

Home »Practice» Decisions of the CPDP for 2018 »Decision on appeal with registration № PPN-01-67 / 05.02.2018 Decision on appeal with registration № PPN-01-67 / 05.02.2018 DECISION» PPN-01-67 / 2018 Sofia, 19.10.2018 Personal Data Protection Commission (CPDP, Commission) composed of, Chairman: Ventsislav Karadzhov and members: Tsanko Tsolov, Tsvetelin Sofroniev, Maria Mateva and Veselin Tselkov on a regular basis meeting, held on 05.09.2018 and objectified in the minutes № 34 / 05.09.2018, on the grounds of Art. 10, para. 1, item 7 of the Personal Data Protection Act (PDPA), considered on the merits a complaint reg. № PPN-01-67 / 05.02.2018, filed by V.S. The administrative proceedings are by the order of art. 38 of the LPPD. The complainant has lodged a complaint with the Commission for Personal Data Protection regarding the illegal dissemination of personal data. After a request submitted by the complainant to 4F EOOD for lack of obligations to the institution, he received a document sent through the courier company "S. "AD, whereby it establishes that in the field for filling in a telephone number, its single civil number has been filled in. He believes that his personal data has become "available to an unlimited number of people". 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 with letters ref. №№ PPN-01-67 # 2 / 07.03.2018, № PPN-01-67 # 3 / 07.03.2018, a deadline was given for written opinions on the subject of the complaint and submission of relevant evidence to "4F" Ltd. and "S. "AD. In response to an opinion filed with Reg. № PPN-01-67 # 5 / 28.03.2018 by 4F EOOD (the Company) inform that 4F EOOD is a legal entity registered in the Commercial Register at the Agency for entries with UIC ****, with subject of activity: granting loans with funds that have not been raised through public attraction of deposits or other repayable funds. The registered office and the address of management of the company are: ****, and the e-mail address: *****. They indicate that the company is a financial institution entered in the Register of Financial Institutions kept by the BNB under Article 3a of the LCI under number BG00313. The company is entered in the Register of Personal Data Administrators and the registers kept by them at the CPDP of the Republic of Bulgaria - Personal Data Administrator, for which a certificate №371033 has been issued. The trademark under which the company operates on the Bulgarian market is Vivus.bg. The subject of activity that the company develops is the provision of loans to individuals only in the form of loans (Article 9, paragraph 1 of the LPC), fully complying with the requirements of the Law on the provision of financial services at a distance (LPFUR), the Law for the consumer loan (CPC), the Electronic Document and Electronic Signature Act, etc. Inform that as of the date of preparation of the opinion in the internal operational information system there is a loan agreement № ***, concluded on 20.09.2017, between "4F" Ltd., as a

lender, and VS, address: *****, in his capacity as a borrower, stating that this is another loan of VS, as all obligations are always repaid correctly and on time. According to Mr. VS for a fair client to whom they hold and show that his opinion is important to them. They indicate that on January 30, 2018, a phone call was received, with which the client V.S. has requested the issuance of a certificate for the presence or absence of obligations to "4F" EOOD under the loan agreement (s) to which it is a party, as a borrower. The company informs that these are issued daily to a large number of their clients, and that the issuance of a certificate is a technical activity, as it involves filling out a pre-prepared form with information about a specific person taken from the internal operational information system. They inform that only one person is engaged in this activity, Mrs. E.S. in the position of call quality control manager in the Customer Service Department and that all issued certificates are prepared by her. She also fills in the bills of lading in the service system of "S. AD, with which the issued certificates are sent to clients of 4F EOOD at the address indicated by them. It was explained that after the preparation of the certificate for Mr. VS, the employee E.S. has started filling in the columns in the information system of "S. "AD in order to be able to send the document. As can be seen from the attached excerpt from the information system on the client's profile VS, in two lines, one below the other, in which are the records of information on PIN (above) and mobile phone number (below). When filling in, the employee herself said that she probably made a technical error and took the PIN number instead of the phone number. As can be seen from her explanations, this is not a practice, but a technical error. They point out that this has never happened before this case and, obviously, it is an exception and a human error. 4F EOOD also explains that "S. "AD, as a controller of personal data, have taken action to correct the error:". When the shipment arrives at the office of "S. AD in Burgas, where they see that a number has been entered, which is not a telephone number, but something else, they contact our call center and dictate this number, and the agent who answered the call finds the client V.S. and gives his phone number to the courier company. In the system "S. "AD is being changed so that the PIN of the person is not visible, but only the telephone number, but the client receives the original bill of lading with the PIN entered by us in it. When they have made the correction, the phone number appears in the system, not the PIN of the client, and that is why at the moment in the bill of lading in the platform of "S. "AD publishes the client's number". In addition to the above opinion, please see the list of sent through "S. "AD documents of natural persons, from which sample it is evident that there are no PINs in it in the data of the recipients, but in fact only a contact telephone number is indicated in the bill of lading itself. The written explanations of Ms. E.S. - manager of quality control of calls in the customer service department, in which it is stated that on 30.01.2018 an incoming call was received from

V.S. with a request for the preparation of a document to be sent by courier to an address specified by him. Mrs. E.S. has indicated that she has personally prepared the required certificate for the presence or absence of a credit obligation, stating a courier of "S. "AD to be sent. Informs that when placing an order for a courier, the customer's data is filled in the bill of lading: first enter a zero in front of the customer's phone number, as the system phone number is entered without a zero in front. He points out that "unfortunately, when I had to copy the phone number, I unwittingly copied the customer's PIN, because the fields with the customer's phone number and PIN in our system are one below the other and instead of the customer's number I transferred to the courier's request platform for his PIN ". Mrs. E.S. wishes to pay attention to the print screen (copied view of the client's profile page in our system) of the client's profile, which clearly shows that the two fields are one below the other and that it is a technical error in choosing copy text. Attached are copies of other bills of lading, which she sent by phone, not PIN, in order to show the practice of "4F" Ltd. From "S. AD has filed an opinion filed with Reg. № PPN-01-67 # 4 / 16.03.2018, which states that a consignment note *** was sent on 30.01.2018 by 4F EOOD , Sofia, for delivery to the complainant Mr. VS, upon request at the office address of "S. "AD in *****. The shipment traveled with an economical courier service for receipt on February 1, 2018, delivered to the recipient on February 1, 2018 at 9:58 a.m. They indicate that "S. AD and 4F EOOD are parties to an individual contract for courier services, on the basis of which 4F EOOD declares as a contracting authority, and when ordering the services, 4F EOOD uses a self-service module of the postal operator, independently generating waybills. on which it seeks enforcement. After the generation of each bill of lading, it is printed by the sender and accompanies the shipment. for his PIN. The postal operator found an error in the entered telephone number for contact with the recipient after receiving the shipment in the Burgas office when trying to send a message about the received shipment. They inform that the practice in such cases is to make contact with the sender of the shipment, who has provided the correct contact phone number. The error was corrected at the same time in the system of the postal operator, and a correction of the telephone number for contact with the recipient was made. However, the consignment traveled with the bill of lading originally attached to it by the sender. This is a document created, printed and attached by the sender to the shipment, due to which the postal operator cannot correct it. On the other hand, the fact that the figures entered constitute protected personal data became known to the postal operator only upon receipt of the complaint. So far, the postal operator is only aware that this consignment note has an incorrectly entered contact telephone number and has been corrected in the course of execution. In order to exercise its powers, the Commission must be properly seised. Complaint reg. № PPN-01-67 / 05.02.2018 contains the

obligatory required requisites, specified in the provision of art. 30, para. 1 of the Rules of Procedure of the Commission for Personal Data Protection and its administration (PDKZLDNA), namely: there are data about the complainant, the nature of the request, date and signature, in view of which it is regular. According to Art. 38, para. 1 of the Personal Data Protection Act (PDPA) in case of violation of his rights under the LPPD, each individual has the right to refer to the Commission for Personal Data Protection within one year of learning of the violation, but not later than five years from The appeal was filed within the term of Art. 38, para. 1 of LPPD and is admissible. In Art. 27, para. 2 of the APC, the legislator links the assessment of the admissibility of the request with the presence of the requirements specified in the text. The applicability of the Personal Data Protection Act is related to the protection of individuals in connection with the processing of their personal data by persons having the capacity of administrators of personal data within the meaning of the legal definition of Art. 3 of the Act.

At a meeting of the Commission held on 04.07.2018, the complaint was accepted as procedurally admissible and as parties in the administrative proceedings were constituted: complainant - V.S. and respondent parties - S. AD and 4F EOOD. The parties have been regularly notified of the meeting of the Commission for consideration of the complaint on the merits scheduled for 05.09.2018.

Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General Data Protection Regulation, Regulation) lays down rules on the protection of individuals with regard to the processing of personal data, as well as rules on the free movement of personal data. The Regulation protects the fundamental rights and freedoms of individuals, in particular their right to protection of personal data.

The complaint concerns the illegal processing of personal data, in the case of providing - the unique civil number of Mr. V.S. As defined in Article 4 (1) of the Regulation, "personal data" means any information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is a person who can be identified, directly or indirectly, in particular by an identifier such as name, identification number, location data, online identifier or one or more features specific to the natural, the physiological, genetic, mental, intellectual, economic, cultural or social identity of that individual.

In this regard, the unique civil number undoubtedly represents personal data. The definition in Article 4, para. Article 2 of the Regulation states that "processing" means any operation or set of operations carried out with personal data or a set of personal data by automatic or other means such as collecting, recording, organizing, structuring, storing, adapting or

modifying, retrieving, consulting, use, disclosure, transmission or other means of making the data accessible, arranging or combining, restricting, deleting or destroying it.

It has been established in the file that 4F EOOD lawfully processed the personal data of the complainant for the purposes of a concluded credit agreement № ***, but 4F EOOD did not undertake the necessary technical and organizational measures when filling in the data of the courier application. measures to protect the complainant's personal data from unlawful processing, and the measures taken proved to be insufficient and ineffective in this case, given the fact that the applicant's data in the consignment note, the PIN number of Mr. B was filled in instead of the telephone number .S., Which is a violation of the provision of Art. 23, para. 1 of LPPD, respectively Art. 24 of the Regulation, according to which the personal data controller takes the necessary technical and organizational measures to protect the personal data of persons from illegal forms of processing. With regard to these findings, a dissenting opinion was expressed by Ms Maria Mateva, Member of the Commission, annexed as an integral part of this Decision.

The Commission shall act in conditions of operational autonomy, assessing which of its powers to exercise. The assessment is based on the considerations of purposefulness, expediency and effectiveness of the decision, and an act should be adopted that fully protects the public interest. The power to apply an appropriate corrective measure to the controller of personal data concerns situations in which the controller has not fulfilled its obligation, which omission can be remedied by performing the missed actions within the time allowed and objectifying the conduct required by law. The application of the appropriate corrective measure under Article 58 (2) of the Regulation should take into account the nature, gravity and consequences of the infringement, assessing all the facts of the case. The assessment of what measures are effective, proportionate and dissuasive in each case will have to reflect the goal pursued by the chosen corrective measure, ie. restoring compliance with the rules or sanctioning misconduct (or both). It should be noted that "4F" Ltd. after filing the complaint have taken all necessary technical measures to remedy the error, as well as to prevent further similar errors, with the appointment of a second person to check when printing the bill of lading the data entered in it.

In the present case, the corrective measure under point (d) of Article 58 (2) of the Regulation is applicable in view of the fact that it concerns non-compliance with a processing operation (point (d)) which was rehabilitated at the time of establishment and subsequent follow-up measures were taken.

With regard to S. AD, it should be noted that the complaint is unfounded, given the fact that it, as a controller of personal data,

has taken the necessary technical and organizational measures to protect the rights of the complainant. Undoubtedly, the administrative file established that the technical error was found by employees in the office of "S." AD, contacted "4F" EOOD to establish and remedy the technical error, corrected the telephone number of the recipient in the system.

In this regard, the Commission for Personal Data Protection ruled as follows

ANSWER:

1. Leaves a complaint with registration № PPN-01-67 / 05.02.2018, filed by V.S. against 4F EOOD and S. AD without respect as unfounded in respect of S. AD.
2. Announces a complaint with registration № PPN-01-67 / 05.02.2018, filed by V.S. against 4F EOOD and S. AD for justified in respect of 4F EOOD, given the established violation of the provision of Art. 24 of the Regulation, according to which the personal data controller takes the necessary technical and organizational measures to protect the personal data of persons from illegal forms of processing.
3. Imposes on the personal data controller "4F" EOOD a corrective measure under Art. 58, para. 2, p. "D" of the Regulation: order for compliance of data processing operations with the provision of Art. 24, para. 1 of the Regulation, obliging the administrator to introduce appropriate technical and organizational measures.

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

Tsanko Tsolov

Tsvetelin Sofroniev / p /

O.M. Maria Mateva / p /

Veselin Tselkov / p /

SPECIAL OPINION OF MARIA MATEVA - MEMBER OF THE CPDP

I am voting with a dissenting opinion on the Decision on the present appeal.

I consider the complaint of V.S. for unfounded both in relation to the administrator "S." AD and in relation to the administrator

"4F" EOOD.

In the present case, it is a technical error made by the data entry operator, which, however, in no way leads to the individualisation of the complainant.

The fact that his PIN was entered in the telephone number column does not lead to the disclosure of the applicant's personal data, as these are simply 10 digits described as a telephone number. Only the applicant was able to understand that the telephone number described in the document was, in fact, his PIN.

In view of the above, in the present case there has been no unlawful processing of the applicant's personal data or the disclosure of his identity to third parties.

On the other hand, administrators have taken timely measures to eliminate the possibility of re-admitting such technical inaccuracies as a result of human error.

That is why I am voting for the Decision of the CPDP №PPN-01-67 / 2018 with a special opinion.

Maria Mateva / p /

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