

DECISION No. 837 Sofia, 12/02/2021 IN THE NAME OF THE PEOPLE ADMINISTRATIVE COURT - SOFIA-GRAD, Second Department 23 Chamber, in public session on 01/18/2021 in the following composition: JUDGE: Antoineta Argirova is also in accordance with Article 145 with the participation of Secretary Emilia Mitova, considering case number 9546 according to the inventory for the year 2020 reported by the judge, and in order to rule, the following was taken into account: Proceedings of the APC Administrative-Procedural Code /APC/ , in accordance with Article 38 and Article 7 of the Law on the Protection of Personal Data. It was formed according to Complaint entry No.PPN-02-507#27(19)/01.09.2020 according to the list of the Commission for the Protection of Personal Data (PCPD), filed by the National Revenue Agency (NAA), against Decision No.PPN -02-507/2019 of 18.08.2020 of the CPLD, in its part under item 2 and item 3, which accepted as well-founded the Complaint with reg. No. PPN-02-507 of 19.09.2019 filed by D.V.F.Zh.B., for a violation committed by the NRA-administrator of personal data, of the provision of art. 32, § 4 of the GDPR and on the basis of Art. 58, § 2, b."d" of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016. (GDPR) the agency is ordered to introduce additional controls to detect illegal access and illegal processing of personal data, especially in the case of a set task or project, which control should be systematic and prevent illegal actions. The stated grounds for contestation are for admitted substantial violations of the administrative-proceeding rules, contradiction with substantive legal norms and non-compliance with the purpose of the law - Article 146, Item 3, Item 4 and Item 5 of the APC. Their implementation is substantiated with factual statements and legal arguments for non-analysis by the CPLD of the entire body of evidence. It is claimed that the CPLD did not take into account the arguments for the existence of a number of technical and organizational measures taken by the NRA to protect data, including against illegal access and other illegal forms of processing. It is stated that in relation to the NRA as the administrator of personal data, there are legal grounds for processing personal data, according to Art. 6 of the GDPR, as the agency has taken all necessary technical and organizational measures for data protection, given the existence of a number of internal departmental acts, regulating established internal rules for working with protected information and rules for access to the Agency's IT resources. These acts regulated specific duties of the NRA employees, which are in accordance with the standards and good practices, to achieve security of the information processed in the NRA. Regarding the provision of proper control for compliance with the introduced special requirements and rules for access and work with protected information, it is stated that in the event of abuse and/or unregulated access to personal data, actions are taken to realize responsibility, according to the current regulations, what actions were taken in relation to the employee B.N.. In addition, the agency

appointed data protection officers who carry out internal checks in the event of reports of violations committed by NRA employees, as a result of which sanctions are imposed any detected manifestation of bad faith and/or illegal processing of information protected by law. It is claimed that the established illegal processing of personal data by an official of the National Revenue Agency is the result of non-compliance with the provisions of the GDPR, the Law on the Protection of Personal Data and the internal rules and instructions of the National Revenue Agency, therefore the responsibility lies entirely with the natural person - an employee of NAA. The established illegal behavior on the part of the employee should not be a reason to consider that the NRA does not have measures to protect the information during its processing. Before the ASSG, the applicant is represented by a lawyer. T., who supports the complaint and asks for it to be respected. She states that the access to B.'s data is a result of the actions of an employee of the National Revenue Agency, which were carried out despite the measures taken by the agency. The lawyer's fee paid by the interested party (PS) is objected. The defendant - KZLD, in o.s.z. does not appear and is not represented. In Written notes from 15.01.2021. sets out the detailed reasons for the groundlessness of the submitted complaint and asks for its rejection. ZS D.V.F.Zh.B. contests the complaint. In o.s.z. through his legal representative - Adv. D. presents arguments indicating that the internal organizational acts are unable to prevent the actual implementation of illegal processing, since they do not provide a technical obstacle for employees with the appropriate level of access to process data outside of their assigned tasks. In addition, it states that the detection of unlawful processing is not automatically carried out by the data controller, and the violation can only be detected after referral by the interested affected person. Detailed considerations are presented in the written response to the complaint submitted in the case. Claims the award of costs for the court proceedings, in accordance with the list under Article 80 of the Code of Criminal Procedure, in conjunction with Article 144 of the Code of Civil Procedure. A prosecutor from the Sofia City Prosecutor's Office does not take part in the proceedings in the case and does not give a conclusion on the legality of the contested act. The Administrative Court-Sofia city, after discussing the arguments of the parties in the court session, which were raised with the appeal for the unfoundedness of the appeal, such as for the excessiveness of grounds, evaluated the evidence collected in the case in accordance with the order of Article 235 of the Code of Civil Procedure, in accordance with Article 144 of APC and ex officio, on the basis of art. 168, para. 1, cf. art. 146 of the APC, fully checked the legality of the appealed act, found the following: The proceedings before the Commission were initiated based on a received Signal with reg. No. PPN-02-570 from 19.09.2019, submitted by D. V. F. J. B., a Dutch citizen, with the status of permanent resident in the Republic of Bulgaria, with which he informs that he has been living

and working in Bulgaria for more than five years, is registered for tax purposes and pays regular taxes, has interests in commercial companies and is a member of the board of directors of a large holding company. He stated that he has filed a divorce case No. 66853/2018. according to the inventory of the Sofia District Court, having filed a request to terminate the marriage with his wife F.H., due to a de facto separation. From a conversation with his wife, B. found out that the person V. M. N. offered X. to provide her with information and documents concerning B. from the NRA database, guaranteeing that the information was authentic, since his wife - G.N. and his mother - B.N. work in the Central Office of the NRA S.-city and have the opportunity to access batches and download data without hindrance. In view of the above, the whistleblower requests an inspection to determine whether unregulated inquiries and extracts from his personal accounts and from the accounts of the companies in which he participates were made in the NRA arrays. By letter ext. No. ППН-02-507#2/14.11.2019 according to the inventory of the CPLD, B. was notified that an administrative proceeding was initiated on the filed complaint, and additional evidence was requested from the administrator against whom the complaint was filed. By letter ext. No. ППН-02-570#1/14.11.2019 according to the inventory of the CPLD, the NRA was granted a deadline for expressing an opinion and presenting relevant evidence. In response, a Statement was issued with entry. No. PPN-01-337#4/05.12.2019, which states that on 16.09.2019 a complaint was filed, filed in the case register of the Central Administrative Office of the National Revenue Agency with entry no. No. 94-Д-434/16.09.2019, with identical allegations. In this regard, by order of the executive director of the NRA, the Inspectorate was assigned to carry out an inspection, during which it was established that the applicant's data in the information system (IS) of the NRA were accessed by B. J. N. - chief expert on revenues (G.) in the "Investigation of special cases" department in the "Control" directorate at the National Revenue Agency, without in these cases the employee being assigned tasks related to the person. In view of the findings, written explanations are requested from the employee. In the answers provided, it was stated that N. accessed the person's data for the purpose of "personal information" and in connection with "reviewing data for registered companies". With an electronic message dated 01.11.2019, signed in an electronic signature, N. stated that she did not make prints and did not provide the data to third parties. The opinion also points out that no data was collected on actual access to the applicant's data in the information systems of the NRA, by expert GN in the "Outgoing Communications" department, "Information Center" directorate at the Central Directorate of the NRA. With the opinion, the Report on access to B.'s data from G.B.N. in "Software and revenue management", Report on the access to B.'s data from G.B.N. in VAT, Reference on the accesses to data of B. by G.B.N. in IS "Control", Report on the accesses to data

and C Letters ex. No. PPN-02-507(19)#7/28.01.2020 In view of the emerging epidemiological situation, the meeting has been rescheduled for March 2, 2020. the office of the CPLD has received Statement reg. noof B. by G. B. N. in "Management Information System", Sample of the written explanations from 18.10.2019. of B.I., relating to the data referred to in the CPLD letter. Written explanations from B.N. dated 21.10.2019, 01.11.2019. and job description of GBI /I.22-I.29 in the case/. At a meeting held on 01/22/2020, the CPLD accepted the submitted complaint as admissible, in the part relating to the NRA, and it is scheduled for examination in an open session on 03/04/2020. The complainant D.V.F was constituted as a party to the proceedings Ž. B. and respondent - National Revenue Agency. ext. No. PPN-02-507(19)#8/28.01.2020, the parties in the proceedings before the CPLD are notified that Complaint Reg. No. PPN-02-507/19.09.2019. will be considered in substance at an open meeting, which will be held on 03/04/2020 at 1:00 p.m. (I.40-I.42 in the case). PPN-02-507#16(19) from the National Revenue Agency. At the held on 03/04/2020 at 1:00 p.m. open meeting, the commission has decided to postpone consideration of Complaint reg. No.PPN-02-507/19.09.2019. essentially in open session on 04/01/2020 at 1:00 p.m. The parties in the proceedings before the CPLD were notified by Letters ex. No. PPN-02-507(19)#13/09.03.2020 and ext. No. PPN-02-507(19)#4/09.03.2020 (I.47-I.49 in the case). for 19.05.20, of which the parties were notified. On 19.05.2020, the meeting was held, at which the proceedings ended and the contested Decision No.PPN-02-507/2019 of 18.08.2020 was passed. Based on the data in the file, the CPLD accepted the contested decision before the court as established , that within three months - from 20.02.2019 to 10.05.2019, NRA employees accessed the applicant's data through the NRA information system, without, in the specific case, the employees being assigned tasks related to B.. Regarding the natural person B.N., it was established that the latter accessed the data of B. on the dates 20.02.2019, 03.04.2019, 10.05.2019. From the provided, as evidence, Decree No. 18391 /2019 On 10.02.2019, the Sofia City Prosecutor's Office established that the employee G. N. also had access to the applicant's data without legal grounds. that there is a violation has taken action through an internal check on a reported report. Disciplinary proceedings were instituted against the two employees, and the employee GN was imposed a disciplinary penalty of "postponement of promotion by one year", and the disciplinary case was scheduled for the hearing of the employee B.N. It was established that that the employees had the competence to carry out such type of checks, but such a task was not assigned to them in that period. through their access by NRA employees. For these reasons, the CPDP accepted that the personal data administrator did not take the necessary technical and organizational measures to protect the applicant's personal data from unlawful access or that the measures taken were clearly insufficient, given the fact

that the contained in the NRA registers, the applicant's personal data were accessed without a proven official need by NRA employees, in violation of the the maintenance of art. 32, §4 of the GDPR. It was also accepted that the most appropriate corrective measure pursuant to Art. 58, § 2 of the Regulation is the imposition of a coercive administrative measure, since in this way the intended effect of stopping similar violations in the future will be achieved. The Commission has justified the conclusion that the risk methodology should include controls for unauthorized access to indicate if an employee repeatedly accesses personal data without having the appropriate authorization and task from his line manager, such as in such cases the line manager or to submit information to internal control that the relevant employee is not lawfully processing information that constitutes personal data. Control should be systematic and prevent illegal actions. For these reasons, the CPDP accepted the complaint as well-founded and on the basis of Art. 58, § 2, letter "d" of Regulation EU 2016/6779 with the contested decision before the court, in the part under item 2 and item 3, ordered the NRA to introduce additional controls for illegal access and illegal processing of personal data, related to an unsettled task or project, which control should be systematic and prevent illegal actions. The decision was signed with a dissenting opinion by a member of the CPLD - T.C..

The dissenting opinion is motivated by the fact that there is no proven leak of data from the NRA of D.V.F.Zh.B.; no evidence was provided to support B.'s claim that his personal data became known to a third party; the internal audit at the National Revenue Agency found that B.'s personal data was accessed by a person having rights for this type of operations, but not working specifically on B.'s documents; no evidence is available that the data was distributed, and that the violation committed was administrative. The decision was communicated to the applicant in the present proceedings by Letter ex. 507(19)/#25 of 18.0 8.2020 (Art. 66 in the case) on 18.08.2020, evident from a printout from the system for electronic exchange of documents (Art. 67 in the case). The complaint was submitted through the CPLD to the ASSG on September 1, 2020. the following legal conclusions: The appeal is admissible. It was filed against an act that can be challenged in court and by the proper party - art. 147, para. 1 of the APC, cf. art. 38, para. 6 of the Labor Code. The exclusive 14-day period under Art. 149, Para. 1 of the APC was also observed. Considered in substance, the appeal is groundless, for the following reasons: The disputed administrative act was issued by a competent body - CPLD. The commission sat in legal composition and the decision was taken with the required majority. CPLD is a collegial administrative body, which consists of a chairman and four members, according to Art. 7 33ЛД According to Art. 9, para. 3 LLLD, the decisions of the commission are taken by a majority of the total number of its members. The provision of art. 8, paragraph 6 of the Rules of Procedure of the CPLD and its administration stipulates that the

meetings of the commission are held if at least three of its members are present. In this case, as can be seen from Minutes No. 19/19.05.2020, 4 of the members were present at the meeting. A member of the composition is In the case thus accepted as established by the factual side, the court conditions for the presence of substantial violations the statement signed the decision with a special opinion regarding the merits of the appeal submitted to the CPLD and has set out its reasons for this. The dissenting opinion together with the reasons of the majority is attached to the decision, in accordance with the provisions of Article 11, Paragraph 4 of the Rules of Procedure of the Commission for the Protection of Personal Data and its Administration. The established written form has been complied with, as the contested decision contains the requirements pursuant to Art. 59, para. 2 APC requisites, as long as the applicable special law - AZLD does not contain special requirements for the form and content of the act. The existence of a defect in the form of the deed, representing an independent basis for its cancellation in the sense of Art. 146, item 2, cf. art. 59, para. 2, item 4 APC. of the administrative-production rules, a prerequisite for annulment of the decision on the basis of Art. 168, para. 1 in connection with Art. 146, item 3 of the APC, the court took into account the following: The proceedings were instituted lawfully in accordance with the provision of Art. 38, para. 1 of the Labor Code, in connection with Art. 28, para. 1, item 1, art. 29, para. 1, Art. 30, para. 1 and Art. 36 et seq. of the Regulations. With a decision from a meeting held, objectified in Protocol No. 3/22.01.2020. /l. 71-74/, the appeal is declared admissible /Art. 27 of the APC/, the parties to the proceedings are constituted and the consideration of the dispute on the merits is foreseen /art. 38, para. 3 PDKZLDNA/. The legislator did not introduce specific requirements to which the person submitting the complaint should meet, on the contrary - in Art. 38, para. 1 of the Labor Code, the expression "any natural person" is used. The provision of Art. 40 of the PDKLDNA, according to which the CPLD collects evidence, appoints experts and summons, as well as performs other actions in the proceedings under Section II "Examination of complaints from natural persons" according to the procedure of the APC. In the course of the past administrative proceedings, there were no violations of procedural rules from the category of essentials, which would have limited the right of defense of the disputant and prevented him from exercising it in full. The administrative body clarified the facts and circumstances relevant to the case and verified the accepted evidence. No violations were found under Art. 34, art. 35 and art. 36 of the APC. The parties in the proceedings are given the opportunity to familiarize themselves with the evidence attached to the file and to express an opinion. When ruling on the merits of the dispute, the written evidence collected in the file, as well as the opinions expressed on the allegations made in the complaint, were discussed. The right of defense of the complainant, regularly notified of the

open meeting before the CPLD is not limited, as its participation in the administrative proceedings is guaranteed, and the latter is held in accordance with the special provisions of the CPLD and the principles of the process - the principles of truth, equality, accessibility, publicity and transparency / art. 7, Art. 8 and Art. 12 of the APC/. The attached transcripts-excerpts of minutes from meetings of the CPLD on 22.01.2020, 04-06.02.2020 and 19.05.2020. correspond to the provision of art. 11, para. 2 of the Regulations. Decision No. PPN-02-507/2019 of 18.08.2020, as taken with the required majority and signed by the persons participating in the up to date "personal data", the violation-20.02.2019. Definition of the concept of voting on 19.05.2020, was not decided in the event of substantial violations of the administrative-production rules. The objection of an admitted procedural violation, motivated by the claim that the Commission did not take into account the arguments for the existence of a number of technical and organizational measures taken by the NRA for data protection, is groundless. It is evident from the decision of the CPLD that it collected all the necessary evidence and objectively examined all the facts, for which it also presented the relevant reasons. The disputed decision was rendered in accordance with the applicable substantive legal provisions, and the appellant's arguments to the contrary are groundless. The applicable substantive law is the one in effect upon its suspension, i.e. the provisions of EU Regulation 2016/679 are applicable. to the time of their processing is given in art. 4, § 1, item 1 of EU Regulation 2016/679. According to Art. 4, §2 of Regulation EU 2016/679 "processing of personal data" is any operation or set of operations performed with personal data or a set of personal data by automatic or other means such as collection, recording, organization, structuring, storage, adaptation or modification, retrieval, consultation, use, disclosure by transmission, distribution or any other way in which the data becomes available, arrangement or combination, restriction, erasure or destruction. The data contained in the NRA database constitute personal data within the meaning of Art. 4, § 1, item 1 of Regulation /EU/ 2016/679, as information relating to a natural person, which enables him to be identified with these specific signs. Access to the NRA database constitutes an action of "personal data processing" within the meaning of Art. 4, item 2 of the Regulation. In the trial case, it was undisputedly established that the personal data of ZS D.V.F.Zh.B. were processed - accessed by employees of the NRA, in his capacity as a "personal data administrator" within the meaning of Art. 4, § 7 of EU Regulation 2016/679. In order for this processing to be lawful, at least one of the grounds for admissibility of processing should be present. The conditions for admissibility when processing personal data are explicitly and comprehensively stated in Art. 6, § 1 of Regulation EU 2016/679, /applicable on the date of the violation/. According to the cited provision, the processing is lawful only if and to the extent that at least one of the following conditions is applicable: a) the

data subject has given consent to the processing of his personal data for one or more specific purposes; b) the processing is necessary for the performance of a contract to which the data subject is a party, or to take steps at the request of the data subject prior to the conclusion of a contract; c) processing is necessary for compliance with the controller; d) the processing is necessary to protect the vital interests of the data subject or another natural person; e) the processing is necessary for the performance of a task from an obligation legally applied to the public interest or in the exercise of official powers granted to the controller; f) the processing is necessary for the purposes of the legitimate interests of the controller or a third party, except when such interests are overridden by the interests or fundamental rights and freedoms of the data subject that require the protection of personal data, in particular when the data subject is kid. Letter f) of the first paragraph does not apply to the processing carried out by public bodies in the performance of their tasks. In the administrative proceedings, as well as in the judicial proceedings, it is not in dispute that the processing of the personal data of ZS was carried out without the employees of the National Revenue Agency having assigned tasks related to the person. It is not possible to accept the claim of the complainant that, in relation to the NRA, as the administrator of personal data, there are grounds under Art. 6, §1 of Regulation 2016/679 on the processing of the personal data of ZS D.V.F.Zh.B.. In the course of the two proceedings - the administrative and the judicial, the NRA did not commit evidence from which to justify a conclusion that the personal data of ZS have been accessed repeatedly by employees GN and BN in connection with the performance of a task that is carried out in the public interest. On the contrary, the controller of personal data admits that his employee processed the personal data of ZS without having a set task, without the existence of grounds for this processing and without the existence of a legitimate legal interest in the processing, i.e. there was no need for the processing of B.'s data, nor did he give his consent for it. Given the above, the only possible conclusion is that the case involved illegal processing by the NRA employees of the personal data of D.F.Zh.B.. In Art. 32, §4 of the Regulation stipulates an obligation for the administrator and the personal data processor to take steps for any natural person acting under the authority of the administrator or the personal data processor who has access to personal data to process such data only on the instructions of the administrator, unless the person concerned is required to do so by Union law or the law of a Member State. In the specific case, in the case, it is not disputed that within three months - from 20.02.2019 to 10.05.2019, access was made by an employee of the NRA (B.N.), through the information system of the NRA, to the data of the Social Security Administration, without in the specific case of the employee being assigned tasks related to him. According to the administrative file, it is not in dispute that the administrator, after having established that there was a



violation, took action through an internal inspection based on a reported report. Disciplinary proceedings were instituted against the two employees, and the employee G.N. was imposed a disciplinary penalty of "postponement of promotion for one year", and with regard to the employee B.N., the disciplinary proceedings had not been completed at the time of the ruling of the disputed decision of the CPLD. It was established that the female employees had the competence to carry out such type of checks, but such a task was not assigned to them in that period. In addition, it should be explicitly stated that the illegal access was not established ex officio by the NRA as an administrator of personal data, because there is no mechanism established by the NRA itself for this. The establishment was made only and solely because of the affected person-ZS in the court proceedings, who filed a report. The CPLD's conclusion is correct that the administrator of personal data-NAR did not have taken the necessary technical and organizational measures to protect the applicant's personal data from unlawful access or taken such with and clearly insufficient, given the fact that the applicant's personal data contained in the NRA registers are accessible in the absence of legal necessity by the NRA employees themselves (and in fact in the case of uninvestigated and unestablished in the administrative proceedings the motives and goals of the perpetrators, insofar as any human action is an act of will, i.e. is aimed at achieving a certain goal) . In this sense, the objection of the applicant, that the agency has taken all necessary technical and organizational measures to protect personal data, given the existence of a number of internal departmental acts, regulating established internal rules for working with protected information and rules for access to the IT resources of the NRA, is unfounded. The complaint does not specify a single technical measure that would be able to actually prevent the illegal processing of personal data by NRA employees or to promptly signal when illegal processing is carried out. Access to personal data is not limited to a specific task and only to what is necessary for the performance of official duties. On the contrary, the data is permanently available to any NRA employee with the appropriate level of access. For this reason, employees of the National Revenue Agency accessed the personal data of ZS B. in this case repeatedly and for months, without being assigned the task of processing these personal data. Secondly, the signing of declarations by the NRA employees in no way creates real guarantees against the unlawful processing of the personal data of the data subjects. These declarations may be related to the realization of disciplinary responsibility of the employees in the event of their illegal behavior at or on occasion performance of their official duties, but this responsibility appears subsequent to the breach. She is not able to

prevented, which is why it cannot be considered an effective protection measure of personal data.

Regarding the provision of proper control of the introduced special requirements and rules for access and work with protected information, under the case did not prove that there were mechanisms for establishing the the unlawful processing of personal data by employees of the National Revenue Agency, when there is no signal submitted by the affected person whose data was processed unlawfully, as the court has already indicated. After the employees of the administrator can process the data without having a task, associated with them, since they can do so at any time and after there is no mechanism for wrongful processing to be automatic or ex officio established (which ultimately contributes to the illegal processing), the NRA has not fulfilled its obligation under Art. 32, item 1 GDPR. internal departmental acts obviously not

The lack of real effective control has allowed the illegal processing the personal data of D.V.F.Zh.B. repeatedly in continuation of months without this behavior being detected by the administrator of personal data, much less sanctioned. In this sense accepted

represent

sufficient guarantee for lawful processing of personal data by themselves NRA employees. It is clear from the content of the complaint to the ASSG that the NRA is took control measures only after being referred by the affected person and after the violation has already been committed, and repeatedly in the weather. However, not every affected person can be expected to be aware in what way and through which specific administrator are his personal data

processed unlawfully, will therefore become or have become known to third party, so that he is able to exercise his right of defense against the relevant administrator. It's just a coincidence allowed ZS to find out about the illegal processing of his data in the case by NRA officials.

In view of the above, the administrative body has qualified correctly committed as a violation of Art. 32, § 4 of Regulation 2016/679- failure to fulfill an obligation to take steps, any physical a person acting under the direction of the administrator or the processor personal data, which has access to personal data, to process this data only at the direction of the administrator, unless otherwise required by the person in question to do so under Union law or the law of a Member State.

The argument advanced in the complaint is also groundless, that for the actions outside the lawful measures and policies of the personal data controller (c in the case of the NRA), the responsibility lies with the individual who accessed the data illegally. The Regulation expressly stipulates the obligations of the administrators or processors of personal data, as for the default the same are answered by the latter.

CPLD has operational independence, as in accordance with the functions granted to it, assesses which of the corrective powers under Art. 58, § 2 of the regulation to exercise. The judgment should be based on the considerations for expediency and effectiveness of the decision at taking into account the specifics of each individual case and the degree of involvement the interests of the specific natural person - data subject, as well as of the public interest. The powers under Art. 58, § 2 of the regulation, otherwise under b. "and", have the nature of coercive administrative measures, the purpose of which is

to prevent, resp. to stop committing a violation, as per

in this way, the behavior targeted by him in the field of protection of

personal data. The administrative penalty "fine" or "property

sanction", provided for in b. "and" of Art. 58, § 2 of the regulation has a penalty

nature and is applied in addition to the measures under b. "a" - "h" and "y" or

instead of them, i.e. it is entirely at the discretion of the supervisory authority whether to

apply to the specific case any of those specified in b. "a" - "h" and "j"

coercive administrative measures or to impose a fine or property

sanction or apply any of the measures under b. "a" - "h" and "y" together with

the imposition of an administrative penalty under b. "and". When determining the

the corrective measure should be consistent with the objective pursued by

its imposition and whether its implementation will achieve this goal. IN

in the specific case, the CPLD chose to issue only PAM without imposing

administrative penalty of the NRA as the controller of personal data. This one

her judgment and beyond the scope of the due judicial control - art. 169 APC, a

and the court cannot seize and exercise for the first time a power which

CPLD did not exercise the contested decision.

In view of the above, the court considers that the contested decision is lawful

administrative act on all investigated grounds under Art. 146 of the APC,

therefore, the groundless complaint is dismissed.

Given the outcome of the dispute and on the basis of Art. 143, Para. 4 APC, the defendant

is entitled to costs, but cannot be awarded for want of

request for this (art. 143, para. 4 and art. 81 of the Code of Civil Procedure, cf. art. 144 of the Code of Civil Procedure).

ZS D. V. F. Z. B. also has the right to costs - art. 143, para. 3 APC, which is proper

exercised, as in o.s.z. on 18.01.2020. d. their award was requested from the court.

The proven expenses are in the amount of BGN 500 - remuneration paid for

defense carried out by one lawyer (art. 78, para. 1 Civil Code, cf. art. 144 Civil Code) . At

compliance with art. 78, paragraph 5 of the Code of Civil Procedure, in accordance with art. 144 of the Code of Civil Procedure and art. 8, para. 3 of Ordinance No. 1

from 07/09/2004 on the minimum amounts of attorney's fees,

the appellant's raised objection to the excessiveness of the payment

from ZS attorney's fee is unfounded.

department, 23rd composition:

So motivated, Administrative

court Sofia-city,

II

RESEARCH:

The decision can be appealed with a cassation appeal before

REJECTS Complaint reg index No.PPN-02-507#27(19)/09/01/2020 on

CPLD submitted by the National Revenue Agency against Decision no

PPN-02-507/2019 of 18.08.2020 of the Commission for Personal Data Protection,

as unfounded.

CONDEMNED The National Revenue Agency, represented by G.

D.- executive director to pay D. V. F. Z. B., LNCH [EGN] the amount in

in the amount of 500.00 /five hundred/ BGN, costs for the first-instance court

production.

The Supreme Administrative Court within 14 days of its notification.

from him in accordance with Art. 137 of the APC.

JUDGE:

The decision to be communicated to the parties by sending copies