

Home »Practice» Decisions of the CPDP for 2018 »Decision on appeal with registration № Ж-777 / 15.12.2016 Decision on appeal with registration № Ж-777 / 15.12.2016 DECISION № Ж-777 / 2016 Sofia, 24.04.2018 The Commission for Personal Data Protection (CPDP) composed of: Tsanko Tsolov, Tsvetelin Sofroniev and Maria Mateva at a regular meeting held on 28.02.2018, objectified in Minutes № 10 / 2018, based on Art. 10, para. 1, item 7 of the Personal Data Protection Act (PDPA), considered on the merits a complaint Reg. № G-777 / 15.12.2016, filed by I.Z. against the Administrative Court - Sofia - city (ACCG), for violation of the Personal Data Protection Act. The Commission for Personal Data Protection was seised with a complaint filed by I.Z. alleging that the full three names of the applicant appeared on the website of the ACCG in the case information form, when assigning a case number, which made her subsequent identification possible. Mrs. I.Z. indicates that the record in case № **** cites data about the directorate and the department in which he works. He claims that according to the numbers of the published documents, the employees working in the structure and having access to the documents could identify it. Mrs. I.Z. pointed out that the decision described documents relating to psychological research. It is stated that the applicant had applied to the SJC Inspectorate for assistance, and the reply was that she had been answered by the court. She claims that in order to benefit from the services of the ACCG, she is "forced to become public". Asks the Commission to take a stand on the case. 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 with a letter ex. № P-1563 / 10.03.2017 of the CPDP, the chairman of the ACCG was given a deadline for a written opinion and presentation of relevant evidence. In response, an opinion was filed with the CPDP by the Chairman of the ACCG, filed with Reg. № C-183 / 20.03.2017, stating that Adm. case № *** according to the list of the ACCG - Second Department, 52 panels were formed on the complaint of IZ, against an individual administrative act of the Director of the Directorate "Legal - regulatory activities" at the Ministry of Interior. With the decision of № ***** on adm. case № ****, the court rejected the person's appeal. It is stated that in fact in the column "country" when entering the case number on the website of the ACCG are written the three names of the person, but they do not appear as such in the minutes of the court hearings on 05.10.2016 and 19.10.2016 do not appear in the decision on the merits of the dispute. The statement also states that information published on the website of the ACCG does not identify Ms. IZ and that the applicant could not be identified, directly or indirectly, by an identification number or by one or more specific features. Allegations have been made that the information published on the website of the ACCG is not "among those indicated under Art. 5, para. 1, item 1 - item 3 of LPPD. The statement also states that the ACCG lawfully

processed the personal data of Ms. IZ, due to which Art. 5 of the LPPD. It is stated that in this case the data were processed on the basis of Art. 4, para. 1, item 1 of LPPD. In Art. 27, para. 2 of the Administrative Procedure Code (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. 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, on 07.02.2018 the Commission has ruled on the admissibility of the complaint № G-777 / 15.12.2016, given the considerations of jurisdiction of the parties, competence of the CPDP, the existence of a legal interest of the complainants, compliance of the provisions of Art. 38, para. 1 of LPPD term. In view of the said ruling, the appeal was declared admissible and the parties to the administrative proceedings were constituted: appellant - IZ; respondent - Administrative Court - Sofia city, and a date has been set for consideration of the appeal on the merits. At a meeting of the CPDP held on February 28, 2018, the complaint was considered on the merits. The parties are regularly notified. The applicant, I.Z. - regularly notified, appears in person. The administrator - Administrative Court - Sofia-city - regularly notified, is not represented. 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 Reg. № G-777 / 15.12.2016 contains the obligatory 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 complainant, the nature of the request, date and signature, in view of which it is regular. The complaint filed by I.Z. is fully compliant with the requirements of the CPDP, according to the Rules of Procedure of the Commission for Personal Data Protection and its administration and contains the necessary statutory details for regularity. According to Art. 38, para. 1 of the Personal Data Protection Act (PDPA) in case of violation of his 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 from mu. The complaint was filed within the term of art. 38, para. 1 of LPPD and is admissible. The presence of a personal data controller is an absolute procedural prerequisite for the admissibility of the complaint. 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 ACCG has fulfilled its

obligation under Art. 17, para. 1 of LPPD and is registered as a personal data administrator with ident. № 39332. The subject of the complaint is illegal processing of the complainant's personal data. According to Art. 10, para. 1, item 7 in connection with Art. 38 of the Personal Data Protection Act, when referring it, the Commission considers complaints against acts and actions of personal data controllers, which violate the rights of individuals under this law, as well as complaints of third parties in connection with their rights under this law. As a result of the cited and analyzed evidence presented in the proceedings, it follows that the administrative file is clarified factual side. The term "processing of personal data" is defined in § 1, item 1 of the Additional Provision of the LPPD. In view of the provision of Art. 3, para. 1 of LPPD, defining as administrators of personal data any natural or legal person, as well as a body of state power or local government, which alone or together with another person determines the purposes and means of personal data processing, Administrative Court - Sofia city is "Controller of personal data" within the meaning of that provision. As a controller of personal data, he is obliged to ensure compliance with Art. 2, para. 2, the purpose of which is to guarantee the inviolability of the person and private life by ensuring the protection of the natural persons in case of illegal processing of the personal data related to them in the process of the free movement of data. With those regulated in Art. 4, para. 1, item 1 - item 7 of LPPD grounds for admissibility of processing the personal data of individuals by a personal data controller the presence of at least one of which is necessary and sufficient to establish the legality of the action. The opinion that the complaint is unfounded is based on the provision of Art. 4, para. 1, item 1 of LPPD, in conjunction with Art. 64, para. 1 of the Judiciary Act (JSA), namely: the processing of personal data is permissible when the processing is necessary to fulfill a statutory obligation of the controller of personal data. According to the provision of art. Art. 64, para. 1 of the JSA, the acts of the courts, with the exception of those in criminal cases by which the defendant is sentenced to serve a sentence are published immediately after their ruling on the website of the court in compliance with the Personal Data Protection Act and the Personal Data Protection Act. protection of classified information. In view of the above provisions, the existence of a normatively established obligation to process the personal data of the complainant in the amount determined by law pursuant to Art. 4, para. 1, item 1 of LPPD. It should be further specified that after a reference was made on the website of the ACCG, in the minutes of meetings held on 05.10.2016 and 19.10.2016 under Adm. case № **** on the list of the ACCG, contrary to the allegations of the complainant for cited data about the directorate and the department in which she works, the minutes mention only the parties in the case, from which it is not clear the directorate and the department whose employee is the applicant. The complaint also contained allegations that full numbers of documents had been published, which documents,

according to the applicant's allegations, related to her personally, of which Ms I.Z. could be identified. From an official reference of the administrative body on the website of the ACCG it was established that in Decision **** on the inventory of the ACCG, second ward, 52 panels, documents were mentioned in numerical terms, of which, however, the complainant could not be identified by one or more specific features. In administrative proceedings it is established, in compliance with those contained in Art. 2, para. 2 of the LPPD principles that the personal data of the complainant are processed by the controller of personal data only for the purposes of the proceedings, and are not processed in a way incompatible with these purposes, are relevant and do not exceed the stated purpose, therefore processing is lawful .As can be seen from the above and on the grounds of Art. 38, para. 2 of the Personal Data Protection Act is the proposal of the Commission for Personal Data Protection to rule with the following

ANSWER:

Dismisses as unfounded the complaint with reg. № Ж-777 / 15.12.2016, filed by I.Z. against the ACCG, due to the established legality of the processing of the personal data of the complainant on the grounds of the provisions of Art. 4, para. 1, item 1 of LPPD in connection with Art. 64, para. 1 of the JSA with a view to fulfilling the normatively established obligation of the personal data controller.

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 /

Maria Mateva / p /

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