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THE EMPLOYER'S OBLIGATION TO PROTECT PERSONAL DATA COLLECTED UNDER AN EMPLOYMENT RELATIONSHIP

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Abstract: This paper analyzes cumulatively the employer's obligations to protect the personal data of its employees as prescribed in laws and regulations governing employment relationships. It examines the theoretical views and constructs regarding the conceptual apparatus of laws and regulations governing personal data and presents in retrospect the different periods in the development of the legal sources. The employer's obligation to protect personal data upon the establishment, in the course of development and upon termination of the employment has been analyzed. Based on the comprehensive analysis, a number of generalizations and conclusions of doctrinal and practical use have been suggested.

Keywords: personal data protection, personal data processing, employment relationship, employer, employee

INTRODUCTION

The emergence of the modern society and the rapid development of technology pose challenges to the legislation which at times are ahead of the natural development of the regulatory framework. The legal protection of personal data is a subject that has drawn the interest of both the international community and the European and national legislators. The issues related to the protection of personal data are multi-layered and include many elements with manifestations in various legal fields. In the everyday commercial and civil turnover the parties to legal relationships disclose their personal data and this gives rise to the issue of data protection and liability for unauthorized use. That is why personal data and in general the issues related to their protection are considered an integral part of the Information Society (see Gartska, H., 2003, p. 48).

This paper attempts to analyze in theoretical terms the impact of the special laws and regulations governing the protection of personal data on the traditional obligations of the parties to employment relationships. The provision and the processing of personal data as part of the interaction between the employer and the employee are regulated in the labour legislation, with emphasis on the necessary identification and other data relevant to the existence and normal development of the relationship. This subject is not expressly regulated by labour law provisions. Labour law sources govern the issues of personal data as a necessary element for individualization of the parties to the employment relationship, but their provisions do not point directly to duties and responsibilities of the employer related to data protection. Therefore, a clarification of the issue protecting the personal data of the participants in the labour process, both the immediate parties to the contract, i.e. employer and employee, and third parties having some role in that process, requires a an interrelated and comprehensive examination of the special legislation governing personal data protection and its impact on the basic framework of labour legislation. It is precisely through such comprehensives studies that the protective mechanisms to safeguard data provided in connection with employment can be fully understood and applied.

The legal doctrine and scholarly research in Bulgaria have dealt extensively with this issue, both in its entirety in terms of the administrative legal framework which

provides for personal data protection (Mateeva, Zh., 2015) and in its various aspects in the different sectors and legal relationships (Ognyanov, M., 2002, Davidova, F., 2011, Dimitrov, G., 2010, Feti, N., 2016). All these studies undoubtedly have shed some theoretical light on the conceptual apparatus and its manifestations in the various fields. In the labour law doctrine the subject of personal data protection has attracted the interest of scholars and has been researched both in its individual and multi-layered aspects (see Genova, Y., 2011, p. 128, Aleksandrov, A., 2009, Aleksandrov, A. 2013, pp. 68-86, Aleksandrov, A., 2015) and as a complex and comprehensive system (Aleksandrov, A. 2016). All these doctrinal approaches show the importance of the research issue and the need to continuously revisit it, in view of the rapid change in social relations and the need for an adequate legislative response and, last but not least, the need to make the people whose personal data is processed aware of their rights.

The goal of this paper is to explore in historical and comparative terms the processing of personal data in the context of employment. Emphasis is placed on examining the evolution of the sources and on analyzing the employer's obligation to protect the personal data of employees.

The study has a complex subject: the existing national laws and regulations governing data protection and the obligations of employers. To achieve the goal of the study the author has undertaken **the following tasks**: 1. Examine the legal characteristics of the basic concepts of "personal data" and "processing of personal data" under Bulgarian law; 2. Conduct a retrospective, comparative study of the development of legal sources on data protection; 3. Perform a legal analysis of the protection of the different categories of personal data and their relevance to the various stages of the employment relationship; 4. Based on the analysis performed – make generalizations and recommendations and put forward concrete suggestions to employers concerning the application of statutory norms.

The methodology of the research includes: 1) complex analysis of the legal framework of personal data protection in the context of labour legislation in historical, comparative and contemporary terms; 2) study of the legislation and the doctrinal research – theoretical overview, systematization and classification.

The paper explores predominantly the existing national legislation as of January 2018, whereas, given the tasks undertaken, the sanctions for breach of the obligation to protect the personal data of employees under employment contracts fall outside the scope of research.

1. PERIODIZATION OF THE DEVELOPMENT OF THE SOURCES

The proper interpretation and application in everyday practice of norms governing the protection of personal data in the context of labour law requires sufficient knowledge of the sources, their legal force and effect and their appropriate correlations. In this regard, this paper presents in basic terms the evolution of the sources from their creation to the present moment. This aims on the one hand to track the necessity for special regulations as it has emerged historically and on the other hand to identify future trends in view of the dynamics in the social relations subject to regulation.

The sources containing rules on personal data protection are undoubtedly among the "younger" pieces of legislation in the history of rulemaking worldwide. The need for a legal framework which guarantees non-interference and/or limited interference with the privacy of individuals was first recognized in the middle of the 20th century. This subject is one of the fastest developing, given its correlation to information technology. In comparative terms the problem appears to be multifaceted and requires the regulation of a different type of social relations.

The United States was the first to put forward the idea of personal data protection. The Privacy Act[1] of 1974 was adopted as a result of the US initiative from the middle of the 20th century to create a database on the population[2]. It is precisely in this process that the nature and complexity of data protection was revealed, and questions concerning the "right to privacy" were raised (see Krotoszynski, R. J., 2016, p. 15-38). Although the US were the pioneers who started the debate on issues related to personal data, the first law on personal data

protection was adopted in 1970 in Europe (the German province of Hessen), and a little later, in 1977, a law was adopted at the federal level: Bundesdatenschutzgesetz. Other European countries soon caught up with this trend, and similar laws were passed in France in 1978 (Loi informatique et libertés), in the United Kingdom in 1984 (Data Protection Act), etc.

We can draw the conclusion that the adoption of laws in the field of personal data protection was driven by the emerging public demand to restrict the public authorities' interference with the privacy of personal data subjects. It is exactly this need that raises the question of legislative proclamation and introduction of principles and regulatory mechanisms for the protection of individuals. This important task lay primarily with the national legislatures of developed countries, which had realized the need to initiate a social debate and to adopt in a timely manner adequate legal mechanisms.

The birth of the regulatory framework and the debates that preceded it were marked by two distinctive trends, corresponding to the two major legal systems. In common law countries the focus was placed on the narrower concept, with the terms most commonly used being *privacy* or *data/information privacy* (data protection in the narrow sense). In the continental legal system the concept in use was *data protection*, i.e. the guarantee for a wider freedom of the individual in providing their personal data.

The foregoing outlines **the first period** in the development of sources of data protection, namely the first laws at the national level within individual countries.

The second period began in the 80's of the 20th century and was characterized by the adoption of international regulations on personal data protection (see Kamenova Tsv. 1999, p. 59). The international community had much earlier included in its legislation provisions on non-interference with privacy in its various aspects: family, home, correspondence, etc.[3]. However, given their different subject matter, these legislative acts appeared incapable of keeping up with the rapidly developing social relations and could not satisfy the need for international adoption of principles in the specific field of personal data protection. In 1980 the Organization for Economic Cooperation and Development adopted Guidelines governing the protection of privacy and transborder flow of personal data, followed in 1981 by Convention No. 108 of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data (see Gartska, H., 2003, p. 49)

The regulation at the international level and the proclamation of principles relating to the protection of personal data constitute an important stage in the development of the sources. These put the issue on a broader basis and at the level of the international community, thereby providing guidelines for countries which had not yet passed national regulations.

The third period encompasses the development of sources related to data protection within EU law. In the 90's of the 20th century the acts of the international community were followed by regional acts at EU level. Directive 95/46/EC on the protection of personal data, adopted in 1995, was based on international instruments (Convention No. 108 and the Guidelines of the Organization for Economic Cooperation and Development), but was as it was adopted at a later time, it contained a more detailed regulation of the matter and reflected the latest trends.

The advent of digital technology and its introduction into all spheres of private and public life changed the socio-economic environment, and in the 21st century the issues related to personal data protection and limited interference with the privacy of data subjects became ever more extensive and complicated. This necessitated the amendment of EU acts.

After Bulgaria's full membership, EU law has had direct relevance and application to the regulation of social relations in the country. EU directives are binding on Member States regarding their intended results, but are transposed into the national legislation through forms and means chosen by the national legislature (article 288, paragraph 3 of the Treaty on European Union). On the one hand, this approach provides for the individual countries' freedom to take into account their national circumstances and to implement legal mechanisms consistent with the social reality and traditions of the country. At the same time, however, this creates an

imbalance in the legal protection, given the different minimum levels and control mechanisms provided by individual countries. This approach to regulation of social relations in times of rapid digitization of society and free movement of people and capital has proved unreliable. That is one of the reasons it is necessary to rethink the European regulatory framework at EU level. In 2016, after many lengthy debates, the EU legislators adopted Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. This act repealed Directive 95/46/EC. The entry into force, respectively the repeal of the Directive, was scheduled for 25.05.2017.

Sources at EU level are complemented by another act currently in force: Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, which had to be transposed into the national laws of Member States no later than 06.05.2016.

These two acts in the field of personal data protection are not only an important part of the European reform in data protection – they also reflect the contemporary understanding at the international level, and the achievements of the Member States participating in their adoption.

The development in Bulgarian domestic law started in 2002 and is associated with the adoption of the Personal Data Protection Act (PDPA). This law transposed in Bulgaria the provisions of Directive 95/46/EC and established a specialized administrative authority (Mateeva, Zh., 2013, p. 241) charged with the implementation of and the control of compliance with the Personal Data Protection Act, namely the Commission for personal data protection (CPDP) (for the powers and competence of the Commission see Mateeva, Zh., 2014, p. 20-32). The Bulgarian national legal framework has the advantage of being created after the significant developments in international instruments, and in this sense the Bulgarian legislator draws from the achievements of both the international community and the European legislator. By adopting this law Bulgaria made an in important step towards joining the EU. Since Bulgaria's full membership this process of synchronization of national with Community law not only is not completed, it is constantly ongoing in the area of personal data protection due to constant changes in social relations dictated by the dynamics of the Information Society. For the purpose of exhausting the national legal sources, we should mention regulations issued on the basis of laws: Rules on the operation of CPDP and its administration (prom. State Gazette issue 11 of 10.02.2009, amend. SG. issue 10 of 5.02.2016), Ordinance No. 1 of 30 January 2013 on the minimum level of technical and organizational measures and the permissble type of protection of personal data (Prom. SG. issue 14 of 12.02.2013).

This brief examination of the evolution in the concepts and sources of data protection does not claim to be exhaustive. It aims to achieve the task of presenting a periodization of the development of legal instruments, which on the one hand brings clarity to a wider audience, an don the other hand reveals the connection to labour law (for the development and periodization of the sources of labor see right. Andreeva, A. Yolova, G., R.Rachev., 2017, p.15-20). Bulgarian labor legislation in different levels of the sources of norms contains separate elements that have kasatelstvo to privacy of participants in the employment relationship[4]. While absent independent labor legal matter dedicated to the protection of personal data of employees or the employer - FL. This approach of the Bulgarian legislator finds apt in labor legislation to address legal and priority employment and such social relations directly related to and arising from them. In order to study issues of protection of personal data of the employment we consider proper mechanism of protection by applying the standards of the PDPA relative to the specifics of the employment relationship.

This legislative solution is supported by another argument, which has to do with the type of labour law provisions: these are generally dispositive norms and in view of current trends they provide for the parties free will in arranging the employment relationship. In contrast,

the principle idea enshrined in the data protection legislation is to limit the scope of invasion of privacy, which presupposes the prevalence of imperative norms and their referral to the norms of public law. A certain alignment of both methods of regulation is observed in the so-called "non-state legal sources" which are generally deemed to be typical sources of labour law (see Mrachkov, V., 2012, p. 98-99; Gevrenova, N., 2007, p. 35-80). These sources comprise legal provisions adopted by non-state entities expressly empowered by the national legislator[5]. This alignment has not just theoretical significance, e.g. for comparison of the different types of sources; it has a direct practical application in light of the possibility to borrow rules from this hierarchical level which can be then adapted to the needs of the employer, depending on the specifics of the labour process and the need for protection of personal data.

2. PROTECTION OF PERSONAL DATA PROCESSED UNDER AN EMPLOYMENT RELATIONSHIP

The proper analysis and application of the special provisions of the PDPA to labour law matters, and in particular the employer's obligations to protect the personal data of employees, requires a theoretical clarification of the terms "personal data" and "processing of personal data".

The legal definition of "personal data" is given in Art. 2, Para. 1 PDPA, which reads as follows: any information relating to an individual who is identified or can be identified, directly or indirectly, by an identification number or by one or more specific identifiers. The semantic interpretation suggests that the term used in the PDPA has two elements, which are closely related to each other (for the term "personal data" within the meaning of the Personal Data Protection Act see Mateeva, Zh., 2012, p. 101; for a more detailed analysis on the evolution of the legal definition see Mateeva, Zh., 2015).

The first element, information, is fundamental to the structure of this statutory provision. It is through this element that the specifics of the concept of personal data are revealed. In the context of the issues of information protection within the employment relationship, we should bear in mind the inherent nature of the employer-employee relationship. Both parties to such relationship are exchanging data, which more precisely is the relevant identifying information about the employee and the employer. Based on the understanding enshrined in international and domestic legal sources, protection is limited to natural persons, whereas data identifying legal persons are public. The legally individualizing attributes of legal persons under Bulgarian law are entity name, unified identification code (UIC), domicile and registered address, all of which are governed by the Commerce Act and do not fall under the scope of the Personal Data Protection Act. These data are made available to the general public after the entity's entry in the Commercial Register, because this register is for companies, not for individuals (Mateeva, Zh., 2011, p. 170). Therefore, in the case of employment relationships, personal data is construed as information exclusively referring to natural persons (current and former employees, related third party individuals and in some cases employers who are natural persons).

This study will focus primarily on employees as holders of personal information and, accordingly, on the employers' obligation to protect it. Along with this obligation for protecting any personal data disclosed under an employment relationship, a number of related issues arise concerning the interaction of the parties to the labour contract with other legal fields: social security, administrative and criminal law, among others. The situation of persons with disabilities is particularly delicate. They are an extremely vulnerable group, which is often subject to social exclusion due to deep-rooted stereotypes. Therefore, their employment and fair relations with employers should be regarded as one of the national priorities requiring constant political and public attention (Blagoycheva, H., 2014, p. 192-197). The personal data relating to people with disabilities is often described as "sensitive information". This study will, however, remain confined to the typical and most common situations and the employers' obligations they involve. The employer has the right to unilaterally organize the labour process, and, respectively, it is the employer's responsibility to protect all information provided by the people employed under labour contracts. In Bulgarian labour law sources at different hierarchical levels regulate

the issue of the necessary information that the parties should have access to in order to make the decision to establish a lawful relationship. This in no way affects the privacy of the employee, provided that the employer refrains from interpreting this entitlement broadly and that the employer does not require any data that are not directly necessary for the proper execution of the job.

The second element further specifies the first one: it indicates that this is information through which the natural person can be identified. However, the purpose of individualization is not strictly defined. The Bulgarian legislator, influenced by European law, has given a broad definition of personal data in Art. 1, Para. 8 PDPA, with the conditions and procedure for processing of personal identification numbers and other identification numbers of general application being governed by special laws (Bulgarian Identity Documents Act (BIDA), Access to Public Information Act (APIA), Classified Information Protection Act (CIPA), Commercial Register Act (CRA), etc.). It follows that it is the legislator who determines in special laws which categories of personal data should be public, because the protection of personal data must not be excessive (Mateeva, Zh., 2012, p. 101). In practice this leads to difficulties in the application of the law and to contradictory judicial and administrative practice.

This tendency to use broader legal definitions is preserved in the current Regulation, whose text stipulates that personal data means any information relating to an identified or identifiable natural person. This can be done directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

In view of the need for protection of personal data processed for the purposes of an employment relationship, we should also clarify the concept of "personal data processing". The legal definition existing in Bulgarian law is once again borrowed from the European legislation, and is contained in paragraph 1, item 1 of the Additional Provisions of the PDPA: processing means any operation or set of operations which is performed on personal data, by automated or other means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

In order to clarify the protection of personal data disclosed under an employment contract, the following exposition will attempt to analyze issues concerning the parties involved in this issue: the employer (data controller), the employee (data subject), and third parties related to the employee. The protection of personal data disclosed in the course of the provision of work force has its specifics and links to the overall structure of the employment relationship.

To begin with, this protection involves a coincidence of legal subjects, i.e. the party bearing the responsibility to protect the personal data is the employer itself (for more details on the obligations of data controllers see Mateeva, Zh., 2015, p. 185-191). The counterparty to the employment relationship, i.e. the employee, has the right to demand such protection and to use all legal remedies in case misuse of personal data and violation of the employee's rights. This structure of the parties involved in the protection of personal data provided under an employment relationship is traditional, but along with it the legislation contains specific hypotheses where the full exercise of the employee's rights requires the collection of personal data belonging to third parties. Usually these are persons close to the employee – children, spouse and other family members.

A lawful processing of personal data is one that falls within the hypotheses of Art. 4, paragraph 1 PDPA. With regard to employment relationships, data processing is necessary for the performance of obligations under a contract to which the data subject is a party, as well as for actions taking place prior to the conclusion of a contract, which have been undertaken at the request of said individual. This hypothesis covers various actions occurring in the course of development of the relations between the parties and pertaining to the provision of labour. To substantiate the correlation between data protection and employment relationships we can refer to the remarks made by Prof. Mrachkov: "the employment relationship serves as the basis upon which the labour rights and obligations of employees and other legal

subjects arise: employers, trade unions and employers' organizations, etc." (Mrachkov, 2012, p. 147). It is precisely the employment relationship which sets the limits: on the individualization of legal subjects, on the rights granted and obligations imposed, on the time periods, i.e. for the duration of the employment relationship, or in certain cases, depending on the nature of the relevant right, for certain periods after termination (for employment relationships see Andreeva, A., Yolova, G., 2014, p. 30-40).

The employment relationship is relevant also to the combined application of personal data protection and employment laws, and is the grounds for the employers' obligations to protect the personal data of employees. If the relevant legal subjects are parties not to an employment relationship, but to a freelance contract, their relationship would be governed by civil law provisions, and with that the right to process and the obligation to protect personal data will arise out of different legal grounds.

We can outline the different stages involving processing of personal data by the employer, in terms of the "life cycle" of the employment relationship:

- Pre-contractual relationships between the parties aimed at establishing an employment relationship.

At this stage the need to provide, and, respectively, to process the personal data of the employee is incontestable. These data are different and are governed by Ordinance No. 4 of 1993 regarding the documents required for entry into a contract of employment, according to the position desired by the applicant. In order to protect the employer from unfounded claims of data being unlawfully collected, further legal grounds may be invoked: Art. 4, Para. 1, item 2 PDPA, namely the express consent of the data subject (see Aleksandrov, A., 2015, p. 38). In labour law practice it is still common to use different models of employment contracts, as the parties are entitled to include in the text of the contract not just the mandatory content prescribed in the Labour Code, but also additional clauses reflecting their free will. Therefore, such employment contracts may include the irrevocable consent of the data subject, i.e. the employee, that their personal data will be subject to processing. This issue has been studied in the legal theory both domestically (see Aleksandrov, A., 2015, p. 38-40) and internationally (Galego, G., Kacperek, E. 2015, p. 16). In order not to exceed the scope of the permissible invasion into the privacy of the employee, and given the dominant position of the employer in the employment relationship in the context of the overall organization of the labour process, the possibility of such additional consent on the part of the employee should be approached carefully.

- Creation, development and changes in the employment relationship.

Once established, the employment relationship is characterized by certainty and stability. These two qualities are the manifestation of the protective function of labour law and of the respect for the free will of the nominally equally entitled parties to the legal relationship. Each party has the obligation to fulfil in good faith its clearly defined commitments under the employment contract. Accordingly, each party has the right to demand that the other party perform its corresponding obligations. This is what creates a secure relationship, where one party provides labour and the other benefits from it. The stability of the employment relationship is a manifestation of its durability over time, which allows both parties to feel secure in this legal relationship. One of the guarantees for this stability is the strict performance of the employer's obligation to protect the personal data of the employee. The labour legislation has provided for the possibility to amend the employment relationship (by mutual consent – Art. 119 of the Labour Code), and prohibits the unilateral alteration of employment relationships (Art. 118 of the Labour Code).

Employment relationships are characterized by the existence of different stages in the collection of personal data in view of the natural course of development of the legal relationship. Prior to its establishment and in order to lawfully outline the employment relationship, a basic set of the employee's personal data is collected, without which the employer could not fulfil its obligations. It is quite natural that at this time the employee has provided only the minimum data required, with the prospect of subsequently complementing such data. The supplement of the employee's personal data can take place in various scenarios:

- Upon emergence of new circumstances relevant to the employee's rights under the employment relationship, for example the award of a doctoral degree constituting grounds for increase in the remuneration, a decision of a Territorial Expert Doctors' Committee, award of higher education diploma, etc.;
- Circumstances and personal data related to them which had existed, but were not disclosed at the time the employment relationship was entered into;
- Changes in existing circumstances – e.g. marriage and other changes in marital status leading to change in the employee's surname, etc. Certain provisions of the Labour Code impose a duty on the employee to submit information to the employer, with a corresponding obligation on the part of the employer. It can be inferred that there is a certain correlation between the personal data provided by the employee and the exercise of their employment rights. Such is the hypothesis of Art. 313a of the labour Code[6], which stipulates that the performance of the employer's obligation is subject to the provision of the required documents (Nedkova, A., 2009, p.138).

Another issue is that of the mutual obligations of the parties concerning the provision and protection of personal data. The employee has an obligation to make sure the data submitted to the employer are true and correct, and therefore is liable for any false statements (e.g. on education, health condition, etc.), as well to submit such data in a timely manner. This obligation is relevant to data related to the individualization of the person as a party to the employment relationship and to the stability of the legal relationship. The data provided to the employer are in the public domain, and in turn the employer needs to receive updated information in the event of changes in the employee's personal data. The employer's corresponding obligation is to take the necessary measures to protect the personal data provided and processed in the course of the legal relationship.

The legal doctrine has also raised and studied the issue concerning data collection through technical means of monitoring and control (see Genova, Y., 2011, pp. 107-128, Mrachkov, V., 2001, p. 17, Vasileva, M., 2009, p. 43-53). The topics explored by the above-mentioned authors are very diverse and concern intertwined aspects of privacy and employment duties, protection of the privacy of the employee, non-interference with family life and the like. This issue deserves the attention of both the scientific community and the wider public debate with a view to ensuring the necessary balance for quality implementation of the labour process in line with the technological developments and established models in other countries and for protection of privacy.

- Termination of the employment relationship.

The exact time of termination of the employment is highly significant from both a legal and a social perspective. For the purposes of this study the emphasis is placed on the legal implications of the act of termination. This act dissolves the legal relationship existing between the employee on the one hand and employer on the other. It confers obligations on both parties, arising from their commitments under the hitherto existing relationship: for the employee to return any property entrusted with them, and for the employer to enter all relevant data in the employment record book, and to pay any benefits or compensations due, among others.

The termination of the employment relationship also raises the important issue of the protection of the personal data of an employee who is no longer party to a legal relationship with the employer. It is therefore a matter of protecting the personal data of a third party: a former employee.

- Obligations to protect personal data after termination of the employment relationship.

This obligation is the last of the set of duties examined above and at the same time it is of a specific nature as it concerns obligations following an already terminated legal relationship, namely the processing of personal data provided under an employment contract which no longer exists. This is certainly a natural continuation, given the interconnectedness of the cycles of the employee's work life. For this reason, the storage and processing of such personal data is necessary for the purposes of pension-related proceedings, litigation,

etc. The parties involved are the former employer and the respective former employee. The employer is responsible for observing the general principles and rules prescribed in the Personal Data Protection Act, and the personal data subject enjoys the right to access to such data and to information on their processing.

Employment relationships are marked by the specifics of self-regulation and self-protection[7]. This right to self-regulation in the case of employment relationships may be exercises by individuals or collective formations. There are well-established mechanisms for individual, respectively collective self-protection. Traditionally, individual self- protection is an expression of the respect, recognition of dignity and work safety that an employee is entitled to exact from their employer, and the corresponding obligation of the employer to grant these (see Mrachkov, V., 2012, p. 154-155). In the context of personal data protection the employee may demand the employer's respect to their privacy, and in particular the limitation of personal data collection to what is necessary for the implementation of the employment agreement.

CONCLUSION

The above comprehensive legal analysis of provisions contained in special legislation governing the protection of personal data and their application in the field of labour law, specifically in terms of the employer's obligation to protect the personal data of employees, shows the importance of the issue. The Bulgarian legislation follows closely the international experience and transposes the rules of EU law. The current legal framework at EU level: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, will be directly applicable by Bulgarian authorities and employers. The legal analysis of the legislation in force in Bulgaria as of January 2018, relating to the protection of personal data under employment agreements, allows for certain conclusions and generalizations:

- Timely and appropriate transposition of the existing instruments of European law into Bulgarian domestic law.
- Availability and applicability of provisions for personal data protection without direct intervention in the labour legislation.
- The need for adaptations in both legal frameworks in view of the rapidly changing social relations and for introduction of mechanisms to ensure actual implementation of the EU Regulation.

Protection of personal data provided under an employment relationship should be deemed as one of the important duties of the employer, and the adequacy of the existing control mechanisms and the employer's accountability should be carefully considered.

NOTES

1. This is a law implementing the principle of transparency in tackling the need for processing of personal data, etc., as well as introducing restrictions on the public authorities' interference with the privacy of individuals.
2. During the Kennedy administration an attempt was made to create a single database (population registers), covering and applicable within the territory of the United States.
3. The Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms.
4. Labour Code, Article 66, Paragraph 1, Article 127, Paragraph 2; Ordinance No. 4 of 1993 on the documents required for entry into a contract of employment, etc..
5. In labour law, such a possibility is provided for in Art. 181 of the Labour Code, which stipulates that employers shall issue Internal Labour Rules. Other non-state sources are the ethical codes, collective bargaining, etc.

   According to Article 23 PDPA, the personal data controller issues an instruction defining the appropriate technical and organizational measures. A similar obligation is specified in Ordinance No. 1 of 2013 on the minimum level of technical and organizational measures and the permissible type of personal data protection.
6. **Art. 313a.** (A pregnant employee and an employee in the advanced stage of in vitro treatment may exercise the rights under Art. 140, Para. 4 item 2, Art. 147, Para. 1 item 2, Art. 157, Para. 2, Art. 307, 309, 310 and Art. 333, Para. 5 after her condition has been verified through submission of an appropriate document issued by the competent health authorities.
7. Such self-regulation is mentioned in the general theory of law and in constitutional law: for example, according

to Article 73 of the Constitution the National Assembly adopts the Rules of organizing the activities of the National Assembly, which is a form of self-regulation.

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