

Decision № 21769 of 23.01.2020 Sofia IN THE NAME OF THE PEOPLE Sofia District Court, Criminal Chamber, Ninth Judicial Panel, in open court on November 10 in the year two thousand and seventeen, composed of: CHAIRMAN: B.P. with the Secretary - E. Ch. considering the criminal administrative case reported by Judge P. 52 2552 on the inventory for 2017 and in order to rule he took into account the following: The proceedings are under Art. 59 et seq. Of ZANN. Association "Sports Club Pulse-S" [settlement], UIC: [UIC], appealed against a criminal decree № 45 / 22.12.2016, issued by the Chairman of the CPDP, which pursuant to Art. 42, para 1 of LPPD, an administrative penalty has been imposed - a property sanction in the amount of BGN 11,000 / eleven thousand leva /, for a violation under Art. 2, para 2, item 3 of LPPD. The appeal contains allegations and argues that the issued penal decree was issued in violation of procedural rules and contradicts substantive law. A request is made for the penal decree to be revoked in its entirety either due to the indicated violations or in application of Art. 28 of ZANN. Alternatively, a reduction of the sanction to the legal minimum is requested. In s.z. the applicant was regularly summoned and represented by a lawyer. E., who upheld the appeal and made a request for annulment of the appealed NP. The ADVOCATE party - CPDP, through his attorney M. consulted M. took the opinion that the administrative violation was proved indisputably, AUA and NP were issued by competent persons and with the legal details, a sanction was imposed in the statutory minimum. Requests that the complaint be left unfounded and that the NP be upheld as correct and lawful. The court finds that the appeal is admissible, as it was filed by a person with a legal interest, in the 7-day period provided for in the provision of Article 59 para. 2 of ZANN. From the evidence gathered in the case, the court found the following: To the complainant Association "Sports Club Pulse-S" [settlement], UIC: [UIC] that on 16.08.2016, in [settlement], in his capacity of controller of personal data within the meaning of Art. 3 of the LPPD, upon concluding a contract for membership in the association "Sports Club Pulse - S.", performs actions for storing a copy of an identity document of AGD, PIN: [PIN], without these data to be relevant, related to and not exceeding the purposes for which the data are processed, which violates the provision of Art. 2, para. 2, item 3 of the LPPD. The inspection was performed on a given signal with ent. № Z.-164 / 17.08.2016 by A. G. D., which referred to the CPDP for illegal request of a copy of an identity document (identity card) when concluding a contract for the provision of services in the "Fitness Center" Pulse ", located at: gr., S., [street]. control authorities'. It has been established that in connection with the implementation of its subject of activity - sports activity, the association "Sports Club Pulse - S." processes personal data of individuals - members of the sports club, in order to manage human resources and financial - accounting activities. The data are processed in order to meet the regulatory requirements of

the Labor Code, the Accounting Act, the Social Security Code and others. The verification team requested the file of the sender of the signal AD, which found that it contains a registration form for membership in the association "Sports Club Pulse - S.", Application for membership in the association and a copy of identity document (ID card). For the results of the inspection a Report of Findings was drawn up on 09.11.2016. № P-8333 / 09.11.2016 of the Chairman of the Association "Sports Club Pulse - S." (according to the data entered in the Register Bulstat) was sent an invitation to appear on 16.11.2016 at 10:00 in the building of CPDP for drawing up and serving an act for establishing an administrative violation under the conditions of Art. 40, para. 1 of ZANN, as evident from the return receipt, the same was received on 10.11.2016. Written objections were filed against AUA within the term under Art. 44, para 1 of ZANN. The administrative-criminal proceedings ended with the issuance of a penal decree (NP) № 45 / 22.12.2016, issued by the chairman of the CPDP, whereby pursuant to Art. 42, para 1 of LPPD, an administrative penalty has been imposed - a property sanction in the amount of BGN 11,000 / eleven thousand leva /, for a violation under Art. 2, para 2, item 3 of LPPD, as the factual findings reflected in AUA, are fully reproduced by the ANA. The foregoing is supported by written evidence gathered in the court proceedings, as well as by the written evidence contained in the administrative penal file on the appealed NP, attached to the appeal and collected at the court investigation. Witness S. - compiler of documents, maintains the factual findings reflected in the inspection report and AUA, explaining in detail the manner of the inspection and on the basis of what evidence she concluded that the violation was committed. The administrative-criminal file on the appealed NP was presented in the case and the following written evidence was collected in the court proceedings: Act for established administrative violation № 46 / 16.11.2016 / original /, served on 16.11.2016; Objection from the Sports Club "PULSE "-S., With ent. № B-98 / 18.11.2016 in the CPDP, power of attorney of M. C. P.-S. ; Complaint from A. G. D. with entry № Z.-164 / 17.08.2016; Order № RD-14-267 / 19.10.2016 of the Chairman of the CPDP; Order № RD-14144 / 20.06.2014 of the Chairman of the CPDP, Statement of Findings dated 09.11.2016; Receipt-transfer protocol from 09.11.2016; Application to the sports club "PULSE" S. from AD; Registration form for sports club "PULSE" S. by AD; Certified copy of AD's ID card; Copy of real estate contract; Certified copy of employment contract; certified copy of job description of maintenance worker; Certified copy of official note № 00000383 / 31.10.2016. ; Certified copy of Information for accepted and rejected notifications to the NRA; Letter -invitation for compiling AUA with ref. № P- 8333 / 09.11.2016 ; Letter - invitation for delivery to NPN № 45 / 22.12.2016, with ref. № P-9479 / 22.12.2016. Return receipt for service of the letter of invitation, Power of attorney from A. N. A. for representative powers of attorney G. P. D. from S. dr. written evidence On the

legal side, the court finds the appeal unfounded. The administrative-penal proceedings instituted by the procedural AUA were conducted lawfully in compliance with the requirements of ZANN. In compiling the AUA, the requirements of Art. 40, para 2 ZANN and art. 42 ZANN, as well as during the issuance of the attacked NP the legal requirements of art. 57 ZANN, as the same is issued by a competent authority. In the specific case, both the AUA and the NP contain the date and place of the violation, and the committed violation is described both verbally and with an indication of its legal qualification. These circumstances are quite sufficient for the offender to understand which of his behavior is qualified as an administrative violation and to adequately organize his defense. Regarding the witnesses registered in the AUA, they have the capacity of witnesses in establishing the violation and compiling the AUA. In view of the provision of Art. attached written evidence in the administrative-criminal file. The administrative procedure rules have been observed in the administrative-penal proceedings. During the compilation of the AUA and the issuance of the NP, the terms under Art. 34 ZANN. The provisions of Article 48 of ZANN regarding the local competence of the administrative sanctioning body have been complied with, as the infringing company has its registered office in [settlement]. The penal decree meets the requirements of Article 57 of ZANN. As can be seen from the attached receipt, the penal decree was served on the offender. With regard to the arguments and objections raised by the applicant in the appeal and at the hearing, the court considers that they are unfounded and do not imply modification or annulment of the penal decree. The substantive law has been correctly applied in the administrative-criminal proceedings. The general notion of an administrative violation concerns such acts that violate the established order of government, have been committed culpably and have been declared punishable. The administrative criminal liability of the company - complainant is engaged in view of the violation of Art. 2, para 2, item 3 of the EPA. Requiring and storing a copy of an identity document when concluding a contract for membership or use of services by the association "Sports Club Pulse - S." are actions that constitute "processing of personal data" within the meaning of §1, item 1 of the RD of LPPD. In the absence of a legal basis, this processing is not relevant, is not related to and exceeds the purposes for which the copy of the identity card of a natural person is kept. In the case considered by the present panel of judges the subject of the administrative violation is a legal entity - trader, whose administrative penal responsibility is objective (or "innocent" responsibility), therefore the discussion of the subjective side of the violation is irrelevant. The act completely coincides with the provision of Art. 6 of ZANN and cannot be interpreted as insignificant or insignificant. In view of the nature of the act, the gravity of the violation, as well as the circumstances in which it was committed, the court finds that the penal decree the penal body has complied with the provisions

of Article 27 ZANN, which correctly determined the administrative penalty "property sanction ". In view of the above, the court finds that the penal decree should be confirmed as lawful. Guided by the above and on the basis of Article 63, paragraph 1 of ZANN, the court DECIDES: published by the chairman of the CPDP, with which the Association "Sports Club Pulse-S."

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place], UIC: [UIC], pursuant to Art. 42, para 1 of LPPD, has been imposed administratively penalty - property sanction in the amount of BGN 11,000 / eleven thousand leva /, for committed violation under Art. 2, para 2, item 3 of LPPD.

THE DECISION is subject to cassation appeal before the AC-Sofia region within 14 days deadline from its notification to the parties.

DISTRICT JUDGE: