

Decision on appeal with registration № PPN-01-1416 / 23.08.2019 DECISION» PPN-01-1416 / 2019 Sofia, 03.04.2020

Commission for Personal Data Protection (CPDP) composed of: Chairman: Ventsislav Karadzhov and members: Tsanko Tsolov and Maria Mateva at a meeting held on 26.02.2020 , pursuant to Art. 10, para. 1 of the Personal Data Protection Act in connection with Art. 57, § 1, letter “e” of Regulation (EU) 2016/679, considered on the merits a complaint Reg. № PPN-01-1416 / 23.08.2019, filed by J.K. 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 J.K. against the National Revenue Agency (NRA), with a subject of non-ruling on an application for access to personal data. The complainant informed that on 25.07.2019 after a check made through the application of the NRA <https://check.nra.bg> found that he was a victim of "leakage" of personal data from the NRA, in response to a request made by him to the agency, numbered ****, was notified by text message that "THERE ARE ILLEGALLY DISCLOSED PERSONAL DATA". He claims that on 31.07.2019 he submitted to the controller of personal data - NRA a request to which he did not receive a response, to provide specific information about his personal data that is available and information about what technical and organizational measures the agency has taken to limit the harmful effects of this. He asks the commission to investigate the case and oblige the NRA to provide him with the requested information. No evidence was attached to the complaint. In the conditions of the official principle in the administrative process and the obligation of the administrative body to collect evidence and clarify the actual facts relevant to the case, the NRA required relevant evidence in the case, provided an opportunity to engage a written opinion. In response, an opinion was expressed that the complaint was unfounded, with evidence attached to it. Inform that on 31.07.2019 the Central Office of the NRA received a request № *****, submitted by YK, regarding the provision of information for unauthorized access to the information system of the NRA and in particular for illegal disseminated personal data of Mr. J.K. They claim that within the term specified in Art. 12, para. 3 of Regulation EU 679/2016, namely one month from the submission of the request, with a letter of reply from the Executive Director of the NRA, the same with № ***** # 1 / 22.08.2019, received from Mr. J.K. on 27.08.2019, the latter was provided with up-to-date information on the exercise of his rights in connection with the computer crime committed against the NRA. “The Commission for Personal Data Protection is an independent state body that protects individuals in the processing of personal data and in accessing such data, as well as monitoring compliance with the LPPD and Regulation (EU) 2016/679 of the European Parliament and 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. In order to exercise its powers, the Commission must be properly seised. The complaint contains obligatory requisites - there are data about the complainant, the nature of the request, date and signature, in view of which it is regular. The appeal is procedurally admissible, filed within the term under Art. 38, para. 1 of LPPD by a natural person with a legal interest against a competent party controller of personal data within the meaning of Art. 4, para. 7 of the Regulation. The body competent to rule is the CPDP, which according to its powers under Art. 10, para. 1 of LPPD in connection with Art. 57, § 1, letter "e" of Regulation (EU) 2016/679, deals with complaints against acts and actions of data controllers that violate the rights of data subjects related to the processing of personal data, as there are no the exceptions under Art. 2, § 2, letter "c" and Art. 55, § 3 of the Regulation in view of the fact that the case does not concern processing activities performed by a natural person in the course of purely personal or domestic activities and / or activities performed by the courts in the performance of their judicial functions. For the stated reasons and in view of the lack of prerequisites from the category of the negative ones under Art. 27, para. 2 of the APC, at a meeting of the CPDP held on 22.01.2020 the appeal was accepted as admissible and as parties to the proceedings were constituted: complainant - J.K. and respondent - National Revenue Agency. An open hearing was scheduled for 26 February 2002 to consider the complaint on the merits, of which the parties were regularly notified. The complainant was informed of the written statement submitted by the respondent, a certified copy of which was provided to him, and he was given the legal opportunity to express an opinion on the allegations made by the NRA and the written evidence presented, as well as to point to new evidence. . In the course of the proceedings Mr. J.K. expresses an opinion on the allegations made by the NRA, stating that there is no "adequate response" from the Agency to the issues raised by it, and finds the opinion of the NRA "empty of content". At a meeting of the CPDP held on February 26, 2020, the complaint was considered on the merits. The parties - regularly notified, do not appear, 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 Administrative Procedure Code, requiring the existence of established facts, given the evidence gathered and the allegations made by the parties, the commission considers that considered on the merits of the complaint № PPN-01-1416 / 23.08.2019 is unfounded. The subject of the complaint is failure to rule on an application for access to personal data. From the evidence gathered in the file it was established, and it is not disputed between the parties, that on 31.07.2019 the applicant J.K. has submitted to the controller of personal data - NRA a request regarding the provision of information for unauthorized

access to the information system of the NRA and in particular for the illegally disseminated and accessible personal data of Mr. Y.K. processed by the NRA. The request was filed with ent. № № ***** / 31.07.2019 according to the inventory of the National Revenue Agency and evident from its content has the character of an application under Art. 15, § 1 of EU Regulation 2016/679, which exercised the right of access to personal data. With a letter - response of the Executive Director of the NRA, the same with № ***** # 1 / 22.08.2019, Mr. Y.K. was informed about the actions taken by the NRA regarding the unregulated access to the information system of the agency - about the developed special application available at <https://check.nra.bg>, through which everyone can check whether his personal data has become the subject of unauthorized access, for practical advice on the topic, published on the NRA website. The letter also contains information about an application developed by the NRA on August 22, 2019, through which any individual will be able to obtain information about the specific type of personal data that have been subject to unauthorized access, specifying that "such a reference will be able to be done in the coming weeks ", stating that individual comparisons of over 70 million data records, which were unauthorized access, with the real databases of the NRA to establish the establishment of possible changes or manipulations of the data. It is stated that "in addition to the application, citizens can receive information in all offices of the NRA after identification with an ID card." As can be seen from the copy of the delivery notice № **** presented in the file according to the inventory of "M.B.M. "Ltd. the letter was received by Mr. Y.K. on 27.08.2019, after referral to the CPDP. The allegations of the complainant about not pronouncing the request for access to personal data in time are unfounded. To the extent that the same was received on 31.07.2019, the provisions of the ORD are relevant, and in particular those concerning the deadlines for ruling on the request - Art. 12, § 3 of the ORD. According to the same, the controller shall provide the data subject with information on the actions taken on the request without undue delay and in any case within one month of receipt of the request. In the specific case the request was received on 31.07.2019 by the administrator and within the specified one-month period - on 27.08.2019 the data subject received a response to the same, and it should be noted that the CPDP filed a complaint on 23.08. 2019, ie before the expiration of the term for ruling on the request. In this regard, and given the scale of unauthorized access to personal data in the NRA files, it is necessary to conclude that the answer was provided without undue delay. Although the answer does not contain specific information about the personal data of Mr. YK, which were subject to unauthorized access, it satisfies the requirements of the law insofar as the administrator, in accordance with Art. 12, § 2 of the ORD, assists the data subject in exercising his rights, indicating that the requested information can be obtained in any office of the NRA after identification with

an ID card. Apart from that, the administrator has also fulfilled his obligation under Art. 12, § 3 of the ORD, informing Mr. J.K. for the actions taken in connection with the request, motivating the same and the need to individually compare over 70 million data records that were unauthorized access with the actual databases of the NRA to identify possible changes or manipulations of the data. The information is provided in a short, transparent, understandable and easily accessible form in accordance with Art. 12, § 1 of the ORD. The complainant was given access to the information requested by him, in view of which the view that access to personal data was prevented by the controller could not be accepted, moreover, that such allegations had not been made by Mr J. On the contrary, the controller has introduced additional guarantees that the access will be provided by the data subject to whom the personal data relate, and the same will be lawful, by introducing measures to identify the subject by presenting an identity card for reference, on site at the NRA office. Guided by the above and on the grounds of Art. 38, para. 3 of the Personal Data Protection Act, the Commission for Personal Data Protection, HAS DECIDED AS FOLLOWS:

Dismisses complaint PPN-01-1416 / 23.08.2019 as unfounded.

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

Maria Mateva / p /

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