD, and a reference is attached to the letter, containing established in the system coincidences regarding money transfers. After the complainant was requested information with a request for submission of documents and written explanations from the obligor, related to received and sent money, on 11.08.2017 Mr. A.D.A. notifies the CPDP for violation of his rights under the LPPD. With a request for submission of documents and written explanations from third parties from "F.IN." AD was again requested information whether the person A.D.A. is a client of the company and whether the same has made and received payments through their system. An answer was received that correspondence had been conducted between F.IN. AD and the headquarters of MPS USA, from which information was obtained that "In the data provided by" M.P.S. there are no transfers made by the person you are checking through a representative of "F.IN." AD on the territory of the Republic of Bulgaria. " At the open hearing on the merits of the complaint, Mr. A.D.A. does not appear and is not represented. The respondent - "F.IN." AD is represented by an executive director. He stated that the applicant's personal data had not been processed at all by the company he represented. Only two names of the applicant are mentioned in the reports themselves. "F.IN." there is no access to the personal data of the persons who have used the services of "MoneyGram", and the information is contained in the servers of "MPS". USA. Upon request from an institution, the same is transferred to the headquarters in the United States and the information received is provided to the requester. In the factual situation thus established, the Commission examined the complaint on the merits, finding it unfounded on the basis of the following conclusions: The Personal Data Protection Act regulates the protection of the rights of individuals in the processing of personal data. The purpose of the law is to guarantee

the inviolability of the person and private life by ensuring the protection of individuals in the event of improper processing of related personal data in the process of free movement of data. From "F.IN." AD state that they have only summarized information about received or ordered remittances through the MoneyGram system, whereby they do not process personal data of their clients. Complete information with transaction data and customer data is processed at the headquarters of M.P.S., USA. The company against which the complaint was lodged requested an investigation into the case from the US headquarters, which is attached to the opinion. According to the legal definition given in Art. 2, para. 1 of the LPPD, personal data are any information relating to a natural person who is identified or can be identified directly or indirectly by an identification number or by one or more specific features. The information attached to the complaint for remittances contains only two names of the complainant A.D.A. Only two names do not qualify as "personal data" within the meaning of the cited provision, as through them the natural person cannot be unambiguously individualized. The same is confirmed by the inspection carried out at the headquarters of "M.P.S." USA, which is made with more individualizing data for the complainant. In the course of the inspection it was established that the translations did not refer to Mr. A.D.A. and his personal data are not processed, therefore the allegation of the complainant that his personal data have been illegally processed by the personal data controller "F.IN." AD remains unproven. The Commission for Personal Data Protection, taking into account the facts and circumstances presented in the present administrative proceedings, and on the grounds of Art. 38, para. 2 of the LPPD, HAS DECIDED AS FOLLOWS:

Disregards the complaint with registration № PPN-01-14 / 11.08.2017, filed by A.D.A. against F.IN. AD, as unfounded.

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:

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Maria Mateva / p /

Veselin Tselkov / p /

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