Athens, 07-08-2021 Prot. No.: 1653 DECISION 26/2021 (Department) The Personal Data Protection Authority met as a Department in a teleconference meeting at its headquarters on 04-21-2021 at the invitation of its President, in order to examine the case referred to in the present history. Georgios Batzalexis, Deputy President, in the absence of the President of the Authority Constantinos Menoudakos, the regular Member of the Authority Spyridon Vlachopoulos, and the alternate member Grigorios Tsolias, as rapporteur, in place of the regular member Charalambos Anthopoulos, who, although legally summoned in writing, appeared , did not attend due to disability. He did not attend, even though regular member Konstantinos Lambrinoudakis was legally summoned in writing, due to disability. The meeting was attended by order of the President, Kyriaki Karakasi, legal auditor - lawyer, as assistant rapporteur and Irini Papageorgopoulou, employee of the Authority's administrative affairs department, as secretary. The Authority took into account the following: Submitted to the Authority under no. prot. C/EIS/8033/23-11-2020 complaint of A, with which the latter complains about the refusal of doctor B to satisfy his right of access to the data of his minor child's medical file kept in her file, including tax documents issued by the complainant following examinations of the minor in question. 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@dpa.gr / www.dpa.gr In particular, according to the complainant's claims, on 02.10.2020 he addressed the doctor via telephone message request to grant the electronic address in order to make it possible for him to exercise the right of access to the data of his minor child's medical file. Following this and due to the doctor's non-response to his above request, on 10.11.2020 he again sent a telephone message to the complainant with the same content-request, which was followed by a phone call he received from the doctor. In the context of the above conversation, the doctor expressly refused to inform him about the state of his minor child's health, refusing, on the one hand, to provide him with her email address, and on the other hand, to respond to any request. Finally, the above telephone call was followed by the complainant's doctor sending a telephone message, by virtue of which the complainant was informed that the complainant is no longer attending to his minor child as a doctor. It is pointed out that in the context of proving his allegations, the complainant provides the relevant excerpts printed from the electronic environment of his mobile phone while also providing the document no. ... decision of the Single Member Court of First Instance [region] X which regulates, among other things, the complainant's right to contact his minor child. The Authority, in the context of examining the above complaint, with no. prot. C/EX/8033-1/17-12-2020 her document, which was sent as a registered letter following the categorical refusal of the complainant to notify the Authority of her e-mail address, despite the Authority's submission of a verbal request via telephone call , asked the doctor in question for clarification,

pointing out in this regard the established jurisprudence of the Authority1, by virtue of which the person exercising parental care of his minor child (art. 128 and 1510 Civil Code) has in principle, as his legal representative, the right of access under article 15 of the GDPR in the data referring to his minor child, unless otherwise provided by a court decision (e.g. a decision designating the other parent as exercising parental care, a decision prohibiting contact with the child, etc.). 1 See relevant decisions 24/2009, 21, 22 and 53/2010, 130/2013, 18/2018, 4/2020 of the Authority, published on the website of www.dpa.gr. 2 In particular, the Authority asked the complained doctor to clarify whether the complainant exercised, as he claims, the right to access data concerning his minor child and to which data, and in the affirmative case, if and in what way the latter responded or / and if she justified to the complainant any delay in responding to the above request, otherwise it was requested to clarify the reasons why the doctor did not respond to the relevant request, providing relevant documentation. Finally, the Authority requested to determine in which name the tax documents related to the medical monitoring of the complainant's minor child were issued and what exact data are included in them. Following this, with the no. prot. C/EIS/117/07-01-2021 in her reply letter, the complained-about doctor states that she was following the complainant's minor child, but she is no longer his treating doctor. He points out that he had no communication with the complainant in the past. She then confirms that she had a telephone conversation with the latter, stating that the complainant asked her to receive tests and updates on the child's visits by e-mail, with the complainant replying that she lacks good knowledge of sending messages and e-mails, explaining to the complainant that it would be easier to communicate by phone, suggesting an interpersonal contact since, as he emphasizes, he does not know the latter. According to the complainant, the above telephone call was followed by an information from the mother of the minor child that she wishes to terminate the cooperation between them. Finally, she states that she responded on 10.11.2020 with a text message to the complainant's mobile phone (and not with an e-mail as stated in her reply letter to the Authority) that she is no longer watching over her minor child. The complainant inadvertently sent her letter of 07.01.2021 to the complainant's attorney. To that letter, the complainant replied with no. Prot. G/EIS/423/18.01.2021 his document. With his above document, the complainant briefly mentions, among other things, that the doctor inaccurately states that he was the one who called her by phone, when in fact it was the doctor who called him, telling him "disparagingly and strongly", according to the complainant, her refusal to provide him with his child's medical data. In addition, according to the 3rd complainant, the doctor in her answer admits both her refusal to satisfy the right of access to the above data and that the said right was actually exercised by the complainant in front of her. Next, the complainant emphasizes, among other things, the obligation to notify

him of his child's health data, pointing out that the refusal to satisfy the right of access he exercised before the doctor was preceded by a relevant consultation between the latter and his estranged wife which the doctor "arbitrarily identified itself as the sole beneficiary of this knowledge." Finally, the complainant underlines that the doctor wrongly invokes her personal freedom in order to release herself from her legal obligations as the controller of the disputed data, violating his right of access as a parent while emphasizing that no reference is made by the complainant to issue of tax documents. The Authority called with no. Prot. C/EXE/552/02.02.2021 and C/EXE/553/02.02.2021 Summons both parties, so that they can be heard in the context of the 10.02.2021 hearing - teleconference of the competent Department, giving a ten-day deadline to submit any Memoranda for further support for the claims of both parties, which were presented by the complainant through his lawyer, Georgios Pantazis, and the complainant in person. Following the timely submission of no. Prot. C/EIS/1260/22.02.2021 and C/EIS/1267/22.02.2021 Memorandums were re-sent to both parties with no. prot. C/EXE/732/01.03.2021 and C/EXE/733/01.03.2021 Calls in order to repeat the hearing in order to ensure the legal composition of the Department of the Authority, as well as before the conference and the duration of the 10-day deadline for submission of Memorandums granted , a formal obstacle appeared in the person of one of the participants in the first hearing of a member of the Authority. After the said second hearing, in the context of which the complainant appeared after his lawyer, Georgios Pantazis, and the complainant after her lawyer, Athanasios Mastrogiannis, submitted in due time the no. Prot. C/EIS/2004/22.03.2021 and C/EIS/2013/22.03.2021 Memorandums. In the aforementioned pleadings, the parties briefly submitted, among other things, the following: In particular, the complainant refers, among other things, to the jurisprudence of the Authority by virtue of which the person exercising parental care of his minor child has, in principle, the 4 right of access of the aforementioned Article 15 of the GDPR to the data concerning his minor child unless otherwise provided by a court decision. He then refers to the allegations of his complaint pointing out that the the complainant categorically refused to satisfy his right of access to the details of his child's medical file including the relevant tax documents. In addition, she emphasizes that the complainant admitted that she has examined the complainant's minor child several times and that the tax documents were not issued in the name of the complainant's minor child's mother. Next, the complainant refers to the moral damage caused to him by the violation of the right of access he exercised and was never satisfied even during the duration of the procedure before the Authority. In addition, it is stated that from the doctor's claims it follows that the disputed elements of the medical file were granted only to the mother of the minor child. Finally, it points out the obligation of the complainant to keep a medical file while noting that to

the extent that she was prescribing, according to her confession, for the complainant's minor child, she had access to the relevant electronic health file of the child and therefore it would be easy to satisfy the exercised right of access issuing copies of prescriptions after the relevant diagnoses. Furthermore, the complainant emphasizes at the same time that the fact that the complained pediatrician stopped monitoring his minor child, in no way justifies the violation of the complainant's right of access to the latter's health data, which the complainant must keep for 10 years from the last examination thereof under article 14 of the Code of Medical Ethics. It is also stated that the complainant unfoundedly claimed that no communication took place between her and the complainant and that she never accompanied his child to her doctor's office, finding that the relevant legal framework on the protection of personal data does not depend on the satisfaction of the exercised right of access by the communication with the alleged Data Controller. Subsequently, the complainant maintains that the refusal to satisfy the disputed right of access is also demonstrated by the complainant to the complainant to move from Athens to her doctor's office in proposal 5 [area] X, during the restrictive measures in the context of the pandemic, in order to satisfy the disputed right of access. In addition, the complainant recalls the claim of the complainant before the Authority regarding his access to his child's health record which is allegedly collected every time he also collects his child in the context of exercising the right to communicate with him. He refutes the above claim as irrelevant and manifestly unfounded. Finally, the complainant cites in the body of his Memorandum his response from 09.03.2021 to the out-of-court statement of the complainant, which is also presented as a relevant document before the Authority. In the above out-of-court response that was served to the complainant after the door was closed, as appears from the no. ... report of the Judicial Commissioner's service to the Court of Appeal [county] Ψ, C, it is noted, among other things and in addition to those already mentioned above, that the invitation to the complainant to collect the requested data from the office of the attorney-at-law of the complainant located in [region] X , is essentially equivalent to non-satisfaction of the disputed right in view of the special conditions prevailing due to the pandemic. In fact, the complainant in his out-of-court response in question emphasizes that the pediatrician's unsatisfactory response to the exercised right of access is also supported by her claim that a controller is not required when there is an alternative way to access the data, such as the health record. The complainant comes to the conclusion that the complainant is unjustified for his right of appeal before the Authority to challenge its unjustified refusal to satisfy the disputed right. With the Memorandum filed on time from 22.03.2021 submitted by the complainant following the hearing of 10/03/2021, she clarifies that she does not send written communication messages with her clients, preferring personal contact with the latter. He then refutes as

unfounded, among other things, the complainant's allegations that he refused to inform him about the state of his child's health as well as to let him know her email address or respond to any of his requests, pointing out that the phone call that took place on her initiative is sufficient for the groundlessness of his above claims. She also objects to the possibility of verifying the identity of the 6th complainant as the father of her minor patient in order to justify the non-disclosure of her requested e-mail address, noting, in addition, that she acquired a computer when electronic prescribing became mandatory, in order to register the diagnoses and medications she administers to her patients, i.e. the history of the latter while pointing out that the complainant had access to his child's health record, which includes the complete medical picture of each child. In addition, the complainant makes reference to her request to the Authority to inform it about the safe sending of his child's data to the complainant in a way other than e-mail, as she herself does not have the electronic means to send them safely and confidentiality. Finally, the complainant refers to her out-of-court statement served on the complainant from 04.03.2021, presenting the last after her with no. ... report of the Service of the Judicial Commissioner of the Court of Appeal of Athens, D. In particular, since he repeats for the most part the allegations presented before the Authority, in particular that before the first written communication he had with the complainant, he had not met him in person at her practice, that with the written messages of the complainant she was only asked for her e-mail address, without any other clear and definite request and that in the context of the telephone communication between them, she suggested that the complainant come to her practice to be informed , states that she hereby invites him to collect from her attorney's office in [region] X a sealed envelope with the requested documents. The Authority, after examining the elements of the file, after hearing the rapporteur and the clarifications from the assistant rapporteur, who was present without the right to vote and left after the discussion of the case and before the conference and decision-making, following a thorough discussion , CONSIDERED IN ACCORDANCE WITH LAW 7 1. Because of the provisions of articles 51 and 55 of the General Data Protection Regulation (Regulation (EU) 2016/679 – hereinafter, GDPR) and article 9 of law 4624/2019 (Official Gazette A΄ 137) it follows that the Authority has the authority to supervise the implementation of the provisions of the GDPR, this law and other regulations concerning the protection of the individual from the processing of personal data. Article 5 par. 1 of the General Regulation (EU) 2016/679 on the protection of natural persons against the processing of personal data (hereinafter GDPR) sets out the principles that must govern a processing. According to the principle of accountability introduced by the said article, it is expressly defined in the second paragraph thereof, that the data controller "bears the responsibility and is able to demonstrate compliance with paragraph 1

("accountability")". This principle, which is a cornerstone of the GDPR, entails the obligation of the data controller to be able to demonstrate compliance. In addition, it enables the data controller to be able to control and legally document a processing carried out in accordance with the legal bases provided by the GDPR and national data protection law. 2. Because according to article 15 par. 1, 3 and 4 of the GDPR "1. The data subject has the right to obtain from the controller confirmation as to whether or not the personal data concerning him is being processed and, if so, the right to access the personal data and the following information: [...] 2. […] 3. The controller shall provide a copy of the personal data being processed. […] 4. The right to receive a copy referred to in paragraph 3 does not adversely affect the rights and freedoms of others." In the context of the above right, it is pointed out that the data subject should have the right to access personal data collected and concerning him and be able to exercise this right easily and at reasonable regular intervals, in order to be aware and verifies the lawfulness of the processing. This includes the right of data subjects to access their health data, for example their medical record data which contains information such as diagnoses, test results, evaluations by treating physicians and any treatment or procedure provided. The data controller should be able to provide remote access to a secure system through which the data subject obtains direct access to the data concerning him/her 2. Therefore, in view of the above, it follows that the subject's right of access to the personal data that they concern it with the main purpose of assuring the subject of the accuracy and legality of the processing of his data3. Therefore, in order to satisfy the right of access, it is not necessary to invoke a legitimate interest, since this exists and forms the basis of the subject's right of access to obtain knowledge of information concerning him and which has been registered in a file kept by the data controller, so that to implement the basic principle of the law for the protection of personal data, which consists in the transparency of the processing as a condition for any further control of its legality on the part of the data subject4. Similarly, it is not required to invoke the reasons why the data subject wishes to exercise the right of access. Besides, it should be pointed out that the satisfaction of the right of access is universal, i.e. it concerns all information concerning the data subject and furthermore, it does not only require invoking the reasons why the data subject wishes to exercise said right of right, as discussed above, but neither mediation5. Therefore, in view of the fact that it is not necessary to invoke the reasons why the data subject exercises the said right, it is submitted that for the satisfaction of the said request, the satisfaction of the right should not depend on any previous judgment of the data controller regarding whether the exercise of this right is justified or not6. 2 See recital 63 of the GDPR and APD 23/2020. 3 See also recital 63 of the GDPR. 4 See indicative APD 2/2020, 23/2020, 16/2017, 98/2014, 149/2014, 72/2013 and 71/2013. 5 See APD

16/2017. 6 See regarding APD 1/2005 decision of the Authority by which it was judged that the controller must respond to the data subject's access request without vagueness and evasion citing reasons unrelated to the satisfaction of the right of access. See also APD 16/2017. 9 3. Because according to article 12 GDPR "1. The controller shall take appropriate measures to provide the data subject […] with any communication under Articles 15 […] 2. The controller shall facilitate the exercise of the data subjects' rights provided for in Articles 15 […] 3 .The controller shall provide the data subject with information on the action taken upon request pursuant to articles 15 to 22 without delay and in any case within one month of receipt of the request. This deadline may be extended by a further two months if necessary, taking into account the complexity of the request and the number of requests. The data controller shall inform the data subject of said extension within one month of receipt of the request, as well as of the reasons for the delay. […] 4. If the data controller does not act on the data subject's request, the data controller shall inform the data subject, without delay and at the latest within one month of receipt of the request, of the reasons for not acting and for the possibility of submitting a complaint to a supervisory authority and bringing legal action." 4. Because according to the provision of article 12 paragraph 6 of the GDPR it is provided that "Without prejudice to article 11, when the data controller has reasonable doubts about the identity of the natural person submitting the request referred to in articles 15-21 , the controller may request the provision of additional information necessary to confirm the identity of the data subject". 5. Because article 1510AK on parental care states, among other things, that "Care for the minor child is the duty and right of the parents (Parental care), who exercise it jointly. Parental care includes the custody of the person, the administration of the property and the representation of the child in any case or legal action or trial, concerning the person or the property...". Besides, article 1513AK stipulates, among other things, the following: "In cases of divorce or annulment of marriage and as long as both parents are alive, the exercise of parental care is regulated by the court. The exercise of parental care can be assigned to one of the parents or, if they agree by defining the child's place of residence at the same time, to both 10 jointly. The court may decide otherwise, in particular to distribute the exercise of parental care between the parents or assign it to a third party...". 6. Because in addition, according to article 14 of the Code of Medical Ethics (law 3418/2005) it is defined that: "1. The doctor is obliged to keep a medical record, in electronic or non-electronic form, which contains data that is inextricably or causally linked to the illness or health of his patients. … 2. The medical records must contain the name, surname, gender, age, occupation, address of the patient, the dates of the visit, as well as any other essential information related to the provision of care to the patient, such as , indicatively and depending on the specialty, his health problems and the reason for the visit,

the primary and secondary diagnosis or the treatment followed. …4. The obligation to maintain medical records applies: a) in private clinics and other primary health care units of the private sector, for one decade from the patient's last visit and b) in any other case, for twenty years from the patient's last visit ». 7. Because according to the established jurisprudence of the Authority, as mentioned above7, the person exercising parental care of his minor child (art. 128 and 1510 Civil Code) has in principle, as his legal representative, the right of access of the above article 15 to the data relating to the minor his child, unless otherwise provided by a court decision (e.g. a decision designating the other parent as exercising parental care, a decision prohibiting contact with the child, etc.). More specifically, in the context of the case under consideration, the complainant as exercising parental care of his minor child jointly with his wife, has the right to access the latter's medical data, as follows from the combination of the provisions of articles 1510 and 1513 of the Civil Code, 14 of the Code of Medical Ethics and 15 of the GDPR, without, in fact, requiring further assistance in the person of the specific legal interest. This is because the complainant as exercising parental care of his minor child is identified with the subject of the specific data. Therefore, the complained pediatrician is obliged to satisfy relevant rights of access exercised by the father and exercising parental care of the minor child who has been medically monitored. 7 See indicatively relevant decisions APD 24/2009, 21, 22 and 53/2010, 130/2013, 18/2018, 4/2020. 11 8. Because in this case, the complainant exercised the right of access on behalf of his minor child in front of the complained doctor - data controller, in his capacity as exercising parental care, as stated above, of which he is still the bearer , as can be seen from the document submitted with no. ... decision of the Single-Member Court of First Instance [region] X. In particular, the complainant requested from the aforementioned doctor to obtain access to the data of his minor child's medical file including, as stated in the contested complaint, the relevant tax documents issued for the respective medical examination. The above request was not satisfied by the doctor-responsible for processing, who, in fact, never gave the complainant the email address requested by him on the grounds that she is not familiar with sending messages electronically, stating that she prefers to send messages by phone or in person communication and adding, following the above-mentioned telephone communication with the father of the minor child, in the context of which the disputed right of access is not satisfied, that she has ceased to be the latter's treating physician. 9. Because from the response letter of the doctor-in charge of processing following his dispatch with no. Prot. C/EX/8033-1/17-12-2020 of the Authority's document as well as from its detailed allegations, it emerged that the latter did not satisfy the complainant's request for access to the medical file of his minor child, even though it should have and did relevant file with the disputed personal data, citing the

inability to communicate electronically and counter-proposing verbal and/or live communication. doctor-responsible for processing In a non-judicial manner and in violation of the obligations to comply with the requirements of the GDPR, the complainant claims that she no longer monitors the minor child in her capacity as a doctor, in order not to satisfy the right of access. The claim in question must be rejected as essentially unfounded as the data controller is burdened with the obligations provided for by the provisions of the GDPR in combination with those of the Code of Medical Ethics during the critical time of processing the personal data of the 12 subject, while these obligations are still for as long as the controller is obliged to keep the relevant information. 10. With reference to the question of the Authority, in the context of the exercise of its investigative-auditing powers, regarding the identification of the name in which the tax documents related to the medical monitoring of the minor child of the complainant were issued and regarding the identification of the data included in them , a question that was asked in order for the Authority to form a complete picture in order to decide on the obligation of the complainant to allow the complainant access to them and under what conditions8, the doctor had not received an answer to her letter dated 07.01.2021. The complainant referred to these documents for the first time in the context of her pleadings, as listed below. 11. Because further and in addition to the above, from the claims of both parties, as supplemented by the timely filed Memorandums as mentioned above, it was found that the complained doctor-data controller actually monitored the complainant's child for approximately seven (7) months by on the one hand, in electronic prescribing, on the other hand, in the collection and recording of the respective medical diagnoses that were included in the filing system maintained by the same, i.e. in the patient's medical file. And the complainant proceeded to exercise the right of access to the data of his minor child's medical file as well as to the relevant issued tax documents in a clear way through written messages including full details of both himself and his child as a patient of the complainant. From the messages in question it follows, also in an irrefutable and sufficient manner, the legitimate exercise of the right of access by the complainant, who, in fact, explicitly mentions the purpose for which he is requesting the electronic address of the complainant. Besides, as was discussed in the second paragraph of this article with reference to the Authority's jurisprudence, in order to satisfy the right of access it is not necessary to invoke a legal interest, since the legal interest (even if moral) of the subject to obtain information, which concern it and which 8 See in this regard APD 4/2020, sc. 8-9. 13 have been registered in a file kept by the data controller, so that the basic principle of the law for the protection of personal data is carried out, which consists in the transparency of the processing as a condition for any further control of its legality by the data subject. In any case, the exercise of the right of access is not required

to take place in a specific way or solemnly, e.g. by invoking the provisions of the GDPR or with an explicit reference to its exercise. 12. Because, moreover, it is confirmed after examining the allegations of both parties presented in the Memorandums that the complainant's exercised right of access has not been satisfied and the latter has not been informed, at least until the date of the hearing of 10.03.2021 before the Authority , of any element of the medical file of his minor child while he has not been notified of the tax documents either, which do not appear to include personal data of a third party, i.e. the child's mother, and to which the complainant expressly refers for the first time in her Memorandum . It should be noted, in addition to the above considerations under no. 11, the doctor's obligation under the aforementioned article 14 of the Code of Medical Ethics, as he keeps a medical record for the patients he attends. Given that the complainant herself admits that she keeps the file in question, which is available, she must, as the data controller, ensure under no. 12 par. 1 and 2 GDPR the easy9 and unhindered access to it by no. 15 par. 1 GDPR of the individual exercising parental care of a minor child who attends as a doctor, as also discussed in paragraph 2 hereof. Despite this, in this case, the complained doctor-in charge of processing, not only does not facilitate no. 12 par. 1, 2 GDPR the exercise of the right of access, on the contrary, it makes it extremely difficult for the complaining parent residing in Athens to access the medical data of their minor child by limiting the disputed possibility of access on the one hand, to the obligation to move to [area] X lasting, in fact, of traffic restrictions 9 Compare APD 72/2013, especially s. 6, where reference is made to flexibility, i.e. to the non-excessive sacrifice, on the part of the Processor in the direction of satisfying the right of access. 14 meters due to the pandemic10, on the one hand, in person receiving a file with the requested medical data from the office of the defendant's attorney located in [region] X. In view of the above, the fact of the complainant's failure to go to [region] X to receive the file does not invalidate the latter's right of access, nor can it objectively be interpreted as a waiver of it, as is falsely implied by the from 22.03.2021 Memorandum of the complainant, rejecting the relevant claim. Similarly unfounded and rejected are the relevant allegations of the complained doctor-controller based on which she exclusively determines the satisfaction of the right of access for the aforementioned reasons which constitute a violation of the obligation to facilitate the right of access of the complainant11. 13. Because in order to refute the allegations of the complainant regarding the non-satisfaction of the complainant's right of access due to the lack of personal acquaintance with him as well as the inability to verify his identity as the father of her minor patient, it is noted in principle that it was raised for the first time with the hearing Memorandum of the complainant. Furthermore, from the provisions of article 12, paragraph 6 GDPR, it follows that in case the data controller has reasonable doubts regarding the identity of the

natural person submitting the access request, the data controller may request the provision of additional information necessary for the confirmation of the identity of the data subject. In this case, the doctor-in charge of processing never expressed doubts to the complainant regarding his identity as the person entitled to exercise the right of access, i.e. as the father of the minor child. Moreover, even if there were such doubts, the doctor-in charge of processing should not only express them to the complainant, but also request additional information according to 10 Cf. APD 71/2017, s. 9 and 89/2017, s. 2. 11 Compare APD 34/2018, especially pp. 14. 15 the above. Finally, such additional information was never requested by the complainant to the complainant. Finally, the claim in question must be rejected beyond the law, moreover, as unfounded in substance, on the one hand because it was not proven, on the other hand, because the complainant herself, extremely contrary to the claim in question, accepted the satisfaction of the request for access to the requested personal data through of the complainant's receipt of a file containing them and which was deposited in the office of her attorney in [region] X. If indeed the medical controller had doubts as to the complainant's identity as a person entitled to exercise the right of access, she would not accept to satisfy for this reason the said request, not even by receiving the file. Therefore, the doctor-in-charge of processing had no doubts and had explicitly recognized the complainant as a person who was entitled to access the personal data of his minor child, in his capacity as a parent. 14. Because with regard to the complainant's request to the Authority to determine a secure and confidential way in order to send the requested data to the complainant, it is clarified that the Authority based on the existing legislative framework and in particular on the basis of the provisions of the GDPR, and in particular article 58 of the aforementioned law, lacks such competence, as otherwise the core of the principle of accountability in paragraph 2 ofArticle 5 of the GDPR. By virtue of said authority, the respective data controller,
as in this case the accused, must be able to prove the
compliance with the obligations introduced by the GDPR, and her request demonstrates her
its lack of compliance with the requirements of the GDPR and in particular the principle of accountability
by no. 5 par. 2 GDPR.
Finally and in connection with the above, it is pointed out that the obligation to satisfy
part of the disputed right of access remains intact
despite the fact of observing the minor child's health book as the latter
by object it is not the same as the medical record of its patients.

15. Because further, the alleged difficulty in informing the access request

and the non-satisfaction of the contested right of access is not justified by the

invoked by the complainant

doctor's lack of familiarity with the handling

16

electronic means of communication as no such exemption from obligations

compliance is provided by the provisions of the GDPR.

16. Because the violation of the right of access of article 15 par. 1 is established

of the GDPR combined with the provisions of paragraphs 1 and 2 of article 12 of the GDPR.

It is also noted in relation to the above that despite the intervention of the Authority which

was charged with the complaint in question and four months later, he has not

even if the complainant's right of access is satisfied by the complainant

doctor 12.

17. According to the GDPR (Ref. Sk. 148) in order to strengthen the enforcement of the rules

of this Regulation, sanctions, including administrative fines,

should be imposed for each violation of this Regulation, additionally or

instead of the appropriate measures imposed by the supervisory authority pursuant to

this Regulation.

18. Based on the above, the Authority considers that there is a case to exercise the following

article 58 par. 2 of the GDPR its corrective powers in relation to the established

violations.

19. The Authority further considers that the imposition of a corrective measure is not sufficient for the

restoring compliance with the provisions of the GDPR that have been breached and that

must, based on the circumstances established, be imposed, pursuant to it

provision of article 58 par. 2 sec. i' of the GDPR, additional and effective, proportionate

and dissuasive administrative fine according to article 83 of the GDPR both to

restoration of compliance, as well as for the punishment of illegal behavior13.

20. Furthermore, the Authority took into account the criteria for measuring the fine which are defined in article 83 par. 2 of the GDPR, paragraph 5 of the same article that has application to the present case and the Guidelines for the application and the determination of administrative fines for the purposes of Regulation 2016/679 which were issued on 03-10-2017 by the Article 29 Working Group (WP 253), as well as the factual data of the case under consideration and in particular:

12 Compare APD 37/2015 and 71/2015, especially sc. 5.

13 See OE 29, Guidelines and the application and determination of administrative fines for the purposes of Regulation 2016/679 WP253, p. 6.

i.

ii.

iii.

iv.

v.

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viii.

The fact that the violation of the right of access also concerns data personal nature of Article 9 GDPR regarding the state of health of the minor child of the complainant (art. 4 c. 15 GDPR), while the being reported deprived him of the opportunity to be informed of the situation health of his minor child.

The fact that the complainant did not satisfy the right of access which exercised by the complainant pursuant to Article 15 para. 1 of the GDPR, despite the provisions to the contrary

her statements of future satisfaction.

The fact of the long duration of non-satisfaction of the right

access despite the Authority's intervention.

The fact that the complainant not only did not facilitate, as she had an obligation

by no. 12 para. 2 GDPR, but on the contrary they inconvenienced the complainant according to

process of satisfying the right of access by specifying as

unique way his transition from Athens to [area] X for the

receiving a file from her attorney amid restrictions

traffic measures to prevent the spread of the coronavirus.

The fact that the violation in this case affected one (1) natural person as

subject of the personal data in relation to his satisfaction

right of access.

The fact that the violation of the right of access is attributable to negligence

of the complainant due to ignorance of the provisions of the GDPR and therefore not

taking relevant compliance measures.

The lack of cooperation of the complainant with the Authority, since while

the Authority in the context of the exercise of its audit-investigative powers

asked for her email address, she refused

grant.

The absence of any actions she could have taken and did not take

complained of to mitigate the damage suffered by the subject of

data and especially the ability to satisfy, even if late, the

right of access.

ix.

x.

xi.

The absence of previous violations of the accused

as a relevant audit shows that it has not been imposed on her to date

administrative sanction from the Authority.

The fact that from the data brought to the attention of the Authority and based on

which found the violation of the GDPR, the controller does not

obtained a financial benefit, nor did it cause material damage to the complainant.

The fact that the violation of the provisions regarding the rights of

subjects is subject, in accordance with the provisions of article 83 par. 5 sec. b'

GDPR, in the highest prescribed category of the rating system

administrative fines.

21. Based on the above, the Authority unanimously decides that it should be imposed on

notified doctor as data controller or referred to in the ordinance

administrative sanction, which is considered proportional to the gravity of the violation.

FOR THOSE REASONS

The beginning

It imposes on the complained controller doctor B the effective,

proportionate and dissuasive administrative fine appropriate to

specific case, according to its special circumstances, amount

five thousand (5,000) euros for the above found violation of the article

15 para. 1 GDPR and 12 para. 1, 2 GDPR, in accordance with articles 58 para. 2 item i and

83 par. 5 item II GDPR.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou