

Home » Practice » Decisions of the CPLD for 2022 » Decision on appeal with reg. No. PPN-01-236/15.03.2021 Decision on appeal with reg. No. PPN-01-236/15.03.2021 DECISION no. PPN-01-236/2021 Sofia, 19/09/2022 The Commission for the Protection of Personal Data (PCPD) composed of: Tsanko Tsolov, Maria Mateva and Veselin Tselkov at a meeting held on 30/03/2022, on the basis of Art. . 10, para. 1 of the Personal Data Protection Act in connection with Art. 57, § 1, letter "f" of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the processing of personal data and on the free movement of such data (Regulation , GDPR), examined the merits of complaint No. PPN-01-236/15.03.2021. The administrative proceedings are in accordance with Art. 38 of the Personal Data Protection Act (PAPA). The Commission for the Protection of Personal Data was referred to a complaint filed by K.B., with allegations of illegal processing of her personal data by G.N., in her capacity as Chairman of the management board of a condominium located at the address of the city of Sofia, *****. The complainant informed that she is a lawyer by profession and was hired by her client to prepare and file a claim against the condominium, represented by G.N. He adds that after the case was initiated, the court documents, in particular the claim, were provided by the court to Mrs. G.N. for familiarization and providing a response in time. The complainant claims that after receiving the claim, on 22.02.2021, Mrs. G.N. "pasted the claim in a prominent and generally accessible place at the entrance of the cooperative", without erasing the personal data contained in the claim of her principal and her personal data, in her capacity as his legal representative, the same in a volume of three names, TIN , telephone number, signature, e-mail address, address and number in the Bar Association, as a result of which the same are distributed and accessible to an unlimited number of persons, visitors to the condominium. Asks the commission to investigate the case and to sanction the personal data administrator G.N. for illegal processing of her personal data. 9 items are attached to the complaint. photos, including the claim and information plate. In view of the principles of equality of the parties and truthfulness advocated in the administrative process, Mrs. G.N. was informed about the administrative proceedings initiated in the case, she was given the opportunity to submit a written opinion on the allegations presented in the complaint and to present evidence relevant to the case. In response, an objection was filed with Reg. No. PPN-01-236#2/18.05.2021 Mrs. G.N. contests the complaint, denies that she received court documents, in particular the statement of claim attached to the complaint, also denies that she "pasted" the statement of claim of those alleged by Mrs. K.B. places. It states that the lawsuit was filed against the condominium and claims it was "put into the mailboxes of virtually all residents" in the condominium, insofar as it affects all unit owners in the condominium. He adds that

the places where the claim is allegedly placed have the character of common premises and are accessible to all residents of the cooperative, and not only and shares that "any person who enters the cooperative can stick a message and materials ". In addition, it points out that "all the residents are constantly pasting different invitations and messages to the condominium, in which they themselves mention their personal data." He considers that there is no violation of the LLDP and/or the GDPR, adding that the personal data of the complainant, contained in the claim, are generally available in the public register of the Sofia Bar Association. Finds the complaint unfounded. The Commission for the Protection of Personal Data is an independent state body that protects individuals in the processing of their personal data and access to such data, as well as control of compliance with the GDPR and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the processing of personal data and on the free movement of such data. In order to exercise its powers, the Commission must be properly referred. The complaint must contain the required details: data about the complainant, the nature of the request, date and signature, the passively legitimized party is indicated and the date of establishment of the violation, in view of which the complaint is regular. The complaint is procedurally admissible. The subject of the complaint is unlawful processing of the personal data of the complainant, contained in a claim to the Sofia District Court, by G.N. by distributing them to an unlimited circle of persons by means of "sticking" the claim on 22.02.2021 in a prominent and generally accessible place at the entrance of a condominium with the address Sofia, *****. The complaint was filed by a natural person with a legal interest against a proper party - natural person, personal data controller - GN, in her capacity as Chairman of the Management Board of a condominium. Referred to is competent to rule - CPLD, which according to its powers under Art. 10, para. 1 of the Labor Code in connection with Art. 57, § 1, letter "f" of Regulation (EU) 2016/679, examines complaints filed by a data subject against acts and actions of personal data controllers that violate the rights of natural persons related to personal data processing, as there are no exceptions under Art. 2, § 2, letter "c" and Art. 55, § 3 of Regulation (EU) 2016/679 given the fact that the case does not concern processing activities carried out by an individual in the course of purely personal or domestic activities and/or activities carried out by courts in the performance of their judicial functions. The negative prerequisites under Art. 27, para. 2 of the APC. Based on the stated considerations, at the meeting of the commission held on 06.10.2021, the complaint was accepted as admissible and the following were constituted as parties to the proceedings: complainant - K.B. and defendant - G.N. An open hearing has been scheduled for consideration of the merits of the complaint on 01.12.2021, of which the parties have been regularly notified and they have been instructed to allocate the

burden of proof in the trial. In this regard, the defendant was required to provide evidence to support her claims that "the claim was placed in the mailboxes of almost all residents" in the condominium. At the moment, these have not been deposited. The complainant was informed about the objection received on the file PPN-01-236#2/18.05.2021, a certified copy of which was provided to her for perusal. Given the content of the latter and in view of the allocation of the burden of proof in the trial, she is given the opportunity to present evidence in support of her claims in the direction that on 22.02.2021 Mrs. G.N. "has pasted the claim in a prominent and generally accessible place at the entrance of the cooperative", as well as to inform the CPLD about the number of the case opened in the Sofia District Court, initiated on the procedural claim by K.K. with the cost of the claim BGN 1,950. In response by letter PPN-01-236#7/05.11.2021 Mrs. K.B. presents a copy of certificate No. **** from the Sofia District Prosecutor's Office, certificate No. **** from the Sofia City Prosecutor's Office, claim form from K.K. with entrance No. **** of the Sofia District Court, application with entry No. *** of the Sofia District Court in the city case ***, ruling *** in the city case *** of the Sofia District Court, response to the claim with entry No. *** of the SRS, decision **** of the Sofia District Court on the city case ***, decision *** on the city case *** of the SRS. An opinion was expressed on the defendant's objection. The date of the violation was specified - 22.02.2021. A request was made to postpone the meeting to another date, due to the official commitment of the lawyer. K.B. in the District Court - Ruse on 01.12.2021. Evidence requests were made to the commission as follows: 1. To oblige the defendant to submit the Minutes of the general meeting of the condominium, held on 11.03.2019, according to which by decision of the Board of Directors of the EU, the same was elected as house manager. 2. To oblige the defendant to submit names, addresses and telephone numbers of all residents in the building as of 01.12.2021, as well as the Housing Register of the cooperative. 3. To oblige the defendant to present Minutes from the general assembly of the condominium, from which it is evident that she notified the condominium owners of the claim and according to which a decision was made to assign the case to a fellow lawyer for a certain fee to represent them in city ****, according to the CPS inventory. 4. To allow the collection of oral evidence through the questioning of three witnesses under subpoena mode, with the subpoena address indicated below, namely: R.P., O.Y. and K.K., with which it will be proven that the claim was pasted in a publicly accessible place at the entrance of the cooperative on 22.02.2021, "and that the claim was not mailed, as the defendant claims." 5. The commission to carry out an on-site inspection in relation to the defendant's statements in the answer and, in particular, to establish the following facts and circumstances: Are the mailboxes open access (are they locked)? Did the residents of the building see the claim posted on the information board on 02/22/2021? Did the residents of the building

receive the claim on 02/22/2021? Have the residents of the building been notified of the claim and how? Have the residents of the building pasted the statement of claim in a publicly accessible place at the entrance of the building (everyone to answer for themselves)? As well as all the statements of the defendant, concerning the statements in her objection. Alternatively, to allow the collection of oral evidence, through the questioning of witnesses, under the regime of summoning all residents of the building, after the collection of the evidentiary request under item 2 above, with an attached list of names and addresses of the people living in the building. Allegations have been made of unlawful processing of personal data of the trustee of Mrs. K.B. – K.K. by distributing the claim, which also contains his personal data, asking that the latter be considered a report against GN. By decision of a meeting of the CPLD held on 01.12.2021, consideration of the appeal was essentially postponed to 09.02.2022 at 1:00 p.m., of which the parties were regularly notified, through their procedural representatives present at the meeting. The request made by the applicant, under item 4, to allow the collection of oral evidence, through questioning of three witnesses R.P., O.Y. and K.K., is respected, under the regime of bringing by the complainant in the open session scheduled for 02.09.2022 before the CPLD. In view of the equality of the parties in the proceedings, an identical request was granted and made by the defendant's legal representative, for the admission to questioning of two of the defendant's witnesses, under the mode of bringing by the defendant in the open session scheduled for 02.09.2022 in front of the CPLD. The remaining evidentiary requests of the appellant under items 1, 2, 3 and 5 are irrelevant to the subject of the dispute, therefore they are disregarded. In the course of the proceedings before the CPLD, the question of who received the procedural claim from the court in case No. *** according to the inventory of the Sofia District Court, filed by K.K., through Adv. K.B., against a condominium with the address Sofia, *****, represented by the Chairman of the Management Board - G.N., with the cost of the claim BGN 1,950. In this regard, within the framework of the 01.12.2021 open session before the CPLD, the procedural representative of the applicant, Adv. Kr. makes an evidentiary request to request information and evidence from the CRC as to when and to which person the procedural claim was served. The request as admissible and related to the subject of the dispute was accepted by the CPLD and information in this direction was requested from the SRS. In a response sent electronically on 07.02.2022, the SRS informs that the civil case has been sent to the Sofia City Court for ruling on an appeal and has not been returned to the registry of the SRS composition, which is why they cannot provide data when and to which person a copy of the claim was served, i.e. notice of service is found in the case covers. In view of the above and insofar as the evidentiary request has not been withdrawn on 02/09/2022, the examination of the appeal in substance has been

postponed for the collection of evidence to 03/30/2022 at 1:00 p.m., of which the parties are regularly notified, through those present at the meeting Adv. M.M. and K.N., procedural representatives of the applicant and the defendant, respectively. The Sofia City Court has requested information on when and to which person a claim was served for an answer in case No. *** according to the inventory of the Sofia City Court. In response and with letter No. **** from the SGS, they inform that "the notice with which the documents from the claim and the annexes to it were delivered to the defendant in city case No. ***. according to the inventory of the Sofia District Court, Civil Division, 40th Chamber - Apartment ownership of a residential building located in the city of Sofia, *****, for an answer under Art. 131, para. 1 of the Code of Civil Procedure was received on 22.02.2021 by K.N. - cashier. "At an open meeting of the CPLD held on 30.03.2022, the complaint was examined on its merits. The applicant K.B. appears in person. For the respondent G.N. is K.N. - mother and proxy, with a proxy presented at the meeting. The parties refuse to enter into an agreement. The complainant maintains the complaint, does not point to new evidence. Requests the commission to allow the witnesses O.Y. and K.K. The commission removed the identity of the witnesses O.Y. and K.K. According to the persons, they are not related to the parties in the proceedings, and to the defendant G.N. have civil cases and conflictual relations between neighbors. It is officially known to the CPLD that the witnesses are parties to administrative proceedings initiated in 2021 at their initiative in the CPLD under Art. 38, para. 1 of the Labor Code, filed against G.N. complaints. The witnesses were shown a copy of the procedural claim attached to the case file, which was allegedly "stuck in a prominent and generally accessible place at the entrance of the cooperative" on 02/22/2021. The witness O.Y. declares that he is the owner of an independent apartment in a residential building with the address Sofia, *****. He says that in February 2021, three co-operators called him, who informed him that on the inside of the doorman at the entrance to the building, a claim was stuck in connection with a lawsuit filed by K.K. case against the condominium and prosecutor's decree. He adds that "the next morning" he personally saw the pasted claim containing the names of the complainant K.B., the personal number of the lawyer and the address of the law firm. After presenting a copy of the procedural claim attached to the file, he states that the claim he saw stuck on the inside of the doorman at the entrance of the residential building at the address Sofia, ***** is identical to the document submitted for review. He cannot specify specific dates for his claims, but he is adamant that it concerns events from the month of February 2021. He states that he did not see who and when he pasted the claim, but claims that only G.N. and her mother have access to the concierge and are the ones who post notices about the condominium. The witness K.K. states that upon returning to the apartment building at the address on 02/22/2021, at

approximately 4:30 p.m., he saw that "the N. family was taping something to the inside of the door." He adds that he went back to his apartment and later after midnight he went downstairs and took pictures of the claim form stuck on the inside of the doorman and sent the pictures to Adv. K.B. and O.Y. He claims that the names and attorney number of K.B. were mentioned in the claim. He states that the next morning, on 23/02/2020, "the claim and the prosecutor's file" were not on the inside of the door. After presenting a copy of the procedural claim attached to the file, he states that the claim he saw, stuck on the inside of the doorman at the entrance of the residential building at the address Sofia, *****, is identical to the claims for familiarization document. At the request of the defendant's legal representative, B.N. was also admitted to questioning as a witness in an open session. After taking down the identity of the witness, the commission proceeded to question the person. Mr. B.N. stated that in February 2021 he installed an information board at the entrance of a residential building with the address Sofia, *****. It states that the dashboard key was broken in transit and the dashboard was installed unlocked. He states that at the end of March 2021 he visited the building and changed the cartridge on the dashboard, and from February 2 to March 28 he was outside the city of Sofia. The parties have no other requests for evidence. New evidence does not point. The complainant maintains the complaint, asks for sanctioning the defendant and imposing a fine for unlawful processing and distribution of her personal data. Claims expenses in the amount of BGN 500 (five hundred BGN) - attorney's fees, attaches a list of expenses, a contract for legal protection and assistance dated 02.08.2022 and a copy of a power of attorney in favor of the attorney. M.M. The procedural representative of the defendant contests the complaint as groundless and asks the commission to disregard it. In its capacity as an administrative body and in connection with the need to establish the truth of the case, as a basic principle in administrative proceedings, according to Art. 7 of the APC, requiring the existence of established actual facts, and considering the evidence collected and the allegations made, the commission accepts that the substantively examined complaint No. PPN-01-236/15.03.2021 is unfounded. The subject of the complaint are allegations of unlawful processing of the complainant's personal data, contained in a claim to the Sofia District Court, submitted by K.K., through attorney. K.B., against a condominium at the address Sofia, *****, by distributing them to an unlimited circle of persons by means of "sticking" the claim on 22.02.2021 in a prominent and generally accessible place in the entrance of the condominium. The parties do not dispute that on the date of the alleged violation - 22.02.2021, the defendant G.N. is the Chairman of the management board of a condominium located at the address Sofia, *****. It has been established that there is a civil legal dispute between the condominium and K.K., a person owning an independent object in the condominium, which has been referred to the Sofia

District Court. A civil case No. **** was established according to the court inventory initiated by Mr. K.K. with a claim filed against the EU, through Adv. K.B. It has been established that the claim contains data on Adv. K.B. in a volume of two names, profession - lawyer, office address, court address (which matches the office address), telephone number and personal number of the lawyer registered in the Sofia Bar Association. From the presented evidence, it cannot be established whether the claim bears the signature of the sender, Adv. K.B. The claim does not contain information about the applicant's uniform civil number and/or e-mail address, as claimed by Mrs. K.B. The latter is also confirmed by the testimony of J. and K. It is not disputed that the claim is addressed to the condominium represented by G.N. A copy of the claim was not personally received by the defendant G.N. It was established that the notice with which files from the claim and the attachments to it were delivered to the defendant in case No. **** according to the inventory of the Sofia District Court, Civil Department, Section 40 - Condominium ownership of a residential building located in the city of Sofia, *****, for an answer under Art. 131, para. 1 of the Code of Civil Procedure was received on 22.02.2021 by K.N. It is not disputed, and it was also confirmed from the oral evidence collected in the case file that on 22.02.2021 a copy of the claim was available, pasted on the inside of the doorman in the entrance of the condominium at the address Sofia, ** *****. The information about the applicant contained in the invitation has the quality of personal data, given the fact that by means of it the person can be unambiguously individualized. In this regard, it is indisputable that the actions of placing a copy of the claim at the entrance of the building should be qualified as processing - distribution, of personal data within the meaning of Art. 4, item 2 of the GDPR, to an unlimited number of persons, including residents and visitors of the building, and as such they should meet the requirements of the GDPR and the GDPR. The file lacks evidence of the applicant's alleged distribution of her personal data to an unlimited circle of persons, by placing the claim by G.N. in a visible and generally accessible place at the entrance to the EU on 22.02.2021. The fact that the invitation was received on 22.02.2021 by the addressee, through his representative, does not change this fact, insofar as there is no evidence of its placement, distribution by G.N. in the manner described by the complainant, especially since the defendant is not the only person who owns the claim. A copy of the same is also available with its sender, the applicant, in the present proceedings, and her trustee, with whom Mrs. G.N. is in a complicated relationship, the same subjects and in a civil case **** according to the inventory of the Sofia District Court, according to a claim with a legal basis, Art. 109 of the Property Act filed by Mr. Y. against Mrs. G.N.

However, it is a fact that on 22.02.2021 the claim was available in a publicly accessible place - pasted on the inside of the

doorman at the entrance to the condominium at the address Sofia, *****. Even if it is accepted that it was the defendant who placed a copy of the claim in the specified place, there are grounds for leaving the complaint without respect, as unfounded insofar as the data contained in the claim about the lawyer. K.B. are publicly known and accessible, as part of the register of the Sofia Bar Association of which the applicant is a member. For the sake of completeness, it should be noted that the published and generally available data about the applicant in the register are even larger than that contained in the claim, with the patronymic and e-mail address of Adv. K.B.

The Commission disregards the request of Mrs. K.B. for self-reporting on her allegations of unlawful processing of personal data of her client - K.K., in connection with the distribution of his personal data contained in the claim and its qualification as a signal, insofar as the same is blanket. Apart from this, there are no statements from Mr. K.K. and actions on his part to initiate proceedings before the CPLD for a violation of his rights in the specific case, regarding the published claim, although he had established the alleged violation as early as 22.02.2021, given the fact that he was called as a witness by Ms. K.B. for its execution. For completeness, it should be stated that Mr. K.K. is familiar with the procedure for the exercise of rights insofar as he appealed to the CPLD with a complaint PPN-01-288/2021 filed against the defendant in the present proceedings, but with a subject different from the present one on which the commission ruled.

Given the outcome of the dispute, the costs claimed by the applicant are not due, and for the sake of completeness it should be noted that attorney's fees are not awarded in the proceedings under Art. 38, para. 1 of the Labor Code, to the extent that they are outside of those specified in Art. 47, paragraph 2 of the APC expenses, as such are not provided for in the special law.

Based on the above and based on Art. 38, para. 3 of the Personal Data Protection Act, the Personal Data Protection Commission,

RESOLVE:

1. Declares complaint PPN-01-236/15.03.2021 unfounded.
2. Disregards the request for self-referral to the commission.
3. Dismisses the attorney's fees claimed by the applicant.

The decision is subject to appeal within 14 days of its delivery, through the Commission for the Protection of Personal Data before the Administrative Court of Sofia - city.

MEMBERS:

Tsanko Tsolov /p/

Maria Mateva /p/

Veselin Tselkov /p/

[Download files](#)

Decision on appeal with reg. No. PPN-01-236/15.03.2021

[print](#)