

Home »Practice» Decisions of the CPDP for 2018 »Decision on appeal with registration № G-21 / 20.01.2017 Decision on appeal with registration № G-21 / 20.01.2017 DECISION № G-21 / 2017 Sofia, 16.02.2018 The Commission for Personal Data Protection composed of members: Tsanko Tsolov, Tsvetelin Sofroniev and Veselin Tselkov at a regular meeting held on 10.01.2018, objectified in Minutes № 2, pursuant to Art. 10, para. 1, item 7 of the Personal Data Protection Act / PDPA / considered a complaint with registration № G-21 / 20.01.2017 filed by I.M.D. for violation of LPPD. I.M.D. has filed a complaint with the Commission for Personal Data Protection, containing allegations of illegal processing of his personal data for 27 years by the Ministry of Interior. The complainant alleges that in 1989 a file was opened against him in 02 RPD-SDVR, the number of which he does not know and cannot understand, although in November 2016 he visited the above-mentioned RPD. Mr. I.M.D. has submitted a written request to the head of 06 RUP-SDVR with ent. № \*\*\*\* / 07.12.2016 for deletion of his police registration, and until the moment of filing a complaint with the Commission for Personal Data Protection (CPDP) he declares that he has not received a response to his request, therefore he believes that it is not satisfied. The applicant stated that this had an adverse effect on his professional activity and could be used as a ground for refusing to grant a permit to the KNO in the service of the KOS. Mr. I.M.D. claims that there is no legal basis for storing his personal data for twenty-seven years in the information funds of the Ministry of Interior, as this is a violation of his rights under the LPPD. The applicant wished an inspection to be carried out and the Ministry of the Interior to be obliged to delete all his personal data concerning the terminated file against him. He asks for help and opinion. With a letter ex. № P-1208 / 24.02.2017 of the Chairman of the CPDP, Mr. Valentin Radev, Minister of Interior was notified pursuant to Art. 26 of the APC for the initiated administrative proceedings. Pursuant to Art. 36 of the APC is given a deadline to express an opinion and present relevant evidence. In view of the obligation of the administrative body to establish the preconditions for admissibility of the request, regulated in the provision of art. 27, para. 2 of the APC, the Commission has ruled on the admissibility of the complaint № G-21 / 20.01.2017, given the considerations of jurisdiction of the parties, competence of the CPDP, the existence of a legal interest of the complainants, compliance with Art. 38, para. 1 of LPPD term. In view of the said ruling, the appeal was declared admissible, the parties in the administrative proceedings were constituted and a date was set for consideration of the appeal on the merits. The parties are regularly notified. The applicant, duly notified, did not appear, did not represent himself. For the respondent party - the Ministry of Interior, is the Chief Legal Adviser T., with a power of attorney. The Commission for Personal Data Protection has received an opinion from the Ministry of Interior, which states allegations that by order № 8121h-267 /

10.03.2015. The Minister of the Interior is authorized by officials from the General Directorate of the National Police (GDNP) - the director and the deputy director, who may issue orders to remove or refuse to remove a police registration. The request of Mr. I.M.D. was submitted to 06 RUP-SDVR, not to GDNP, therefore the director of SDVR should complete the file, together with the motivated proposal, based on the materials collected on the file, to be sent to the director of GDNP-MI. Attached to this opinion is a certified copy of the order № \*\*\*\* / 05.04.2017 of the Director of GDNP, for removal of the police registration of I.M.D. on the grounds of the provision of art. 68, para. 6, item 2 of the Law on the Ministry of Interior (MI), as well as a copy of the letter by which the order was sent to the Director of the SDVR for notification to Mr. I.M.D. It is stated that the police registration is "a type of processing of personal data of the persons who have been brought in as defendants for a committed intentional crime of a general nature, which is carried out under the conditions of the Ministry of Interior". It is specified that in the procedure for deregistration additional documents are required ex officio from the court, the prosecutor's office, investigator / investigator or other competent body, certifying the existence of grounds under Art. 68 para. 6 of the Ministry of Interior, as well as a certificate of criminal record of the registered. The opinion states that the collection of evidence for events that occurred 10-20 years ago is difficult due to the destruction or archiving of documents after the expiration of their retention periods. That is why, and in order to obtain the necessary answers and evidence, I.M.D. after submitting the application on 07.12.2016 and not receiving a response until 20.01.2017, he filed a complaint with the CPDP, but in view of the above, compliance with regulations and as a final act - removal of the police registration of IM D., the proceedings under the filed by I.M.D. application has not been completed until 20.01.2017. ". It is pointed out that in the specific case there were no grounds for official deregistration, as based on the provision of Art. 20 para. 1 of the Ordinance on the procedure for carrying out and deregistration of police registration "The official deregistration of police registration shall be carried out when in the structures and units under Art. 5, para. 1 documents shall be received ex officio, certifying the existence of grounds for withdrawal under Art. 68, para. 6 ZMVR. They allege that in the present case such documents were not received, and the person only submitted documents for the removal of his police registration and the relevant body should have carried out an inspection and provided himself with the necessary evidence. The Ministry claims that there is no illegal processing of the personal data of Mr. IMD, because after receiving his request and conducting an inspection in accordance with legal requirements, a motivated proposal was prepared and the police registration of I. M.D. was removed by order of the competent authority. They state that, in view of the fact that the police registration of Mr I.M.D. As the result of the evidence gathered in the administrative proceedings and

after analysis of the relevant legal provisions, it is proposed that the Commission rule on the merits -down motives. Pursuant to Art. 1, para. 1 and para. 2 of the LPPD, this law regulates the protection of the rights of individuals in the processing of their 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. The relevant legal provisions are considered in connection with the evidence gathered and the established factual situation.

Pursuant to paragraph 1, item 1 of the Additional Provisions of the LPPD, the processing of the personal data of the complainant by the Ministry of Interior, in his capacity of controller of personal data in view of Art. 3, para. 2 of LPPD, was performed in the hypotheses of collection and storage. An official inspection of the Register of Personal Data Controllers and the registers kept by them, maintained by the CPDP, established that the Ministry of Interior is registered as a personal data controller and is entered in the Register of Personal Data Controllers and from it registers to the CPDP. As can be seen from the subject of the complaint, the claim of I.M.D. is related to the processing of his personal data by the Ministry of Interior with a view to their lawful storage. In this sense is the examination of the grounds for admissibility of processing of the personal data of the complainant according to art. 4, para. 1, item 1 - item 7 of LPPD. The relativity of art. 4, para. 1, item 1 and item 6 of LPPD, namely: the processing is necessary for the fulfillment of a statutory obligation of the personal data controller, as well as for the exercise of powers granted by law to the controller or a third party to whom they are disclosed. the data. The legal basis for the admissibility of the processing of personal data is the norm of Art. 26, item 3 of the LMI, in view of which the bodies of the Ministry of Interior have the right to store personal data, provided that this is related to the protection of national security, counteraction to crime, protection of public order and criminal proceedings. The storage of the data is in view of the ones determined on the grounds of art. 29 of the Ministry of Interior deadlines by the Minister of Interior. According to Art. 68, para. 1 of the LMI, the police authorities shall carry out police registration of persons who have been brought in as defendants for committed an intentional crime of a general nature, due to which on the grounds of Art. 4, para. 1, item 1 of the LPPD establishes the admissibility of the processing of personal data of Mr. I.M.D. by the respondent in the case of their collection. According to Art. 68, para. 2 and para. 3 of the LMI, the police registration is a type of personal data processing, which is carried out under the conditions of this law. For the purposes of the police registration the police bodies shall: 1. collect for the persons their personal data, indicated in art. 18 of the Bulgarian Personal Documents Act; 2. dactyloscopy and photograph the persons; 3. seize samples for DNA profile of the persons. On the grounds of art. 68, para. 6 of the LMI the police registration

shall be removed on the basis of a written order of the personal data controller or of officials authorized by him ex officio or after a written motivated request of the registered person, when: 1. the registration is made in violation of the law; 2. the criminal proceedings have been terminated with the exception of the cases under Art. 24, para. 3 of the PPC; 3. the criminal proceedings have ended with an acquittal; 4. the person has been released from criminal liability and an administrative penalty has been imposed on him; 5. the person has died, in which case the request may be made by his heirs. According to the provision of art. 20, para. 1 of the Ordinance on the procedure for carrying out and deregistering the police registration, ex officio deregistration of the police registration shall be carried out when in the structures and units under Art. 5, para. 1 documents shall be received ex officio, certifying the existence of grounds for withdrawal under Art. 68, para. 6 of the LMI, and on the grounds of Art. 22, para. 1 of the same ordinance, the removal of a police registration shall be carried out after the issuance of an order under Art. 21, para. 1.

For the sake of completeness, it should be noted that with instruction № 81213-748 from 20.10.2014. of the Ministry of Interior are determined the terms for storage of personal data, processed in the Ministry of Interior, as in the provision of art. 7 the terms under Art. 3 do not refer to the removal of a police registration. The removal of police registration is carried out under the terms of the Law on the Ministry of Interior.

As a result of the clarified factual situation, it is assumed that the respondent party has fulfilled its obligation to remove the police registration.

In view of the above and on the grounds of Art. 38, para. 2 of the Personal Data Protection Act, the Commission for Personal Data Protection shall rule on the following

ANSWER:

Dismisses as unfounded the complaint with reg. № Ж-21 / 20.01.2017, filed by I.M.D. against the Ministry of Interior in view of the admissibility of the processing of the personal data of the complainant in the case of storage on the grounds of Art. 4, para. 1, item 1 and item 6 of LPPD in connection with Art. 29 of the LMI in fulfillment of a normatively established obligation of the personal data controller and exercise of powers granted by law to the controller or to a third party to whom the data are disclosed within the respective legal term.

The decision of the Commission for Personal Data Protection may be appealed to the Administrative Court of Sofia - city within 14 days of receipt.

MEMBERS:

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Veselin Tselkov / p /

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