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»Decision on appeal with registration № PPN-01-109 / 16.10.2017 Decision on appeal with registration № PPN-01-109 / 16.10.2017

ANSWER

№ PPN-01-109 / 2017

Sofia, January 22, 2018

The Commission for Personal Data Protection ("the Commission") composed of: members - Tsanko Tsolov, Tsvetelin Sofroniev and Maria Mateva, at a regular meeting held on 20.12.2017, pursuant to Art. 10, para. 1, item 7 of the Personal Data Protection Act considered an admissibility of a complaint with registration № PPN-01-109 / 16.10.2017, filed by H.M.P.

The applicant requested assistance in connection with her stolen debit card at the Sunny Beach resort. Informs that on 04.10.2017 a withdrawal was made with the stolen card from an unknown bank and place - in the town of Kableshevo. On October 5, 2017, she found the theft and immediately blocked the card.

Mrs. H.M.P. claims that she used the card only once to withdraw money from an ATM, where she believed that the PIN code had been stolen as a result of a recorder. The applicant stated that her PIN had not been recorded anywhere.

Attached to the complaint are: a response from U.B. with ref. № 0201-08-009943 / 13.10.2017, complaint to "U.B." with registration № 0201-05-001128 / 16.10.2017 and a certificate for a complaint filed with the Regional Directorate of Nessebar at the Ministry of Interior - Burgas.

The complaint of H.M.P. is fully compliant with the requirements for regularity, according to 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.

The Personal Data Protection Act (PDPA) regulates the protection of the rights of individuals in the processing of their personal data. "Personal data" within the meaning of Art. 2, para. 1 of the LPPD are any information relating to a natural person who has been identified or can be identified directly or indirectly by an identification number or by one or more specific features. In this case, an allegation of theft of a debit card and PIN code was made. The PIN code and the data contained on the plastic of the debit card do not meet the specified definition of personal data, as they cannot be used to identify the person directly or

indirectly. Theft itself is a crime under the Criminal Code. The investigation of criminal encroachments is not within the competence of the Commission for Personal Data Protection. It follows from the above that the filed complaint is outside the scope of the LPPD and the competence of the Commission.

According to Art. 27, para. 2, item 6 of the Administrative Procedure Code (APC), the administrative body shall assess the admissibility of the request with the presence of special requirements established by law. These are regulated in the Personal Data Protection Act (PDPA).

Powers of the Commission under Art. 10, para. 1, item 7 of the LPPD is to consider complaints against acts and actions of personal data controllers, which violate the rights of individuals under the LPPD. The presence of a personal data controller as a respondent in the proceedings under the LPPD is an absolute procedural prerequisite for the admissibility of the respective complaint and for the development of proceedings.

In the case filed by Ms H.M.P. the complaint was directed against an unknown person, as the respondent was not individualized by the complainant. With the impossibility to individualize and constitute a controller of personal data - passively legitimized party in the proceedings, it is necessary to conclude the inadmissibility of the complaint given the bilateral nature of the proceedings and the need for a respondent in the same.

The Commission for Personal Data Protection, taking into account the facts and circumstances presented in the present administrative proceedings, pursuant to Art. 10, para. 1, item 7 of LPPD and Art. 27, para. 2, item 6 of the APC in connection with Art. 38, para. 1 of the LPPD,

HAS DECIDED AS FOLLOWS:

Leaves the appeal with registration № PPN-01-109 / 16.10.2017, filed by H.M.P., without consideration as procedurally inadmissible and terminates the proceedings instituted under it.

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 /

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