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»Opinion of the CPDP on the terms of storage of personal data of participants in recruitment and selection procedures

Recruitment of the CPDP on the terms of storage of personal data of participants in recruitment and selection procedures

OPINION

ON

THE COMMISSION FOR THE PROTECTION OF PERSONAL DATA

Reg. № NDMSPO-01-142 / 14.03.2019

Sofia city

SUBJECT: Interpretation and application of Art. 25k of LPPD

The Commission for Personal Data Protection (CPDP) composed of: Ventsislav Karadzhov and members: Tsvetelin Sofroniev and Veselin Tselkov, at a meeting held on March 27, 2019, considered a request for an opinion / ent. № NDMSPO-01-142 / 14.03.2019 / by the Data Protection Officer of the Bulgarian National Bank (BNB), which asks questions about the interpretation, resp. the application of the provision of art. 25k of the Personal Data Protection Act, regulating the term for storage of personal data of participants in procedures for recruitment and selection of personnel.

Legal analysis:

With the amendments to the Personal Data Protection Act (PDPA) of 26.02.2019, Chapter IVa was created, regulating the general rules for personal data processing, as well as some special cases of data processing.

According to the provision of art. 25k, para. 1 of the LPPD, the employer or the appointing authority, in its capacity of controller of personal data, should set a term for storage of personal data, which may not be longer than 6 months, unless the candidate has given his consent for storage for a longer period. After the expiration of this period, the employer or the appointing authority shall delete or destroy the stored documents with personal data, unless a special law provides otherwise.

The second paragraph of the same provision stipulates that where in the procedures in question the employer or the appointing authority has requested the production of originals or notarized copies of documents certifying the physical and mental fitness of the candidate, the required qualification and length of service, he should to return these documents to the data subject, who has not been approved for appointment, within 6 months from the final completion of the procedure, unless a

special law provides otherwise.

According to the principles related to the processing of personal data proclaimed in Regulation (EU) 2016/679 - General Regulation on Data Protection, and in particular in accordance with Art. 5, § 1, b. "E", personal data may lawfully be stored in a form that allows the identification of the data subject for a period not longer than necessary for the purposes for which personal data are processed - a principle introducing "restriction of storage" of data. Applied to the present case, the principle must be followed in the light of the initiation, implementation and completion of recruitment procedures in a way that does not impede the achievement of the purpose of the data processing.

In connection with the above and after a systematic interpretation of the described rules, it can be concluded that the term begins to run from the moment of completion of the procedure, respectively. after the expiration of the deadlines for its appeal, and there is a legal possibility to extend the 6-month period with the consent of the applicant, for a period that is determinable in this case - until the withdrawal of consent by the data subject.

In addition, the data subject has the right at any time and without giving a reason to withdraw his consent, resp. data storage should be discontinued and deleted or destroyed / arg. Art. 7, § 3 of Regulation (EU) 2016/679 in conjunction with Art. 25k, para. 1, assoc. 2 of LPPD /.

In view of the above and on the grounds of Art. 58, § 3, b. "B" of Regulation (EU) 2016/679, the Commission for Personal Data Protection states the following

OPINION:

1. The term for storage of personal data of participants in procedures for recruitment and selection of personnel under Art. 25k of LPPD starts running from the moment of final completion of the envisaged procedures, respectively after the expiration of the terms for their appeal.
2. There is a legal possibility to extend the 6-month period with the consent of the job applicant. In this case, the data subject has the right at any time and without giving reasons to withdraw his consent, as a result of which further processing of data must be suspended, which should be deleted or destroyed by the controller of personal data.

THE CHAIRMAN:

MEMBERS:

Ventsislav Karadzhov

Tsvetelin Sofroniev / p /

Veselin Tselkov / p /

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