

Decision on appeal with registration № PPN-01-902 / 08.11.2018 DECISION» PPN-01-902 / 2018 Sofia, 22.07.2019 Personal Data Protection Commission (CPDP, Commission) composed of, Chairman - Ventsislav Karadzhov and members: Tsanko Tsolov, Tsvetelin Sofroniev and Maria Mateva at a regular meeting held on 26.06.2019 and objectified in protocol № 27 / 26.06.2019, on the grounds of Art. 10, para. 1 of the Personal Data Protection Act (PDPA) in conjunction with Art. 57, § 1, b. "E" of Regulation (EU) 2016/679, considered on the merits a complaint with reg. № PPN-01-902 / 08.11.2018, filed by KE, personally and in the capacity of legal representative of VA . against an educational institution (UZ). The administrative proceedings are by the order of art. 38 of the LPPD. The Commission for Personal Data Protection was seised with a complaint with registration № PPN-01-902 / 08.11.2018, filed by KE, personally and in the capacity of legal representative of VA, according to the provision of Art. 28, para. 4 of the Code of Civil Procedure (CPC), against U.Z. In the complaint, Ms. K.E. asks for assistance regarding missing documents with personal data contained in them, namely an application for admission of a child to kindergarten and a copy of the child's birth certificate, which she provided to U.Z. upon admission of the child to U.Z. The allegations of the complainant are that the same documents were requested again on September 26, 2018, after a parent meeting in UZ, VT branch, together with other forms to be filled in, which also require personal data. Mrs. K.E. shares that in an attempt to obtain information about the documents in question she received an unsatisfactory answer from the director of the kindergarten. She also expressed doubts about the correctness of the incoming number of the application, described in the answer from the director, as such an incoming number was not provided to her, and according to the Ordinance on Exchange of Documents in the Administration, an incoming number is considered valid only if year. It is also stated that the child was enrolled in "1st and 2nd group groups, branch VT, and not as noted in the letter of Mrs. T. in the nursery group." There are also allegations that it is not clear which officials are responsible for the storage and transmission of documents, and that it is not understood "with the handover protocols from whom to whom and when exactly the documents were handed over." Evidence provided was: a copy of an inquiry to Ms T. about the location of the documents, a copy of the Director's reply; declaration stating that the child is enrolled in groups 1 and 2 in a branch of UZ, a copy of a package of documents required after a parent meeting. 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 kindergarten is required to submit a written statement and relevant evidence. With a letter ex. № PPN-01-902 # 3 / 21.12.2018 the director of UZ, on the grounds of art. 26 of the APC

was notified of the initiated administrative proceedings, and was given the opportunity to express an opinion and relevant evidence. In response from U.Z. An opinion was filed, registered with Reg. № PPN-01-902 # 5 (18) /18.01.2019, stating that Ms. K.E. has applied for admission to the child VA for the academic year 2016/2017, with a wish for a nursery group, registered under number № 25/2016. They specify that the applications for admission are registered in the registration book for applications for admission, which is bound and numbered and at each entry of applications a form with an incoming number is given, which corresponds to the number in the book and the number of the application. According to the Ordinance on the terms and conditions for enrollment, deregistration and transfer of children in municipal kindergartens in the municipality. P. the documents are required, according to the provision of art. 10, item 1 and item 2. The necessary documents have been provided to the medical specialists from the nursery group for the academic year 2016/2017. the nursery group. The data on the monthly attendance of the crèche group show that the child has not been admitted to the crèche, but is on the lists. From the attendance diary of the second group / mixed first and second group /, filled in by the teachers of this group for the academic year 2017/2018, it is evident that the child as of September 2017 has not entered the U.Z. It is specified that with a request ent. № 5 / 28.09.2018, Ms. K.E. has postponed the child's admission to the U.Z. for an indefinite period of time. The child was admitted to U.Z. on April 10, 2018, when all the required data of the child and the parents from the application submitted by the mother in 2016 were duly entered in the diary, after which all documents were attached to the child's file. It is also stated that in the 2018/2019 school year, the teachers of the group requested new up-to-date data, as two years have passed since the submission of the initial documents, and the child was not present at the kindergarten. the data on the child and the place of work of the parent, address and telephone number. An inspection of the file revealed that the birth certificate and the child's application were "out of place". Mrs. K.E. has refused to provide new documents. The kindergarten indicates that these documents are "for the use of kindergarten in need of contact with parents" and when reaching the appropriate age group / third / for entry in the book for children subject to compulsory education up to 16 years of age, where by law the addresses of the parents and their PINs are entered. Regarding the completion of a declaration for the provision of personal data and a declaration for publicity, it is stated that they are in accordance with the PDDG of U.Z. for the academic year 2018/2019, respectively of Art. 134 and Art. 135, adopted with protocol № 1 / 17.09.2018 by the Pedagogical Council. The declaration regarding the taking of a child is in accordance with Art. 39, item 1 and item 2 of the SDA of U.Z. Regarding the storage of the documents, they inform that they are collected from the first day of January of each calendar year until April 30

of the respective year. After the expiration of the term, the submitted applications are divided into age groups and the teachers of these groups are responsible for them. The nurses of the crèches, the teachers of the groups, have access to the children's data, given their legal obligation to enter the data and the children's presence in the diaries of the group. The nurses keep an outpatient diary and health records. The authorized persons of the Ministry of Education and Science and the RWU have access to the children's data for access to the NEISPUO database. It is stated that after the entry into force of the regulation, by the staff of U.Z. internal rules for personal data protection have been adopted. Relevant evidence is attached. The complaint of K.E. is fully compliant with the requirements for regularity, according to 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. The norm of art. 38, para. 1 of the LPPD provides for a limitation period for referral to the Commission - within one year of learning of the violation, but not later than five years from its commission. The provisions of Art. 38, para. 1 of LPPD deadlines are met, given the provision of para. 44, para. 2 of the Transitional and Final Provisions to the Law on Amendments to the LPPD. In Art. 27, para. 2 of the APC, the legislator binds the assessment of the admissibility of the request with the presence of the requirements specified in the text. The competence of the Commission in dealing with complaints is related to the protection of individuals in connection with the processing of their personal data by persons having the quality of "personal data controllers" within the meaning of Art. 4, item 7 of Regulation (EU) 2016/679 (General Data Protection Regulation, GDPR). At a meeting of the Commission held on 04.04.2019 the complaint was accepted as procedurally admissible and as parties in the administrative proceedings were constituted: complainant KE, personally and in the capacity of legal representative of VA and respondent - UZ, managed by a director, according to Art. 98 of the Rules of Procedure of UZ, in the capacity of controller of personal data. The parties have been regularly notified of the meeting of the Commission for consideration of the complaint on the merits scheduled for June 26, 2019. According to Art. 10, para. 1 of the Personal Data Protection Act in connection with Art. 57, § 1, b. "E" of the Regulation and Art. 38, para. 3 of the Personal Data Protection Act, the Personal Data Protection Commission considers complaints against acts and actions of personal data controllers, which violate the rights of individuals under the LPPD, as well as complaints of third parties in connection with their rights under this law. The complaint is directed against illegal storage of personal data of VA, daughter of K.E. With regard to the allegations made in the complaint about the "correctness of the incoming number", it should be noted that it is outside the competence of the Commission for Personal Data Protection. With

regard to Ms. KE's allegations that it was not clear from UZ's reply which officials were responsible for the storage and provision of the documents, according to the administrative file of U.Z. Order № 4 / 18.09.2018 was issued, which shows the person who collects, stores and uses the information from the national electronic information system for preschool and school education (NEISPUO). The complaint on the merits regarding the allegations of illegal storage of personal data is well-founded. It is not disputed in the administrative file that V.A. is recorded in U.Z. It was established that Ms. KE, in her capacity as the legal representative of V.A. upon admission of the child to UZ, the necessary documents are required in accordance with the Law on Preschool and School Education. are provided by Ms. K.E. of U.Z. It is not disputed that the legal obligation of U.Z. for entry of VA in the national electronic information system for pre-school and school education (NEISPO). It was established that during the inspection of the file the documents of V.A. "Are not their place", which is illegal processing of personal data in the case of illegal storage of documents containing personal data, in violation of the principle set out in Art. 5, para. 1, p. "F" of Regulation (EU) 2016/679, the processing should be carried out in a way that ensures an appropriate level of protection against unauthorized or illegal processing and against accidental loss, destruction or damage, applying appropriate technical and organizational measures.

According to Ordinance № 8 of 11.08.2016 on the information and documents for the system of preschool and school education, the provided formats for keeping and storing the document are in electronic form, but they are also stored on paper. When considering the degree of the violation, the following mitigating circumstances are taken into account - no other violations of the controller were found, the violation of the principles of personal data processing appears first for UZ, the illegal storage of personal data by U is recognized. .Z., No serious harm has occurred to the data subject. U.Z. is a municipal institution on budget support.

In the circumstances thus presented, it is more expedient to impose only the corrective power specified in Art. 58, para. 2, p. "D" of the Regulation.

In view of the outcome of the dispute, the claimed lawyer's fee should not be awarded.

In view of the above and on the grounds of Art. 57, § 1, b. "E" of the Regulation, respectively Art. 10, para. 1, in connection with art. 38, para. 3 of the Personal Data Protection Act, the Commission ruled as follows

ANSWER:

1. Announces a complaint with registration № PPN-01-902 / 08.11.2018, filed by KE, as a legal representative of VA against

an educational institution as well-founded with regard to the applicant's allegation of illegal storage of personal data, constituting a violation of the principle regulated by the provision of Art. 5, p. "E" of Regulation (EU) 2016/679.

2. In connection with item 1 and on the grounds of art. 58, § 2 (d) of Regulation (EU) 2016/679 instructs the school to take the necessary technical and organizational measures for the processing / storage of personal data, for which to provide the necessary evidence within 14 days of entry. force of the decision.

The decision is subject to appeal within 14 days of its service through the Commission for Personal Data Protection before the administrative court within the meaning of Art. 133, para. 1 and para. 2 of the APC.

THE CHAIRMAN:

MEMBERS:

Ventsislav Karadzhov

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Maria Mateva / p /

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