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»Practice» Decisions of the CPDP for 2018

»Decision on the appeal with registration № PPN-01-771 / 17.09.2018 Decision on the appeal with registration № PPN-01-771 / 17.09.2018

ANSWER

№ PPN-01-771 / 2018

Sofia, December 20, 2018

The Commission for Personal Data Protection (the Commission) composed of: Chairman - Ventsislav Karadzhov and members - Tsanko Tsolov, Tsvetelin Sofroniev and Maria Mateva, at a regular meeting held on November 7, 2018, pursuant to Art. 10, para. 1, item 7 of the Personal Data Protection Act (PDPA), considered an admissibility of a complaint with registration № PPN-01-771 / 17.09.2018, filed by K.T. via the form on the Commission's website and signed with a qualified electronic signature.

The applicant claims that on 12 September 2018 he was called on his personal mobile phone with the number ***** from the Belgian number - ***** . They approached him by name and wanted to offer him investment products. When asked where they got his personal data (name and phone number) and whether they had his consent to contact him for this type of offer, the connection was broken. The applicant submitted a screen printout showing from which number and on which date he had been sought. He stated that he was unable to provide information about the respondent because no one had introduced himself to him. Mr. K.T. considers that there is a violation of the legislation of Bulgaria and the European Union. He wants to know where the company got his personal data from.

According to Art. 55-57 of the General Regulation for Personal Data Protection, respectively Art. 10, para. 1, item 7 of LPPD, the Commission is authorized to consider complaints against acts and actions of personal data controllers, which violate the rights of individuals related to the processing of personal data, but for this purpose a person should be named, which is claimed to be the controller of personal data.

It is incumbent on the complainant to name such a person, which he did not do despite the instructions received in a letter with ref. № PPN-01-771 / 2018 # 1 of 16.10.2018. Attempts have been made officially to clarify who was the administrator who was looking for Mr. K.T. from a Belgian telephone number, certified by a protocol reg. PPN-01-771 # 3 / 02.11.2018. When dialing

the number, the connection either gives "busy" or automatically disconnects. The conclusion is that in this way it is also not possible to individualize the person who is alleged in the complaint to be a controller of personal data.

The complaint satisfies the requirements of Art. 29, para. 2 of the APC - contains three names of the complainant, address, date and signature; the nature of the request is clear, which is why it is regular. However, it is not admissible for the following reasons: Art. 27 of the APC regulates the preconditions for admissibility of the requests: lack of an entered administrative act with the same subject and parties; lack of pending proceedings before the Commission on the same subject; competence of the CPDP, jurisdiction of the parties, existence of a legal interest of the complainant, etc., as well as the existence of other special requirements established by law. In this case such a special law is the LPPD, which in Art. 1, para. 4, Art. 3 and Art. 10, para. 1, item 7 introduces the term "personal data controller". Even if the complaint assumes that there is one, it cannot be established, but according to Art. 10, para. 1, item 7 of the LPPD, the presence of a personal data controller is an absolute procedural prerequisite for developing proceedings before the Commission.

The Commission for Personal Data Protection, taking into account the facts presented in the present administrative proceedings, pursuant to Art. 27, para. 2, item 6 of the APC, supra Art. 10, para. 1, item 7, supra art. 1, para. 4, supra art. 3 of the LPPD

HAS DECIDED AS FOLLOWS:

Dismisses as inadmissible the appeal with reg. № PPN-01-771 / 17.09.2018, filed by KT, and terminates the administrative proceedings initiated on it.

This decision is subject to appeal within 14 days of its service, through the Commission for Personal Data Protection, before the Administrative Court of Sofia.

THE CHAIRMAN:

MEMBERS:

Ventsislav Karadzhov

Tsanko Tsolov

Tsvetelin Sofroniev / p /

Maria Mateva / p /

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