

Decision on appeal with registration № PPN-01-193 / 28.03.2018 DECISION» PPN-01-193 / 2018 Sofia, 03.12.2018

Commission for Personal Data Protection ("Commission" / "CPDP") composed of: members - Tsanko Tsolov, Tsvetelin Sofroniev and Veselin Tselkov, at a regular meeting held on 10.10 .2018, based on Art. 10, para. 1, item 7 of the Personal Data Protection Act, considered on the merits a complaint with registration № PPN-01-193 / 28.03.2018, filed by R.Sh. against O.A. Ltd. The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA). The applicant referred the matter to the Commission after finding that, following the termination of her employment with O.A. EOOD on 15.03.2017, her former employer E.R. has illegally used her personal data (PIN and names) to obtain information about the company she founded - "SKK" Ltd. Mrs. R.Sh. is concerned that her former employer has a copy of her identity card and may use the data illegally for illegal purposes. He states that in the files of all the employees employed in Ms ER's companies, where he is a manager or partner, there are copies of ID cards attached, which remain in the file and are not returned or destroyed. The applicant added that her name had been used by Ms E.R. on the KBK website, where she has never worked. Mrs. R.Sh. asks for help to have a copy of her identity document confiscated in order to protect her personal data. There are no appendices 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, by letter ref. № PPN-01-193 / 2018 # 1 / 07.06.2018 "O.A." EOOD was notified on the grounds of Art. 26 of the APC for the initiated administrative proceedings. There is an opportunity to express an opinion with relevant evidence. The Commission received one with registration № PPN-01-193 # 2 / 25.06.2018 for unfoundedness of the complaint. The Manager informs that the reference in the Commercial Register is public and accessible to all persons. The company "SKK" EOOD is entered in the register and upon reference in the name of the company has received access to the registers, but in a personal capacity as an individual. Mrs. E.R. states that she does not have a copy of her personal documents and does not need them, as this information is publicly available. In view of the above, it considers that these actions do not fall within the scope of the processing of personal data. They were not performed as a controller of personal data and no data that are officially known were used. The name of the company does not represent personal data within the meaning of Art. 2, para. 1ZZLD. Next, the representative of O.A. EOOD stated that it did not have a copy of the applicant's identity card. Considers that if at the time of establishing an employment relationship, namely 02.06.2008, Ms. R.Sh. had an objection regarding the processing of personal

data, it should have relevant them within the preclusive terms under Art. 38, para. 1 LPPD - 1 year from the knowledge, but not later than 5 years from the implementation. The employment relationship was terminated on 15 March 2017 - more than a year since the applicant last had access to the company's records. Regarding the indication of two names on the site of "KBK" Ltd., Ms. E.R. considers that the indication of two names is absolutely insufficient to identify the person, this is a non-specific feature and does not fall within the definition of personal data under Art. 2, para. 1 ZZLD. There are no annexes to the opinion. In order to exercise its powers, the Commission must be properly seised. The considered complaint contains the obligatorily required 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 complainant, 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 a natural person with a legal interest. It is the subject of an allegation of unlawful processing of the complainant's personal data and is directed against a personal data controller. The complaint was referred to a competent body to rule - the Commission for Personal Data Protection, 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. At a meeting of the Commission held on September 12, 2018, the complaint was accepted as procedurally admissible and as parties in the administrative proceedings were constituted: complainant - R.Sh. and respondent - "O.A." Ltd., as a controller of personal data. The parties have been regularly notified of the open meeting of the Commission for consideration of the merits of the complaint scheduled for 10.10.2018. In order to clarify the case, an inspection was assigned by a team of the Commission, which is objectified in the Statement of Findings № PPN-02-711 / 27.09.2018. The parties did not appear at the meeting, did not represent themselves. In the factual situation thus established, the Commission examined the complaint on the merits, finding it unfounded on the basis of the following conclusions: Regulation (EU) 2016/679 and the Personal Data Protection Act regulate the protection of individuals' rights when processing personal data. The aim is to ensure the inviolability of the person and privacy by ensuring the protection of individuals in the event of improper processing of related personal data in the process of free movement of data. The complaint contains three allegations of illegal processing of personal data of Ms. R.Sh. The first allegation concerns the use of personal data - three names and PIN, by the manager of "O.A." EOOD for access to information about a company established by the applicant. In this case, the Commercial Register and the Register of Non-Profit Legal Entities (CTRLP) were used, whose main function is to inform third parties about the circumstances entered in

it and thus aims at greater security in trade. The circumstances that are entered in the register are normatively established, and the said register is public and everyone has the right to free and unrestricted access to it (Article 11, paragraph 1 of the Law on Non-Profit Legal Entities). According to Art. 32, para. 2, items 2 and 3 of the LTRLRNC inquiries may be made in the name or PIN of a partner or sole owner of the company's capital. An official inquiry at the TRULNC found that only the applicant's three names could be used to obtain information about the company she had set up, without even having to use a PIN. The use of information from public registers does not constitute unlawful processing of personal data. The second allegation of unlawful processing of personal data is the possession of a copy of the identity card of Ms. R.Sh. in her employment record in O.A. Ltd. Ordinance № 4 of 11.05.1993 on the documents required for concluding an employment contract, issued by the Minister of Labor and Social Welfare, states that when concluding an employment contract, an identity document is required, which is returned immediately. . In this sense, a copy of the identity card should not be attached to the employee's employment record. In connection with this statement, an inspection was assigned by an employee of the Commission, objectified in a statement of findings reg. № PPN-02-711 / 27.09.2018. from 02.06.2008. The employment relationship was terminated on 15.03.2017. In this regard, the inspector was provided with the employment file of the individual - original and certified copy. No copy of the person's identity document was found among the documents. In the application for employment dated 02.06.2008, Ms. R.Sh. stated that she applied only for her CV. For the completeness of the inspection and in connection with the statement in the complaint that a copy of an identity document is kept in the employment file of all employees of "O.A." EOOD, the verifier requested and was granted access to employment records of other employees of the company, on a random basis. No copies of employees' ID cards were found in the employment files. The manager of O.A. EOOD provided a certified copy of one of the checked files - employment file of A.B. - human resources officer. In view of the findings of the inspection, no illegal possession of a copy of the applicant's identity card was established. The third statement is about using the name of Mrs. R.Sh. on the site of "KBK" Ltd. This allegation is directed rather personally against E.R. - Manager of "OA" EOOD and partner in KBK Ltd. An official reference on the website of the said company did not indicate the names of Ms. R.Sh. Indeed, on the KBK website Ltd. the employees of the company are represented. Two names are listed for them, and a photo for some. Only two names do not represent personal data, as they do not lead to the indisputable individualization of the individual. Two names together with a photo can lead to individualization of the person, but as it was stated - the information about Mrs. R.Sh. be published, nor its volume, so that the applicant's allegation remains unproven. The

Commission for Personal Data Protection, taking into account the facts and circumstances presented in the present administrative proceedings and on the grounds of Art. 38, para. 2 of LPPD, DECIDES: Dismisses as unfounded the complaint with registration № PPN-01-193 / 28.03.2018, filed by R.Sh. against O.A. Ltd. This decision is subject to appeal within 14 days of its service, through the Commission for Personal Data Protection, before the Administrative Court Sofia - city. MEMBERS: Tsanko Tsolov / n / Tsvetelin Sofroniev / n / Veselin Tselkov / n /

Downloads

Decision on the appeal with registration № PPN-01-193 / 28.03.2018

print