Decision on appeal with registration № PPN-01-622 / 27.07.2018 DECISION» PPN-01-622 / 2018 Sofia, 08.04.2019 Personal Data Protection Commission (CPDP) composed of: members: Tsanko Tsolov, Tsvetelin Sofroniev and Veselin Tselkov at a regular meeting held on 27.02.2019, objectified in Protocol № 10/2019, on the grounds of Art. 10, para. 1, item 7 of the Personal Data Protection Act (PDPA) and 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 individuals with regard to the processing of personal data and on the free movement of such data and on repeal of Directive 95/46 / EC (ORD), considering the merits of a complaint with Reg. № PPN-01-622 of 27.07.2018, in order to rule took into account the following: 38 of the Personal Data Protection Act (PDPA). The Commission for Personal Data Protection has been seised with a complaint with registration № PPN-01-622 dated 27.07.2018 filed by GB In the complaint GB points out that on 23.07.2018 during a visit to his longtime personal physician - Dr. EP in DCC ****, found that without his consent and knowledge he was registered with another personal physician. From RHIF, located on the territory of DCC **** received information that from 05.06.2018 he was transferred to a personal physician Dr. N.M. - *********, in any connection he filed a complaint to the health insurance fund. G.B. informs the CPDP that Dr. N.M. is the daughter of Dr. ID, RHIF - *****, who since 18.06.2009 was not his personal physician, as he has lived in the city of Sofia for more than 10 years, therefore from 19.06. In 2009 he elected Dr. E.P. According to GB, with his transfer to Dr. N.M., with or without the knowledge of his stepfather - Dr. ID, N.M. she deliberately and tendentiously used his personal data, and also expressed suspicion of falsifying his signature in order to keep his personal doctor. Considers her actions to be jurisdictional, stating that in the event of an emergency, Dr. E.P. could not provide him with the necessary medical care due to the fact that his personal physician is Dr. N.M. Attaches: reference, letter from the NHIF, letter from the RHIF - P., signal to the RHIF. 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, G.B. and ”*****” EOOD are regularly notified of the commenced proceedings. “*******” EOOD expresses an opinion on the complaint, stating that until 14.05.2018 she worked as an employee of the general practitioner Dr. ID After this date he took over the medical practice of Dr. ID, performed in the villages of O. and V., municipality. P .. The adoption of the medical practice, adopted and the organizational structure created by Dr. ID, incl. computers, medical software, a patient database of approximately 2,800 patients. For the purpose of transferring the practice, the program of medical software automatically generated and printed an appropriate

number of applications - "Registration form for permanent selection of general practitioners", which were submitted to RHIF after signing by the general practitioner and the patient. Informs the CPDP that after notifying her of the problem - subject of the complaint, first by the RHIF and then by the CPDP, conducted an internal inspection, which found that in fact a registration form was generated for the complainant, because technically the software does not allowed the deletion of already created records, and only a change in the technical status from "active" to "inactive" was possible. In generating the registration forms, the system printed such for both “active” and “inactive” patients, and due to oversight or error, the registration form of G.B. (where he appeared with his old address and telephone number), together with the other registration forms. During the internal inspection it was also established that since 2009, when G.B. changes his place of residence and his personal doctor, in the practice of Dr. ID he was "inactive" and no actions were taken on his account, no examinations were reported, referrals to a specialist, sick leaves, or payments were received from the RHIF or elsewhere. Points out that by law the general practitioner should keep the data of his patients for 10 years, even after choosing another general practitioner, due to which it was not possible and permissible to delete him from the database of Dr. ID Upon learning of the case, immediate action was taken to contact GB in order to explain the mistake and to apologize for the inconvenience, but by GB there was a reluctance to dialogue, which is why N.M. expresses its regret for this error in the opinion on the appeal. Informs the commission that on behalf of GB no request has been submitted for exercising his rights as a data subject before submitting the signal and that as a personal data controller, as of 15.08.2018 she has taken the necessary actions to bring its activities in line with the requirements of the ORD. ***** ”EOOD clarifies that the term“ transfer of medical practice ”used by it is not a legal concept and is not normatively defined. In essence, this process took place in the way described in the opinion on the appeal. An acceptance-transfer protocol was drawn up for the transfer of the holder of the medical software and the database, and technically this was realized by the company that delivered the software product, which the company performed and maintained. He points out that, with the exception of GB, all other applications were signed by the patients and duly submitted to the RHIF. Attaches: registration form for permanent selection of a general practitioner from 05.06.2018, contract for legal protection and assistance and acceptance - transfer protocol from 14.05.2018. In response to a request for information, the National Health Insurance Fund states that ZOL have the right to freely choose a doctor in a medical institution for primary medical outpatient care on the territory of the country, who has concluded a contract with the NHIF. This order was regulated in the Ordinance on the exercise of the right of access to medical care and in the National Framework Agreements under Art.

53 of the Health Insurance Act, currently the R&D for medical activities for 2018 between the NHIF and the BMA. The said acts did not regulate the possibility of transferring / taking over medical practice from one general practitioner to another. The right to choose a GP was exercised freely by the GP, and for this purpose, the latter filled in a registration form and presented it to the relevant medical institution. When the medical institution in which the GP is selected does not have a contract with the NHIF, the ZOL makes a new choice and presents it to the respective medical institution. Completion and submission of the registration form could also be done electronically. In the cases of such a new choice of ZOL, the possibility was provided for the latter to provide the newly elected doctor with an extract from the medical documentation. A copy of an extract from the medical documentation was provided to the GP at the request of the previous general practitioner (Article 130 of the National Medical Practice for 2018). With a decision of the CPDP from a meeting held on 16.01.2018, objectified in Minutes № 2/2019, submitted by GB a complaint has been declared regular and admissible, as its content is in compliance with the provisions of Art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration (PDKZLDNA), respectively Art. 29, para. 2 of the Administrative Procedure Code (APC); the same was submitted by a natural person and has as subject: use of personal data relating to GB, without his knowledge and consent of "*****" Ltd. in order to change the GP by submitting a registration form for selection of a general practitioner from 05.06.2018 on 02.07.2018 to RHIF - P. and their provision to "*****" EOOD by ET "*****", UIC *** **; the complaint was filed against “******” EOOD and ET “******”, UIC ****, having the capacity of administrators of personal data; the complaint was filed with a competent authority and within the statutory period (the violation was committed on 02.07.2018, which GB learned on 23.07.2018; the data were submitted on 14.05.2018 by Dr. ID of Dr. NM and both acting in their capacity as legal representatives), by a person with legal interest, there are no negative prerequisites specified in Art. 27, para. 2 of the Administrative Procedure Code. Based on the above, the following have been constituted as parties in the administrative proceedings: complainant: G.B. and respondent parties: “*****” EOOD, UIC ***** and ET ”*****”, UIC *****, a date has been set for consideration of the complaint in open session, an opinion has been requested on the subject of the complaint from ET "*****", UIC *****, as well as the provision of information by RHIF - P. regarding the result of the inspection on the occasion of the filed by GB complaint to them, incl. the registration form for change of the general practitioner of GB, submitted by Dr. NM, together with information about the order and manner of its submission. In response to a request for information, RHIF - P. indicate that on the basis of a signal from GB, RHIF has inspected "*****" Ltd. at the location of the practice - in the village of V. and As a result of the inspection, a violation was

established by “*****” EOOD of the terms and conditions for providing outpatient medical care, in the part “selection of a general practitioner”, regulated in the NDA for MD for 2018. According to the People's Republic of Bulgaria for MD for 2018 monthly until 5 pm on the 3rd working day of the month following the reporting month, the executors of PIMP submit to RHIF - P. a list of newly elected them ZOL in a format approved by the NHIF and the first copies of the registration forms for initial, permanent and / or temporary selection on paper. Attached: letter with ref. № 35-13-4 dated 15.08.2018 of the Sofia Health Insurance Fund with attached signal with ent. № 94-B-701 from 25.07.2018 to RHIF - Sofia, order № 13 / RD-09-1147 from 20.08.2018, explanation with ent. № 13 / 29-05-934 from 21.08.2018, protocol № 487 from 24.08.2018, reference selection of a general practitioner of ZOL: GB, list of the executors of PIMP - Individual practices, registration form from June 5, 2018, letter to the director of the Health Insurance Fund - Sofia with ref. № 13 / 35-22-13 dated 24.08.2018, letter to GB with ref. № 13 / 94-00-3761 dated 24.08.2018, order for imposition of a sanction № 13 / RD-09-1226 dated 04.09.2018, cover letter with ref. № 13 / 29.05.990 / 04.09.2018 together with a notice for their delivery. ET "*****" expresses an opinion on the complaint, identical to the opinion expressed by "*****" EOOD. Additionally, the opinion states that until 14.05.2018 Dr. N.M. She worked for him, and after that date she took over his medical practice as a general practitioner, performed in the village of O. and V., and he started working for her, that for the purposes of transferring the medical practice a corresponding number of registrations were generated. forms from the medical software so that each patient can fill in their own and Dr. N.M. to submit it, and that an inspection was carried out, as a result of which it was established that no errors were made in relation to other patients. He referred to the findings of the RHIF in the case as the competent body for the supervision and control of the activities of GPs and considered that this was a mistake, which was the reason for imposing a minimum sanction for the violation. An open meeting was held on February 27, 2019, in accordance with the provisions of Art. 39, para. 1 of the PDKZLDNA. The complainant and the respondent party ET "*****" regularly notified, do not appear and do not send a representative, for the respondent party "*****" EOOD regularly notified, is a lawyer. V.V. by SAC, with a power of attorney presented at a meeting. The latter maintains the opinion expressed on the complaint, there are no requests for gathering other evidence. He asked the commission to disregard the complaint on the grounds that the case concerned a technical error. The Commission for Personal Data Protection, after considering the views of the parties in the context of the evidence gathered in the file, finds that the complaint is well-founded and as such should be upheld in the light of the following considerations. It is not disputed between the parties, and the evidence gathered in the proceedings shows that the defendants process personal data of the

applicant. The dispute concerns the admissibility of this processing - the use of his personal data by "*****" EOOD and their provision by ET "*****" to "*****" EOOD. It is indisputable, and from those presented: reference for the selection of GPs: G.B. from the RHIF and an electronic printout made by GB inspection of a personal doctor, it is established that: 1. until 18.06.2009 the personal doctor of the complainant is Dr. ID - ET ”*****”, 2. as of 19.06.2009 the personal doctor of the complainant is Dr. EP - "A. - outpatient clinic for group practice for primary care" Ltd., 3. as of 05.06.2018 the personal physician of the complainant is Dr. N.M. - ”*****” EOOD, 4. as of 11.09.2018 the personal physician of the complainant is Dr. EP - "A. - outpatient clinic for group practice for primary care" Ltd. It is indisputable that the choice under item 1 and 2 was made by the complainant, and the one under item 3 - no, and that the choice under item 4 was in practice dictated by a change under item 3. According to the defendants (no evidence is presented, and the issue is not disputable) until 14.05.2018 Dr. N.M. has worked for Dr. ID - ET "*****", and after this date Dr. ID started working for Dr. N.M. - ”*****” EOOD, as the latter took over the medical practice of Dr. ID - ET ”*****” in the village of O. and the village of V. For the purposes of the latter ”*****” EOOD adopted the organizational structure created by Dr. ID, incl. computers, medical software, patient database, numbering approximately 2800 patients. It is for the purposes of taking / transferring this practice that the patient database contained in the program of medical software used by ET "*****" was transferred. . It is evident from the acceptance-transfer protocol dated 14.05.2018 that in the village of V., Dr. ID in his capacity as a legal representative of ET "*****" has handed over his access to medical software "RescueSoft - nurse", together with the patient database contained in it to "*****" EOOD, containing information incl. such for the applicant. It is indisputable, and from the registration form for the selection of a general practitioner it is established that the form was generated by medical software "RescueSoft - nurse" on 05.06.2018. .B. with data for three names, PIN, previous address, date of birth and mobile phone number, and as a general practitioner - Dr. N.M. - ”*****” EOOD. It is evident from the discussed registration form that there is a signature in the column "insured person" and in the column "doctor" - signature and seal, and it should be noted that this form is provided to the CPDP by RHIF - P .. The registration form , attached by “*****” EOOD does not contain a signature in the column “insured person”, and in the column “doctor” - signature and seal. As can be seen from the attached list of contractors of PIMP - Individual Practices - reporting period June 2018, re-election of GPs and information provided by RHIF - P., together with the results of the inspection ., is that on 02.07.2018 Dr. N.M. has submitted information to RHIF - P., having reported 239 registration forms, including the one with data of GB According to the defendants, this case is an error due to the characteristics and parameters of the used medical

software "RescueSoft - nurse". The allegations are unfounded, and it is enough to point out only the fact that the characteristics and parameters of the medical software "RescueSoft - nurse" do not suggest the possibility of placing a handwritten signature in the columns "insured person" and "doctor". The above is confirmed by the information of RHIF - P., provided to the CPDP, according to which, according to the R&D for MD for 2018 monthly within 5 pm on the 3rd working day of the month following the reporting month, the contractors of PIMP submit in RHIF - P. list of newly elected ZOL in the format approved by the NHIF and the first copies of the registration forms for initial, permanent and / or temporary selection on paper, incl. the information provided by the NHIF. It is evident from the information of RHIF - P. with attached documents that GB has referred to RHIF - Sofia in connection with a change made without his knowledge and consent of a general practitioner, namely the replacement of his chosen one as such - Dr. EP - "A. - outpatient clinic for group practice for primary care" Ltd. with Dr. N.M. - "*****" EOOD, as of 05.06.2018. It is evident from the provided materials that RHIF - P. has established the complaint as well-founded, has established a violation by "*****" EOOD of Art. 131, para 1 of the National Development Plan for 2018 in conjunction with art. 4, para 1, para 3, sentence 1 and art. 6, para 1 of the Ordinance for exercising the right of access to medical care, for the fact that on 02.07.2018 she reported a registration form for changing the GP for ZOL - GB, which is incorrect due to the fact that it does not come from him, for which a property sanction in the amount of 50.00 leva. In view of the facts thus established, it is necessary to conclude that ET "*****" and "*****" EOOD are initially administrators of personal data, as they have the qualities of medical institutions within the meaning of Art. 3, para 1 in conjunction with art. 8, para 1, item 1 of the Medical Establishments Act and process data in the context of the activity carried out by them. Their quality as administrators of personal data within the meaning of Article 3, paragraph 1 of LPPD / Article 4, § 1, item 7 of the PDPA to the complainant, stems from the fact that the respondent parties have processed his data in the operations of providing and use - subject of the complaint, ie they are obligated persons under the LPPD / PDPA and as such should fulfill the requirements that the specified acts provide for the controllers of personal data, incl. the principles related to the processing of personal data and the conditions for lawful data processing. Given the subject of the complaint and in view of the allegations made by the defendants about the admissibility of data processing are considered relevant, in addition to the provisions of LPPD and ORD and the provisions set out below by the relevant regulations governing the activities carried out by administrators, incl. those concerning the subject of the complaint. According to the legal definition contained in Art. 2, para. 2 of LPPD / Art. its lawful processing - art. 4, para 1 of LPPD / art. 6, §1 of ORZD. At the same time, Art. 5, para. 1, item 3 of

LPPD / Art. special category of personal data and other requirements and conditions are provided for this information, incl. for its processing - art. 5, para 1 of LPPD / art. 9, para 1 of ORZD. Among the information defined as a special category of personal data is that of the health status of the individual, as in Article 5, paragraph 2 of LPPD / Article 9, §2 of the PDPA are exceptions that allow the processing of such information. According to Article 27 of the Health Act (PA), health information is personal data related to the health, physical and mental development of individuals, as well as any other information contained in medical prescriptions, prescriptions, protocols, certificates and other medical documentation. Medical and health establishments, regional health inspectorates, doctors, dentists, pharmacists and other medical specialists, as well as non-medical specialists with higher non-medical education working in the national health care system, collect, process, use and store health information. the content, as well as the conditions and the order for processing, use and storage of the medical documentation and for exchange of medical-statistical information shall be determined by ordinances of the Minister of Health, coordinated with the National Statistical Institute. Given the above provisions, it is necessary to conclude that the information provided by ET "*****" and "*****" Ltd. for the needs of "transfer of medical practice" falls within the scope of the special category of personal data , as it concerns data on the health condition of GB (which ET "*****" has in view of the fact that until 2009 Dr. ID from ET "*****" is the personal doctor of the complainant), therefore for the admissibility of the processing of the information, by providing it, the conditions provided for this are considered art. 5, para 2 of LPPD / art. 9, § 2 of ORZD. Article 28 of the Health Insurance Act indicates the cases in which health information may be provided to third parties, namely: 1. the person's treatment continues in another medical institution; 2. there is a threat to the health or life of other persons, after notifying the respective person; 3. is necessary for identification of a human corpse or for establishing the causes of death; 4. is necessary for the needs of the state health control for prevention of epidemics and spread of contagious diseases; 5. is necessary for the needs of the medical expertise and the social insurance; 6. is necessary for the needs of medical statistics or for medical research, after the data identifying the patient have been deleted; 7. is necessary for the needs of the Ministry of Health, the National Center for Health Information, the National Health Insurance Fund, the regional health inspectorates and the National Statistical Institute; 8. is necessary for the needs of an insurer licensed under Section I of Annex № 1 or item 2 or under items 1 and 2 of Section II, letter "A" of Annex № 1 to the Insurance Code. According to Article 28b of the Health Insurance Act, the patient has the right to receive from the medical institution health information related to his health condition, including copies of his medical documents. He has the right to authorize in writing another person to get acquainted with his

medical documents, as well as to make copies of them. Upon the death of the patient, his heirs and relatives in the direct and collateral line up to and including the fourth degree have the right to get acquainted with the health information about the deceased, as well as to make copies of his medical documents. The provision of Art. From the above provisions of the PA it is established that the case in question - the operation of providing data, does not fall into the exceptions, where the law allows health information to be provided to a third party, which is "*****" Ltd. In view of the fact that, according to the respondent parties, the transmission of health information is also dictated by the need to change GPs by patients served by ET "*****", in particular patients whose GP has been r I.D. in view of their stated desire to elect Dr. NM as GPs, the following is also taken into account, which in turn is also considered relevant to the complainant's personal data processing operation through their use by of "*****" EOOD in order to change the GP. For the last operation is taken into account the fact that the data used for this purpose do not fall within the scope of the special category of personal data under Article 5, paragraph 1, item 3, proposition 1 of LPPD / Article 9, § 1 of the ORD, due to which this operation examines the conditions under Article 4, paragraph 1 of the LPPD / Article 6, § 1 of the ORD for the lawful processing of data. According to Article 4 of the Health Insurance Act (HIA), compulsory health insurance guarantees free access of insured persons to medical care through a certain type, scope and volume of a package of health activities, as well as free choice of contractor who has concluded a contract with regional health insurance cash register. The right to choose is valid for the entire territory of the country and cannot be restricted on geographical and / or administrative grounds. The conditions and the procedure for exercising the right of access and free choice of the insured persons to medical care shall be regulated in the ordinance of art. 81, para 3 of the Health Act and in the national framework contracts. According to Article 35 of the Health Insurance Act, the compulsorily insured have the right to receive medical care within the scope of the package of health activities guaranteed by the NHIF budget; 2. to elect a doctor from a medical establishment for primary medical care, who has concluded a contract with the RHIF; 3. to emergency aid where they find themselves; 4. to receive information from the RHIF about the contracts concluded by it with the providers of medical care; to participate in the management of the NHIF through their representatives; 6. to submit complaints to the director of the respective RHIF in case of violations of the law and of the contracts; 7. to receive a document necessary for the exercise of their health insurance rights in accordance with the rules for coordination of the social security systems; 8. of cross-border healthcare by the order of Chapter Two, Section XII of the law. According to the provisions contained in the Ordinance on the exercise of the right of access to medical care, and in particular section two, health insured persons have the

right to freely choose a doctor in a primary care outpatient institution throughout the country. The choice is personal (art. 4). According to Article 6, the health insured person exercises his / her right to choose a doctor by filling in the registration form for exercising his / her right to choose and presenting it to the respective medical institution. Each calendar year in the period from 1 to 30 June and from 1 to 31 December, the health insured person may choose another doctor in this order. According to Art. by another doctor, presenting a form of provisional selection with a validity of not less than one and not more than 5 months in the manner regulated above. Article 19 of the ordinance states that in cases where the health insured person makes a new choice of doctor, the newly selected primary care institution requires an extract from the necessary medical documentation and notifies the RHIF of the new registration. According to Section III “Conditions and procedure for providing outpatient medical care. Selection of a general practitioner, conditions and procedure for rendering PIMP ”initial selection of GPs can be carried out at any time with a registration form for selection - Article 126. This choice can be changed from 1 to 30. VI.2018 and from 1 to 31. XII.2018, except in cases of termination of the contract with the contractor of PIMP - then the change is announced outside this period. For this purpose, ZOL, wishing to make a permanent election, presents to the newly elected GP: 1. a health insurance book in which the newly elected GP enters his / her three names and the date of election; 2. the third copy of the registration form for selection of GPs, in case there is no health insurance book; 3. completed registration form for permanent election - art. 127. According to Article 128 in the cases of initial, permanent or temporary election of GPs ZOL can exercise their right to choose by purchasing registration forms or filling out printed forms from the official website of the NHIF, including filling in and sending to the selected GP registration form for initial, permanent or temporary election electronically, free of charge, under the terms and conditions of the Electronic Document and Electronic Signature Act (EDESA) through an electronic service provided by the NHIF. According to Article 130, in cases where the GP makes a new choice of GP, the GP provides the newly elected GP with an extract from the medical documentation (including for the immunizations). An extract with copies of the necessary medical documentation is provided to ZOL at the request of the previous GP. Pursuant to Art. from the NHIF format and the first copies of the registration forms for initial, permanent and / or temporary selection on paper. The regional health insurance fund processes the information submitted by all contractors, reporting for each of them: 1. the names and the number of persons who have dropped out of its register due to a change in the choice or other circumstance; 2. the number and the names of the newly registered persons; 3. the final number of the persons from the register after reporting the number of the persons under items 1 and 2. Within 5 working days after the expiration of the term under para. 1 of the

RHIF provides electronically to the registered GPs in the electronic portal of the NHIF an up-to-date patient list as of the last day of the reporting month through the portal of the NHIF. Based on the above, it should be assumed that for the purposes of the change of GPs and the change itself, it is not necessary to transfer health information about the health insured persons from one GP to another. For the purposes of the change of the GP and the change of the GP itself, constituting personal choice, which is exercised by the health insured persons, in accordance with the procedure and manner provided for in the regulations, it is also not necessary or envisaged of ZOL, i.e. for the use of GP data, in the case of the complainant from "*****" for the complainant. As mentioned above, the exceptions that allow the processing of information that falls within the scope of Article 5, paragraph 1 of LPPD / Article 9, § 1 of the PDPA are regulated in Article 5, paragraph 2 of LPPD / art. 9, §2 of ORZD. It should be noted that identical to the exceptions provided for in the LPPD are provided in the PDPA, as the latter expands their scope, but in essence the exceptions remain unchanged in their main characteristics. consider in particular art. 5, para 2, item 2 - presence of consent of the data subject and item 6 of LPPD - for the purposes of medical diagnostics, provision or management of health services by LPPD / art. 9, § 2, item "a", item "h" of the ORD, as the other exceptions are practically inapplicable, moreover, no data are established in the file for the existence of such, and no allegations in this direction are made by the administrator "*****", therefore they should not be discussed. It is indisputably established that the complainant did not consent to the provision of his data from "*****" to "*****", moreover, the provision of the data was made without his knowledge. It is indisputably established that the provision of data from "*****" to "*****" is not related and is not required for the purposes of medical diagnosis, provision of health care or treatment or for the purposes of service management. and healthcare systems, as the provisions of the special legislation commented on above do not provide for the need and obligation to process this information in this order and in the same way as it is processed by "*****". In this sense, the complaint is well-founded in relation to "*****", as it is not established the presence of any of those listed in Article 5, paragraph 2 of LPPD / Article 9, § 2 of ORZD exceptions allowing the processing of a special category of personal data by which the controller has committed a violation of Article 2, paragraph 2, item 1 in conjunction with Article 5, paragraph 2 in conjunction with paragraph 1, item 3, proposition 1 of LPPD / art. 5, §1, item "a" in conjunction with art. has handed over his access to the medical software "RescueSoft - nurse" to "*****" EOOD, UIC *****, together with the patient database contained in it, incl. health information about the applicant without a legal basis. With regard to the operation of personal data processing from "*****", through their use are considered the general conditions for lawful processing of personal data, regulated in Article 4,

paragraph 1 of the LPP / Article 6 of the PDPA. Here, too, it should be pointed out that conditions identical to those provided for in the LPPD are also provided for in the PDPA. In view of the established facts in this processing operation are considered - in particular Article 4, paragraph 1, item 1 - the presence of a statutory obligation and item 2 - the consent of the data subject of the LPPD / Art. 6, §1, b. ”A” and b. "C" of the ORD, as the other conditions are practically inapplicable, moreover, no data are established in the file on the existence of such, and no allegations are made in this regard, therefore they should not be discussed. It was indisputably established that in this operation for processing the personal data of the complainant there was no express consent of the latter. Here, too, the use of his data took place without his knowledge. The provisions of the special normative acts do not envisage an obligation or possibility for data processing for the purpose of changing the GP without the consent of the ZOL. In this sense, the complaint is well-founded in relation to "*****", as it is not established the presence of any of those listed in Article 5, paragraph 2 of LPPD / Article 9, § 2 of Conditions for lawful processing of personal data by which the controller - "*****" has committed a violation of Article 2, paragraph 2, item 1 in conjunction with Article 4, paragraph 1 of LPPD / Art. .5, §1, b. ”A” in conjunction with Art. in order to change the GP, by submitting a registration form for selection of a general practitioner from 05.06.2018 on 02.07.2018 to RHIF - P., without legal grounds for this. Based on the above and taking into account the fact that as of 25.05.2018 the General Regulation on Data Protection (Art. 94) and in accordance with the provisions of Art. 58, § 2 of the Regulation corrective powers, the CPDP considers that for each of the controllers of personal data should be applied as - the most appropriate measure provided for in b. "And" - imposition of an administrative penalty - sanction, each BGN 1000.00 for the violation committed by the respective administrator. The motives for determining the administrative penalty - the property sanction as the most appropriate measure for each of the administrators and its amount as fair as such are as follows, which applies to both administrators: the measures provided for in Article 58, § 2 of the ORD are applicable in cases where there is a breach of an obligation on the part of an administrator leading to an infringement, in which case it would be possible to remedy the infringement by taking further action on his part. In the cases at issue in the present proceedings, the remedies under points (a) to (h) and (j) of Article 58 (2) of the Regulation are not inapplicable in so far as the infringement has already taken place and cannot therefore achieve the objective pursued, namely, to be effective, proportionate and dissuasive. Only the pecuniary sanction, as a corrective measure under Article 58 (2) (i) of the Regulation, appears to be the most appropriate and effective measure to deal with the infringement concerned. In this sense, it should be noted that in addition to a purely sanction measure, a reaction of the state to the violation of the statutory

rules, the property sanction also has a disciplinary effect, in view of not committing the same violation in the future. With regard to the controller of personal data - ET "*****" it should be further stated that the violation concerns information falling within the scope of the special category of personal data, as in addition to data about the complainant, according to information of both defendants , it is provided for about 2800 people for the purposes of "transfer"; the violation was committed on 14.05.2018, there are no data on damages by the complainant; the data have been transmitted without a legal basis and not in the context of an existing basis and a deviation from the prescribed one; there are no data for undertaking further actions in connection with the violation thus committed - according to the data in the file and at present "*****" Ltd. has access to the data transmitted to it; no technical and organizational measures for data protection or other documents and rules for their processing have been presented; there are no data on previous violations; no assistance was provided to the administrative body in order to eliminate the violation and mitigate any adverse consequences thereof; the CPDP has been sued for the violation; there is no data on the transfer of data ET "*****" has notified the complainant; no data on b. "Y" of Art. 58, § 2 of the ORZD for approved codes of conduct or certification mechanisms. With regard to the controller of personal data - "*****" Ltd. should be further noted that: the violation does not concern a special category of personal data of the complainant; the violation was committed on 07.02.2018 when a change of GP was requested; as of June 5, 2018 until September 10, 2018, the GP is registered; to the administrative body by this administrator is presented a form different from the one presented in RHIF - P., as from the form provided by the fund it is established that the latter bears a signature in the column insured person, unlike presented by the administrator, ie. there is a deliberate use of a false document for the purposes of the proceedings; there is no evidence of any damage on the part of the complainant; the data have been used without a legal basis and not in the context of an existing basis and a deviation from the prescribed one; there are no data on actions taken to eliminate the violation after learning of it, incl. no evidence of this has been provided; a new change of GP was made by the complainant, dictated by the violation, according to his choice and according to the instructions of RHIF - P .; no technical and organizational measures for data protection or other documents and rules for their processing have been presented; there are no data on previous violations; no assistance was provided to the administrative body in order to eliminate the violation and mitigate any adverse consequences thereof; the CPDP has been sued for the violation; there is no evidence that the controller has notified the complainant of the use of the data; there are no data under item “j” of Art. 58, § 2 of the ORZD for approved codes of conduct or certification mechanisms; At present, the administrator processes data (stores) and those that fall into the special category of personal

data, incl. of the applicant and about 2800 people without legal grounds, given the fact that “taking over the medical practice” does not require the transfer of the patient database from one GP to another, ie. data up to the date of any change are processed without justification. Thus motivated and on the basis of Art. 38, para. 2 of LPPD in connection with Art. 39, para. 2 of PDKZLDNA, the Commission for Personal Data Protection DECIDES: 1. Notice of well-founded complaint reg. № PPN-01-622 from 27.07.2018 of GB with regard to ET "*****", UIC **** for a violation under Article 2, paragraph 2, item 1 in conjunction with Article 5, paragraph 2 in conjunction with paragraph 1, item 3, proposed 1 of LPPD / Art. 5, §1, item “a” in conjunction with Art. **** for committed violation under Art. 2, para 2, item 1 in conjunction with Art. 4, para 1 of LPPD / Art. 5, §1, b. ”a” in conjunction with Art. , §1 of ORZD - principle of legality. 2. In connection with item 1 and on the grounds of art. 58, §2, b. ”And” supra art. 83, §5, b. - property sanction in the amount of BGN 1,000.00 (thousand BGN). The decision of the Commission for Personal Data Protection may be appealed before the Administrative Court of Sofia within 14 days of its receipt. After the entry into force of this decision, the amounts of the imposed penalties shall be transferred by bank transfer: BNB Bank - Central Office IBAN: BG18BNBG96613000158601 BIC BNBGBGSD - Commission for Personal Data Protection, Bulstat 130961721. MEMBERS: Tsanko Tsolov / p / Tsvetelin So / Veselin Tselkov Files for download Decision on appeal with registration № PPN-01-622 / 27.07.2018 print