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»Decision on the appeal with registration № Ж-335 / 01.08.2017 Decision on the appeal with registration № Ж-335 /

01.08.2017

ANSWER

№ Ж-335/2017

Sofia, January 3, 2018

The Commission for Personal Data Protection (CPDP) composed of: Chairman: Ventsislav Karadzhov and members: Maria Mateva and Veselin Tselkov at a meeting held on 22.11.2017, pursuant to Art. 10, para. 1, item 7 of the Personal Data Protection Act, considered on the merits a complaint № Ж-335 / 01.08.2017, filed by D.A.П.

The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA).

The Commission for Personal Data Protection was seised with a complaint filed by D.A.P., in which allegations of illegal processing of her personal data and those of her son M.P.P. by UB AD.

The complainant informed that on 19 July 2017 she received a call from an employee of the company with a request to present a photocopy of her identity card and a birth certificate of her son in connection with a contract concluded between the parties for a children's savings account. She added that she handed over the documents to a branch of the company at \*\*\*\*\*, where she was informed that "she has to re-sign the Children's Savings Deposit Agreement because he and the related documents cannot be found" because are "lost or inadvertently destroyed".

The applicant informed that the contract had been concluded on 2 December 2009 and had a copy of it, which was why she had flatly refused to sign a new contract.

Considers that the company in its capacity of controller of personal data has violated the provisions of Art. 23, para. 1 of LPPD and has not taken the necessary technical and organizational measures to protect her personal data and those of her son, as customers of the bank, from accidental or illegal destruction or accidental loss and asks the Commission to investigate the case.

No evidence was attached to the complaint.

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, a written statement was requested from UB AD.

In response, the company committed an opinion that the complaint was unfounded, in which they disputed as incorrect the allegations in the complaint of accidental or illegal destruction, accidental loss or other illegal form of processing of the complainants' personal data. They claim that the children's deposit agreement cited in the complaint and the documents attached to it are stored in the bank's archives in accordance with the technical and organizational measures for protection of personal data of the bank's customers provided in the company's internal rules and procedures. level of impact and level of personal data protection.

No evidence was attached to the opinion.

In the course of the proceedings the applicant submitted a certified copy of the Birth Certificate № \*\*\* of MPP, issued by the Sofia Municipality, Ilinden District.

The Commission for Personal Data Protection is an independent state body that protects individuals in the processing of personal data and in accessing these data, as well as control over compliance with the LPPD.

In order to exercise its powers, the Commission must be properly seised.

Complaint № Ж-335 / 01.08.2017 contains the obligatory requisites, specified in Art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration, namely: there are data about the complainants, the nature of the request, date and signature, in view of which the complaint is regular.

The appeal is procedurally admissible, filed within the term under Art. 38, para. 1 of LPPD by natural persons with legal interest. The same is the subject of illegal processing of personal data of the applicants - D.A.P. and M.P.P. contained in a contract for children's savings account in the event of accidental or illegal destruction or accidental loss of documents by UB AD. The complaint was referred to a competent body to rule - the CPDP, which according to its powers under Art. 10, para. 1, item 7 of the LPPD considers complaints against acts and actions of the personal data controllers, which violate the rights of individuals under the LPPD.

The presence of a personal data controller is an absolute procedural prerequisite for the admissibility of the complaint. In the specific case the complaint is directed against UB AD, which is evident from an official reference made in the Electronic Register of Personal Data Administrators and the registers kept by them is registered as a personal data controller with ident.

№ 25861 and requested nine registers.

At a meeting of the Commission held on 25.10.2017, the complaint was accepted as procedurally admissible and the parties were constituted: complainants - D.A.P. and M.P.P. and the respondent - UB AD, in its capacity of personal data controller.

In order to clarify the case from a legal and factual point of view, UB AD is required to present a certified copy of the contract concluded between the parties for a children's savings account and the documents attached to it.

In response to the instructions provided by the CPDP, the respondent party presented relevant evidence, including a certified copy of: contract for children's savings account concluded on 02.12.2009, request for opening a children's savings account, identity card of the applicant, certificate for the birth of MPP, General conditions for opening, maintaining and closing accounts of individuals in UIEDB AD, effective as of the date of concluding the contract, Instruction for protection of personal data, Instruction on the procedure and manner of transfer of documents from the financial center for archiving and Nomenclature of cases of the branch network of UB AD with deadlines for their storage.

At a meeting of the CPDP held on 22.11.2017, the complaint was considered on the merits.

The parties are regularly notified - they do not appear, they do not represent themselves.

In his capacity of 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 Code of Administrative Procedure, requiring the existence of established facts, given the written evidence gathered and the allegations made by the parties, the Commission considers that considered on the merits of the complaint № G-335 / 01.08.2017 is unfounded.

From the evidence gathered in the file, it was indisputably established, and it is not disputed between the parties, that on 02.12.2009 a contract for a children's savings account was concluded for opening and maintaining an indefinite savings account in Bulgarian leva in "U.I.E. DB "AD with account number \*\*\*\* with holder M.P.P., evident from the content of which is that it contains personal data of the complainant M.P.P. in a volume of three names, address and a single civil number. It is not disputed that for the purposes of the contract the applicant, in her capacity as a parent of the holder M.P.P. has submitted a request for opening a children's savings account, in which she has indicated her personal data - three names, address, unique civil number and ID card number and has provided the company with a copy of her ID card and birth certificate of MP .П.

The Commission finds unfounded the applicant's allegations that the company did not take the necessary technical and organizational measures to protect her personal data and that of her son from accidental or unlawful destruction or accidental

loss, given their inconsistency and inconsistency with the collected data. written evidence on the file, from which it was indisputably established that the company kept documents related to the contractual relationship between the parties, containing personal data of the applicants, including the children's savings account contract and the certified copy of her identity card and certificate birth of M.P.P.

Guided by the above and on the grounds of Art. 38, para. 2, in connection with art. 10, para. 1, item 7 of the Personal Data Protection Act, the Commission for Personal Data Protection,

HAS DECIDED AS FOLLOWS:

Dismisses as unfounded the complaint reg. № Ж-335 / 01.08.2017.

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

THE CHAIRMAN:

MEMBERS:

Ventsislav Karadzhov

Maria Mateva / p /

Veselin Tselkov / p /

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