

Decision on appeal with registration № PPN-01-192 / 29.11.2017 DECISION» PPN-01-192 / 2017 Sofia, 30.07.2018 Personal Data Protection Commission (CPDP) composed of: Chairman: Ventsislav Karadzhov and members: Tsvetelin Sofroniev and Maria Mateva at a meeting held on 09.05.2018 , pursuant to Art. 10, para. 1, item 7 of the Personal Data Protection Act considered on the merits a complaint № PPN-01-192 / 29.11.2017, filed by J.S.P. 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 J.S.P. with allegations for illegal processing of his personal data by "MHAT-B. "Ltd. The complainant informed that from an electronic inquiry through the website of the National Revenue Agency (NRA) he found that in the section "Information on social security income according to data from declarations under Ordinance H-8" it was stated that in June In 2017 he received an award from MHAT-B. EOOD on which an amount has been paid under SMPS. The applicant alleged that he had never worked for the company, was adamant that he had not entered into an employment or other contract with him, and that he had not received any remuneration from the hospital. He believes that his personal data has been misused, which undermines his prestige as a doctor, his professional qualities and ethics and puts him in an awkward position in front of his current employer - University Hospital - Lozenets. No evidence was attached to the complaint. In the course of the proceedings Mr. J.S.P. supplements his complaint and motivated by the content of the attached copy of a letter from the Executive Agency "General Labor Inspectorate" alleged improper processing of his personal data and by A.S.K. UMBAL EOOD, in the case of their provision, without his knowledge and consent, to MHAT-B. Ltd. Informs that he was in an employment relationship with "A.S.K. UMBAL EOOD, the same terminated on 25.05.2017 and is adamant that it has not been notified by its former employer to provide his data to MHAT-B. "Ltd. He added that as of the date of the information submitted to the NRA for insurance, namely for the month of June 2017, he was no longer an employee of "A.S.K. UMBAL EOOD and finds invalid the contracts concluded between the two companies to which he was a party. 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, from "MHAT-V. EOOD and A.S.K. UMBAL EOOD opinions have been requested on the case. In response, the manager of MHAT-V. "EOOD presents a certified copy of relevant evidence, including written explanations on the case by him in his capacity as manager of the company, the chief accountant and the operational accountant-clerk of the company, civil contract № *** and declaration to him, unsigned by the contractor - Dr. J.S.P., as well as

payrolls for June 2017. From "A.S.K. UMBAL EOOD has filed an opinion that the complaint against the company is unfounded and unproven. In order to clarify the case from a legal and factual point of view, the NRA requested and in response provided a reference on the current status of all employment contracts with the complainant registered in the agency, as well as reference data to provide the complainant for the period 01.01 - 30.11.2017. In the course of the proceedings and given the fact that the Executive Agency "General Labor Inspectorate" was also contacted, the latter requested information about the inspection and the results of the case, as well as a certified copy of written explanations given by the company's manager. In the case and a copy of the contract presented in the file № *****, containing data of the complainant Mr. J.S.P. In response, the Agency informed that the performed inspection did not establish data for violations related to their material competence and attached a certified copy of the documents required by the CPDP. 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. Complaint № PPN-01-192 / 29.11.2017 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, 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 same is the subject of illegal processing of the personal data of the complainant by "MHAT-V. EOOD in connection with a contract registered with the NRA and a social security declaration submitted by the company to the complainant for June 2017. The subject of the complaint are also the allegations of illegal processing of personal data of Mr. JSP, in the hypothesis of their provision by "A.S.K. UMBAL EOOD of MHAT-V. EOOD for the purposes of the contract. The complaint was referred to a competent body to rule - the CPDP, 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. The presence of a personal data controller is an absolute procedural prerequisite for the admissibility of the complaint. In the specific case and in view of the evidence gathered in the file, it is indisputable that the parties passively legitimized in the proceedings - "MHAT-V. EOOD and A.S.K. UMBAL EOOD have the capacity of administrators of personal data in relation to the complainant. From an official reference made in the Electronic Register of the personal data controllers and the registers kept by them, it was established that they are registered as a personal data controller with an identity card, respectively. №

1873 and № 411519. At a meeting of the Commission held on 14.03.2018 the complaint was accepted as procedurally admissible and as parties to the proceedings were constituted: complainant - J.S.P. and respondent parties - "MHAT-V. EOOD and A.S.K. UMBAL EOOD, in their capacity of administrators of personal data. The parties were regularly notified of the open meeting of the Commission for consideration of the complaint on the merits scheduled for 09.05.2018 and were instructed to distribute the burden of proof in the process. From "MHAT-V. EOOD evidence was requested in support of the allegations that the applicant's data had been provided to the medical establishment by A.S.K. UMBAL EOOD for "performing FGS", as well as information on the type and volume of the provided data, when and how they were provided. In reply, Mr Ch. Claimed that the applicant's personal data had been provided by A.S.K. UMBAL EOOD electronically on the official e-mail of MHAT-V. "EOOD specifies that a copy of the applicant's ID card was provided on 05.07.2017, and on 29.06.2017 diplomas issued to the applicant for higher education and for a specialty, certificate and certificate from the Bulgarian Medical Union were provided to the applicant. In support of the above, a certified printout of the contents of the received from "A.S.K. UMBAL Ltd. emails and the files attached to them. To the applicant, as well as to "A.S.K. UMBAL EOOD has been provided with a certified copy of what has been expressed by MHAT-B. "EOOD statement together with the appendices to it, as the addressees were given 7 days to express an opinion on it, to make requests and / or objections to the evidence. In response, Mr. J.S.P. informs that he maintains the complaint and his allegations stated in it that the provision of his personal data by "A.S.K. UMBAL EOOD of MHAT-V. "EOOD and their processing by the latter for preparation and registration in the NRA of a civil contract is without his knowledge and consent. In this regard, and given the large amount of personal data processed without legal grounds by medical institutions, asks the Commission to engage the administrative and criminal liability of both data controllers given the high public danger of their actions concerning in addition to violating his rights under LPPD, and "manipulating the health insurance financing system". From "A.S.K. UMBAL EOOD has not expressed an opinion on the evidence presented by MHAT-B. "Ltd. At a meeting of the Commission held on 09.05.2018, the complaint was considered on the merits. The applicant - regularly notified, appeared in person and through lawyers S.S. and A.A. from the Sofia Bar Association, who support the complaint and ask the Commission to uphold it as well-founded and proven. "MHAT-V. "Ltd. - regularly notified, not represented. „A.S.K. UMBAL EOOD - regularly notified, represented by legal counsel I. with a power of attorney for the file. The company's legal representative maintained the written opinion expressed during the proceedings, asking the Commission to take into account the fact that the infringement was first of all for the medical establishment and did not cause any damage

to the complainant when ruling on the merits of the complaint. 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 APC, requiring the existence of established facts, given the evidence gathered and the allegations, the Commission considers that considered on the merits of the complaint № PPN-01-192 / 29.11.2017 is justified in respect of both controllers of personal data - „A.C.K. UMBAL EOOD and MHAT-V. “Ltd. The same is the subject of illegal processing of the personal data of the complainant by "MHAT-V. EOOD in connection with a contract registered with the NRA and a social security declaration submitted by the company to the complainant for June 2017. The subject of the complaint are also the allegations of illegal processing of personal data of Mr. JSP, in the hypothesis of their provision by “A.S.K. UMBAL EOOD of MBAL-V EOOD for the purposes of the contract. From the evidence gathered in the file it was established, and it is not disputed between the parties, that the applicant was in an employment relationship with “A.S.K. UMBAL EOOD in the period 05.01.2016 - 25.05.2017, in connection with which Mr. J.S.P. has provided the medical institution with his personal data - names, PIN, address, as well as a copy of documents related to the specifics of his position, namely a diploma of higher education in Medicine, Certificate of Recognition in Gastroenterology and Certified for membership in the Bulgarian Medical Union. It is evident from the evidence gathered that on 29.06.2017 “A.S.K. UMBAL EOOD electronically from the e-mail address **** provided to MHAT-V. EOOD at the official e-mail address - ***** copy of documents issued to the complainant, containing his personal data, namely - diploma of higher education in the specialty "Medicine", Certificate of recognized specialty in Gastroenterology and Certificates of membership in Bulgarian Medical Union. On 5 July 2017, a copy of the applicant's identity card was provided from the e-mail address **** to the e-mail address *****. The allegations that the indicated e-mail addresses were used by "A.S.K. UMBAL EOOD and MHAT-V. “EOOD are not disputed. The data contained in the documents about the complainant undoubtedly have the character of personal data within the meaning of Art. 2, para. 1 of the LPPD, as through them the person can undoubtedly be individualized, and the actions for their provision is a form of processing of personal data contained therein and as such should be carried out in accordance with the provisions of the LPPD and in particular in compliance with Art. 23, para. 1 of the LPPD. This provision obliges the controller of personal data to take the necessary technical and organizational measures to protect data from accidental or unlawful destruction, or accidental loss, from unauthorized access, alteration or dissemination, and from other illegal forms of processing, including and from illegal provision and use. The allegations of the complainant that his personal data were processed, in the case of providing by “A.S.K. UMBAL EOOD of MHAT-V. “EOOD without his

knowledge and consent correspond to the evidence gathered in the file. Despite the provided to "A.S.K. UMBAL EOOD legal opportunity the company has not engaged evidence in the opposite direction. In view of the distribution of the burden of proof in the process, it is necessary to conclude that the submitted by Mr. J.S.P. the complaint is well-founded and the personal data of the complainant have been processed - provided by "A.S.K. UMBAL EOOD of MHAT-V. EOOD in violation of Art. 23, para. 1 of the LPPD - without the personal data controller having taken technical and organizational measures for protection of the personal data of the complainant, as a result of which the rights of the person referring to the CPDP have been violated. 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 on the controller of personal data - "A.S.K. UMBAL EOOD administrative penalty for violation of the provisions of the LPPD, considering that the same will have an educational impact and will contribute to compliance by the administrator of 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 large amount of personal data of the complainant provided by the company to "MHAT-B. EAD, including a copy of the identity document of the person. It should be noted that in the course of the proceedings another violation of the provisions of the LPPD was established by "A.S.K. UMBAL "EOOD, namely storage of a copy of the identity document of the complainant in connection with the labor relations between

the parties. The latter is in violation of the principles on which the processing of personal data should be based and in particular the principle of proportionality of the data specified in Art. 2, para. 2, item 3 of the LPPD, according to which the processed data should be relevant, related and not exceeding the purposes for which they are processed. In this connection, the Commission considers it appropriate to indicate to the company that it should destroy the kept copy of the complainant's identity card, given that the collection by the employer and the keeping of a copy of the identity document in the employees' employment record is incompatible. and goes beyond the purposes for which the employee's data are processed, namely in relation to the employment relationship between them. The evidence gathered in the case established a violation of the applicant's rights by MHAT-V. "Ltd. The personal data of the complainant in a volume of three names, PIN, address and ID card number were processed by "MHAT-V. "EOD for drawing up a civil contract № ***** between the parties: Assignor - MHAT-V. EOOD and Contractor - J.S.P. with the subject "consultations as a gastroenterologist", which was not signed by Mr. J.S.P. It is also undisputed that in connection with the contract on 07.08.2017 the company provided to the NRA personal data - names and a unique civil number to provide the complainant in connection with the contract on 01.06.2017. The processing of personal data of the complainant by "MHAT-V. EOOD, in the above hypothesis - use for drawing up a civil contract, storage and provision to the NRA are in violation of Art. 4, para. 1 of LPPD - were performed without the consent of the complainant and without any of the other conditions for admissibility of the processing specified in Art. 4, para. 1, items 1, 3, 4, 5, 6 and 7 of LPPD. Given the fact that the violation is the first for the controller of personal data - "MHAT-B. EOOD, as well as given the fact that the data have been provided to a state body NRA, which already has them, in connection with other contracts registered with the person, the Commission considers it appropriate to issue a mandatory prescription to MHAT-B. EOOD pursuant to the provisions of the LPPD and its obligation to lawfully process personal data, the provision of personal data to individuals to the NRA in connection with the registration of contracts and submission of data for insurance to take place after the conclusion of the employment or civil contract between countries. Guided by the above and on the grounds of Art. 10, para. 1, item 7, in connection with Art. 38, para. 2 of the Personal Data Protection Act, the Commission for Personal Data Protection, DECIDES: 1. Declares the complaint № PPN-01-192 / 29.11.2017 as well-founded. 2. On the grounds of art. 42, para. 1 of the LPPD imposes on "A.S.K. UMHAT "EOD with UIC ***** with registered office and address of management *****, in its capacity of administrator of personal data property sanction in the amount of BGN 1,000 (thousand BGN) for violation of Art. 23, para. 1 of the LPPD. 3. On the grounds of art. 38, para. 2 of LPPD for violation of Art. 4, para. 1 of LPPD issues to

“MHAT-V. “EOD with UIC ***** with registered office and address of management *****, in its capacity of personal data controller mandatory prescription in compliance with the provisions of LPPD and its obligation for lawful processing of personal data, the provision of personal data of individuals in the NRA and NSSI, in connection with the registration of employment contracts and submission of data for insurance, to be done after the conclusion of the respective employment or civil contract between the parties. 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. After the entry into force of the decision, the amount of the imposed penalties will be transferred by bank transfer: BNB Bank - Central Office IBAN: BG18BNBG96613000158601 BIC BNBGBGSD Commission for Personal Data Protection, BULSTAT 130961721 CHAIRMAN: MEMBERS: Ventsislav / Karadzhev Maria Mateva / p / Files for download Decision on appeal with registration № PPN-01-192 / 29.11.2017 print