

No. Fac.: 11.17.001.009.161 March 31, 2022 MANUAL DECISION in the form of an Order in accordance with the provisions of Article 52(2)(d) of the GDPR SUBJECT: Complaint for non-compliance with the right of access Taking into account the provisions: (a) of Articles 55(1), 56(2), 57(1)(a) and 58(2)(d) of General Regulation (EU) 2016/679 and (b) of Article 19(5) of Law 125(I)/2018 the following Order is issued: Facts of the case: On 19/7/2021 a complaint was submitted to my Office by XXXXXX through his lawyer (hereinafter the Complainant), for failure to satisfy the right of access by the Cyprus Police (at following the complaint). 2. The Complainant is a member of the Complainant with rank and number, A/Astuf XXXXX. 3. The Complainant, on two different dates, namely on 24/3/2021 and on 28/5/2021, went to the XXXXXX District Police Directorate (ADE) and the Police Headquarters, respectively, to inspect his personal files. 3.1. The Complainant allowed the Complainant to inspect his personal files and take notes. 3.2. According to the Complainant's lawyer, both on 24/3/2021 and on 28/5/2021, the Complainant refused to provide specific copies (blue) requested by the Complainant from his personal file that he inspected at Police Headquarters with serial numbers, K- (341-344), K-(380-386) and K-(387-397) and a specific letter from his personal file that he inspected at the XXXXX District Police Directorate (ADE). 4. On 15/6/2021, through his lawyer, the Complainant, in a letter to the Head of the Complaint, requested to receive a full copy of the contents of his personal files and indicated that the exercise of the right of access is free of charge and does not require justification from the data subject, pursuant to Articles 12 and 15 of the General Regulation for the Protection of Personal Data 2016/679 (hereinafter GDPR). 5. On 2/7/2021, the Administration and Human Resources Office of the Complainant, sent a letter to the Complainant, stating that Regulation 15(3) of the Police (General) Regulations (K.D.P. 51/1989), as amended to date, provides that a member of the Complainant, is entitled, upon his request, to inspect his individual lawyer 1 card and his personal file but in no case is it provided that they can be granted any copies from the folder. 5.1. In the same letter, it is stated that if any member of the Plaintiff requests a copy of his personal information from his personal file, it will be provided to him at no cost. 5.2. In the referenced letter it is recorded that, when the Complainant came to inspect the personal file at the Police Headquarters, he was told that he can receive notes and any photocopies of his personal information. In no case did the Complainant ask any member of the Human Resources Office of the Police Headquarters to provide him with specific copies. 5.3. Regarding the copies requested by the letter of the Complainant's lawyer, dated 15/6/2021, the Defendant answered the complaint that specific documents can be granted, i.e. K – 341 – 380 – 381 – 382 – 387 – 389 – 390 – 391 – 392 – 393 – 394 395 and 397. 6. The Complainant's lawyer on 7/20/2021, after receiving the letter dated 2/7/2021 of the Administration and Human Resources

Department of the Complainant, sent a letter again to the Chief of the Complainant stating the following: 6.1. The Complainant exercised the right of access to his two (2) personal files pursuant to Articles 12 and 15 of the GDPR and in no case was any reference made to the C.D.P. 51/1989. According to the provisions of the GDPR, the Complainant is obliged to hand over to the Complainant, complete copies of his personal files, free of charge without even citing any particular justification. 6.2. The Complainant, at the end of the inspection of his personal file at the Police Headquarters, namely on 28/5/21, recorded part of his findings on the back of his initial letter for inspection of his file, pointing out in the last paragraph, the refusal of the Constable, to grant him copies of K- (386 – 380) and K – (397 – 387). In corroboration of his allegations, he attached a copy of the said letter, a copy of which was handed over to him by the Deputy Constable himself. 6.3. The request referred to the provision of copies of the entire two (2) files and not only the documents mentioned indicatively. The response of the Administration and Human Resources Department to the Complaint, dated 2/7/2021, to the partial satisfaction of the Complainant, is not accepted and, according to him, violates the core of Articles 12 and 15 of the GDPR. Therefore, the Complainant will not only receive the documents from the file of the Police Headquarters and will await the investigation of the complaint he submitted to my Office and my final position on the matter. 7. On 7/21/2021 and 7/26/2021, an Officer of my Office sent a letter to the Data Protection Officer (hereinafter DPO) of the Complainant, stating the allegations of the Complainant's lawyer and indicating that, it does not appear that the right of access has been satisfied and that the response of the various departments of the Defendant to the complaint for partial satisfaction of the request, is not sufficient nor is it a satisfactory explanation. 2 7.1. The Complainant was granted a period of time, until 8/23/2021, either to fully satisfy the Complainant's request, or to explain the reasons why it cannot be satisfied. 8. On 7/28/2021, the Administration and Human Resources department of the Complainant sent a letter to the Complainant's lawyer stating that the content of the letter dated 20/7/2021, it is being investigated and that it will be answered as soon as possible. 9. On 8/24/2021, the Administration and Human Resources department of the Complainant sent another letter to the Complainant's lawyer stating that the consideration of their request has not yet been completed due to the complexity of the matter and the volume of documents. Therefore, he activated the right of Article 12(3) of the GDPR, to extend the deadline for up to two (2) more months. 10. On 10/25/2021, the Complainant's attorney sent a letter to my Office, summarizing the facts and allegations of his client and submitting that the Complainant, four (4) plus months after filing of the original access right request, did not grant his request. 11. On 2/11/2021, a letter dated 1/11/2021, from the Office of the Assistant Chief (D) of the Complaint, in which the following

are mentioned: 11.1. Expresses the concern as to whether the Complainant has an obligation to provide all the documents found in the two (2) personal files (District and Police Headquarters), or whether it is possible to exclude documents of an official nature, related to the orderly operation of Kathi the complaint. 11.2. As stated in the letter, to date the Complainant satisfies the access requests of its members, to the personal files, pursuant to Regulation 15 of the Police (General) Regulations (C.D.P. 213/2004), where it is provided that the member of the Complainant is entitled, upon his request, to inspect his individual card and personal file. At the same time, if requested, members are provided with copies of their personal documents. 11.2.1. In a meeting held at Police Headquarters on 6/10/2020, between the Chief of Police and myself, the above-mentioned procedure was discussed. Draft of the minutes of the meeting dated 6/10/2020, were shared with my Office on 12/10/2020. 11.3. In the present case, the Complainant, at his request, inspected his two (2) personal files, where he had the right to take notes. During the inspection of them, he did not ask to receive copies. Then through his lawyer, he requested that he be given specific copies of documents (Kyanun 341-344, 380-386, 387-397). 11.4. Furthermore, the Complainant states in the complaint that, with the letter dated On 2/7/2021, the Complainant's attorney was informed that copies of documents with Kyanun 341, 380, 381, 382, 387, 389, 390, 3 391, 392, 393, 394, 395 and 397 can be delivered. However, instead of to receive the above, the lawyer came back with a new letter, where he requested full copies of the two (2) personal files of the Complainant. It is noted in the letter dated 1/11/2021 that, in said files, a total of 708 documents are included (cyan). 11.5. The Assistant Chief (D) of the Complainant expresses his concern about what will be the position of the Complainant in the event that its 5587 members request copies of all the contents of their files, which are kept at Police Headquarters and their District Directorate, which include thousands of documents and even free of charge. In addition, he wonders what the administrative costs will be in terms of staff hours and costs for photocopies, since as provided for in the GDPR administrative costs are only imposed for additional copies. 11.6. Specifically, the documents for which there is concern that the complaint should be granted by the Defendant are: a) Letter from the Responsible Level YCAN XXXXX, regarding the request of the A/Asst. XXXXX for hearing (K-342), b) Letter of the Commander of the Defense Ministry, regarding the request of A/Asst. XXXXX for hearing (K-343) c) Note of the Assistant Chief (E), regarding telephone communication of a member of his Office, with the member in question, to arrange a meeting (K-344), d) Note of the Deputy Director of the Police Office, to the Commander of the Defense Ministry, for submission of opinions in relation to the transfer of A/Asst. XXXXX (K – 383), e) Letter of the Commander YKAN, to the Chief of Police, regarding the behavior of A/Ast. XXXXX, in the performance of his

duties, (K-384-

386), f) Letter of the Police Director XXXXXX, regarding the request of A/Asst. XXXXX, for hearing (K-388) and g) Letter from the Ministry of Justice and Public Order, regarding a letter from the Complainant's Lawyer, requesting information on the actions of the Complainant. 11.7. It is the view of the Complainant, that the documents in question are of an official nature, i.e. inter-departmental correspondence, which aims to regulate her orderly operation. They are documents, which were prepared and exchanged between third parties and any granting of them to the Complainant would adversely affect their freedoms.

11.7.1. Furthermore, both these documents, as well as any others that are not personal documents of the applicant or are of an official nature, should not be given to the members in their entirety, to avoid the risk of their notification/disclosure to unauthorized persons. 11.8. Taking into account the relevant provisions/reports of the GDPR, as highlighted below, a number of questions/problems arise regarding the correct handling of the Complainant's request. 11.8.1. The mentioned provisions/references of the GDPR are the following: a) in Article 15.4 where the right to receive a copy referred to in paragraph 3 is provided for, it must not adversely affect the rights and freedoms of others, 4 b) the wording that is used in Article 15.3, where it refers to a "copy of data" and not a copy of documents, or e-mail messages etc., as well as c) recital 63, where, among other things, it explains that: - the right of access in accordance with Article 15, is carried out in order for the data subject to be aware and to verify the legality of the processing, - in case the data controller processes large amounts of information, regarding the data subject, the data controller should be able to request from the data subject, before the information is provided, specify the information or processing activities relevant to the request and the right should not be adversely affects the rights or freedoms of others, such as professional confidentiality, or intellectual property right and in particular, the copyright protecting the software. - 11.9. The Assistant Chief (D) of the Complainant concludes in his letter to my Office, with the following concerns/questions: a) whether, a summary of the data, which is processed, in an understandable form, the which allows the subject to ensure that the data is accurate and processed, in accordance with the applicable legal data protection framework, is considered sufficient and satisfies the right of access, b) whether, the inspection of the personal files and the receipt by him Complainant of notes, it could be considered to satisfy his request, c) whether the request to grant copies, could be rejected, when it is submitted, for purposes other than verifying the legality of the data processing activities, a purpose he considers the Accused the complaint that it was reached by the inspection of the files. In the present case, the Complainant does not state the purpose for which the copies are requested and d) whether the official documents in question

can be excluded, on the basis of Article 15.4 of the GDPR or otherwise since they include personal data of third parties . 12. In what is mentioned in the letter of the Assistant Chief (D) dated 11/1/2021, my Office responded by email on 11/3/2021 that the questions and issues addressed in the letter, as well as the guidance requested, have already been answered by my Office and by me personally. Therefore, the issues raised will be included again in the Prima facie Decision that I am preparing in relation to this complaint. 13. On 7/12/2021 I issued a prima facie Decision against the Complainant, that the non-granting of copies of the documents contained in the two personal files of the Complainant, either after processing or as such, violates the provisions of Articles 12 and 15 of the Regulation and I invited the Complainant to submit her positions in writing, until 7/1/2022. 13.1. In the prima facie Decision, I indicated that there were various remedies which the Complainant could have taken, but did not take, to ensure that the inspection of the files under Regulation 5 15(3) of the Police (General) Regulations (K.D.P. 51/1989), would be done in accordance with the requirements of Article 15 of the GDPR. 14. On 12/30/2021, the Complainant's lawyer requested to be informed at which stage the investigation is and an Officer of my Office informed him on 3/1/2022 that a prima facie Decision had been issued, and that the positions of Ms. of the complaint. 15. On 7/1/2022, the Defendant in the complaint sent her positions with reference to the prima facie Decision and stated that she proceeded to fully satisfy the Complainant's access request, as per the provisions of Articles 12 and 15 of the GDPR. 15.1. In particular, he stated that on 5/1/2022, the Complainant received copies of all the documents contained in his personal files from the Personnel Office of the Service, where he works, and that, in a small number of documents, personal data of third parties was outlined. 15.2. In addition, he informed that, following the instructions of the Chief of Police, a Committee was appointed, which will study my Decision, to submit recommendations based on my recommendations, with the aim of revising the personal file management policy. 15.3. In conclusion, with what Kathis mentioned in the complaint in her letter dated 7/1/2022 believes that she has fully complied with the request and therefore should not be subject to any of the statutory penalties. 16. On 10/1/2022, an employee of my Office sent an email to the Complainant's lawyer and informed him that the Defendant informed us of the complaint by letter dated 7/1/2022 that his client, on 5/1/2022, received copies of all the documents contained in his personal files, after they had undergone the relevant processing, from the Personnel Office of the Service, where he serves and at the same time requested that he inform us if it considers that there is any pending. 17. The Complainant's lawyer in an email dated 11/1/2022, confirmed that on 5/1/2022 the Complainant received a copy of his two personal files, but in a check carried out before receiving them on the same day, he found that a certain number of forms that were present during the first

inspection did not belong to him were delivered and that relevant handwritten entries of the Complainant are present in the letter of receipt of the files. Therefore, relevant itemized list of these forms (which were not delivered to the Complainant) will be sent to my Office as soon as possible for further investigation. 17.1. On the same day, i.e. 11/1/2022, an Officer of the Office replied to me by email, that we would expect clarifications from the Complainant's lawyer regarding the documents that the Complainant claims were not delivered to him. 18. On 2/21/2022, the Complainant's lawyer sent an email with information about the cyanouns that were not delivered but it was not clear and so on 2/23/2022, an Office Officer asked me for clarification and to specifically mention the numbers of the blue for not being delivered. 6 18.1. On 2/25/2022, the Complainant's lawyer sent his allegations his client and clarifications regarding the non-granting of specifics are contained in the two files. 18.1.1. With regard to the file inspected at the XXXXXX District Police Directorate (ADE) on 24/3/2021, the Complainant was not provided with pages 2 to 4 of the blue document K-236 entitled "Training Programs for XXXXXX", dated 3/3/2020, which during the inspection were registered in the file. The 1st page of the letter under reference was delivered to him. 18.1.2. With regard to the file inspected at the Police Headquarters on 28/5/2021, the Complainant was not granted the following: a) pages 2 to 4 of document K-353 entitled "Training Programs for XXXXX", dated 3/3/2020, which during the inspection were registered in the file. The 1st page of the letter under reference was delivered to him. b) 6 letters that referred to alleged applications of the Complainant for his participation in trainings with the title: □ Letter with the title "XXXXXX", dated 22/08/2018 □ Letter titled "XXXXXX", dated 02/11/2018 □ Letter titled "XXXXXX", dated 4/9/2019 □ Letter titled "XXXXXX", dated 9/9/2019 □ Letter titled "XXXXXX", dated 05/02/2020 □ Letter titled "XXXXXX", dated 28/02/2020. The above letters were provided to the Complainant as copies of the file inspected at the XXXXX District Police Department (K-221, K-224, K-230, K-231, K233 and K-235), but the Complainant believes that it will he had to be given copies of the file that was inspected at the Police Headquarters, since they are registered and have a different blue number. of the letter dated 12/11/20 with heading/title c) in the content "Chief Constable XXXXX", K-386, reference is made to other letters dated 2/10/2019, 25/11/2019, 12/2/2020, which are not registered in the file and do not bear a blue number but it is the claim of the Complainant that from the moment they are mentioned they should be granted to him . 18.1.3. In the letter dated 23/2/22 sent by the Officer of my Office to the Complainant's lawyer informed him that the rest of the issues raised by the letter dated 21/2/2022, i.e. the Complainant's signature or the reasons why he was transferred or the procedure followed for transfers or meetings in which he was not present, etc., are not matters that fall within the competence of our Office and will not be examined. The Complainant's lawyer,

in his letter dated 25/2/2022, replied that, regarding the rest of the issues raised in the letter and which will not be examined, a complaint will be made on behalf of the Complainant to the Commissioner for Administration and Protection of Human Rights.

19. On 28/2/2022, an Officer of my Office sent an email to the YPD of the Complainant, recording the allegations of the Complainant. In the same electronic message, he set a deadline until 11/3/2022 for the Complainant to provide copies of the documents listed in paragraphs 18.1.1. and 18.1.2. with elements a and b, if indeed they are registered in the files in question. Regarding item 7 c of paragraph 18.1.2., it does not seem to fall under the access request under consideration. In the event that there are reasons why the documents in question cannot be granted, the applicant should inform us accordingly.

20. On 11/3/2022, a letter was received from the Complainant, with the following content regarding the Complainant's allegations: a) document K-236 of the Provincial File, entitled "Training Programs for XXXXXX", date 3/3/20 and document K-353, of the Headquarters File, with the same title and date, constitute the same document. This is a letter, in which the details of the members of the Police who attended the specific training are recorded. Both in the District File and in the Headquarters File, pages 1 and 2 of the said letter are registered and there are no pages 3 and 4 as claimed by the Complainant. It is noted that page 2 was not delivered to the Complainant, by mistake. b) the six letters, (referred to in paragraph 18.1.2.b) above), are personal applications of the Complainant, for participation in various trainings. Such applications are filed only in the District File and there are no copies filed in the Headquarters File. c) the letters, referred to in paragraph 18.1.2.c) above, are not archived in the Personal Files, therefore, they cannot be given to the Complainant.

20.1. Also, the Complainant, noted that the Complainant was informed by telephone about what is mentioned in paragraph 20 above from the Central Office of Human Resources, Police Headquarters and replied that, on 14/3/2022, he will personally go to Personnel office of Y.A&M., where he currently serves, to pick up page 2 of document K-236.

Legal aspect: 21. Article 4 of the GDPR defines: personal data as "any information concerning an identified or identifiable natural person" ("data subject"); an identifiable natural person is one whose identity can be ascertained , directly or indirectly, in particular by reference to an identifier such as a name, an ID number, location data, an online identifier or one or more factors specific to the physical, physiological, genetic, psychological, economic, cultural or social identity of the natural person in question", the processing as "any act or series of acts carried out with or without the use of automated means, on personal data or sets of personal data, such as the collection, registration, organization, structuring , storing, adapting or changing, retrieving, searching for information, using, communicating by transmission, disseminating or any other form of disposal, association or combination, restriction, erasure or destruction" and

as controller "the natural or legal person, public authority, agency or other body which, alone or jointly with others, determine the purposes and manner of processing personal data; where the purposes and manner of such processing are determined by Union law or the law of a Member State, the controller or the specific criteria for his appointment may be provided for by law of the Union or the law of a Member State". 22. Article 12 states the following "1. The controller shall take appropriate measures to provide the data subject with any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and Article 34 regarding the processing in a concise, transparent, comprehensible and easily accessible form, using clear and simple wording, especially when it comes to information aimed specifically at children. The information is provided in writing or by other means, including, if appropriate, electronically. When requested by the data subject, the information may be given verbally, provided that the identity of the data subject is proven by other means. 2. The data controller shall facilitate the exercise of the data subjects' rights provided for in articles 15 to 22. In the cases provided for in article 11 paragraph 2, the data controller shall not refuse to act at the request of the data subject to exercise the rights of under Articles 15 to 22, unless the controller proves that he is unable to ascertain the identity of the data subject. 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. If the data subject makes the request by electronic means, the information shall be provided, if possible, by electronic means, unless the data subject requests otherwise. 4. If the controller does not act on the data subject's request, the 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 of the possibility filing a complaint with a supervisory authority and taking legal action. 5. The information provided pursuant to Articles 13 and 14 and any notice and all actions taken pursuant to Articles 15 to 22 and Article 34 shall be provided free. If the data subject's requests are manifestly unfounded or excessive, in particular due to their repeated nature, the controller may either: a) impose the payment of a reasonable fee, taking into account the administrative costs of providing the information or communication or perform the requested action, or b) refuse to act on the request. The controller bears the burden of proving the manifestly unfounded or excessive nature of the request." 23. Article 15 paragraph 1 of the GDPR provides that: "The data subject has the right to receive from the data controller confirmation as to whether or not the personal data concerning him is being processed and, if



this is the case, the right of access to the personal data and the following information: a) the purposes of the processing, b) the relevant categories of personal data, c) the recipients or categories of recipients to whom the personal data has been disclosed or is to be disclosed, in particular the recipients to third countries or international organizations, d) if possible, the period for which the personal data will be stored or, when this is impossible, the criteria that determine said period, e) the existence of the right to submit a request to the controller processing to correct or delete personal data or limit the processing of data of a personal nature concerning the subject of the data or the right to object to said processing, f) 9 of them, h) the origin of the right to submit a complaint to a supervisory authority, g) when the personal data is not collected from the subject of the data, any available information about the existence of automated decision-making, including profiling, provided for in Article 22 paragraphs 1 and 4 and, at least in those cases, important information about the logic followed, as well as the meaning and intended consequences of that processing for the data subject." 23.1. In paragraph 3 of the same Article it is stated that "The data controller provides a copy of the personal data being processed. For additional copies that may be requested by the data subject, the controller may charge a reasonable fee for administrative costs. If the data subject submits the request by electronic means and unless the data subject requests otherwise, the information shall be provided in a commonly used electronic format.", while in par. 4 it states that "The right to receive a copy referred to in paragraph 3 does not adversely affect the rights and freedoms of others." . (More correctly worded in the English text of the Regulation) "The right to obtain a copy referred to in paragraph 3 shall not adversely affect the rights and freedoms of others." . 24. Finally, in recital (63) it is clarified that: "A data subject should have the right to access personal data collected and concerning him and be able to exercise this right easily and at reasonably regular intervals, in order to be aware of and verify the legality 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, assessments by treating doctors and any treatment or procedure provided. Therefore, each data subject should have the right to know and to be notified in particular for what purposes the personal data is being processed, if possible for how long the personal data is being processed, which recipients receive the personal data character, what logic is followed in any automatic processing of personal data and what could be the consequences of such processing, at least when it is based on profiling. The 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. This right should not adversely affect the rights or freedoms of others, such as professional secrecy or intellectual property right and, in particular, the copyright

protecting the software. However, these factors should not have the effect of refusing to provide any information to the data subject. Where the controller processes large amounts of information about the data subject, the controller should be able to ask the data subject, before the information is provided, to specify the information or processing activities related to the request." 25. The provisions of article 58(1) of the GDPR state that "1. Each supervisory authority shall have all of the following investigative powers: a) to order the controller and the processor and, where appropriate, the representative of the controller or the processor 10 to provide any information it requires for the performance of its duties, b) to carry out investigations in the form of data protection audits, c) to review the certifications issued in accordance with Article 42 paragraph 7, d) to notify the controller or processor of alleged violation of this regulation, e) to obtain, from the data controller and the processor, access to all personal data and all information required for the performance of its tasks, f) to have access to the facilities of the data controller processing and the person performing the processing, including any equipment and means of processing data processing, in accordance with the procedural law of the Union or a Member State". 25.1. Pursuant to the provisions of Article 58.2 of the GDPR, ... "2. Each control authority has all the following corrective powers: a) to issue warnings to the controller or processor that intended processing operations are likely to violate provisions of this Regulation, b) to reprimand the controller or processor when processing operations have violated the provisions of this regulation, c) instruct the controller or processor to comply with the data subject's requests for the exercise of his rights in accordance with this regulation, d) instruct the controller processing or to the processor to make the processing operations comply with the provisions of this regulation, if necessary, in a specific way and within a certain period, e) instruct the controller to notify the personal data breach to the subject of n data, f) to impose a temporary or definitive restriction, including the prohibition of processing, g) to order the correction or deletion of personal data or the restriction of processing pursuant to articles 16, 17 and 18 and an order to notify recipients of these actions in whose personal data was disclosed pursuant to Article 17(2) and Article 19, h) to withdraw the certification or to order the certification body to withdraw a certificate issued in accordance with Articles 42 and 43 or to order the certification body not to issue certification, if the certification requirements are not met or are no longer met, i) to impose an administrative fine pursuant to article 83, in addition to or instead of the measures referred to in this paragraph, depending on the circumstances of each individual case, j) to order a suspension the circulation of data to a recipient in a third country or an international organization..." 26. The content of paragraph 3 of Article 89 of the GDPR states that: "... Where personal data are processed for archiving purposes in the public interest, Union or Member State law may provide for derogations from the rights

referred to in Articles 15, 16, 18, 19, 20 and 21, subject to the conditions and of the guarantees referred to in paragraph 1 of this article, since said rights are likely to make impossible or seriously hinder the achievement of the specific purposes and since said derogations are necessary for the fulfillment of said purposes"... Rationale : 27. In this case, the essential question to be answered is vs how much the Complainant, after the prima facie decision, as 11 of the two content (2) personal files controller, satisfied the Complainant's access request, in accordance with the provisions of Articles 12 and 15 of the GDPR.

28. According to the facts before me, the Complainant went on two different dates, namely on 24/3/2021 and on 28/5/2021, to the XXXXXX District Police Directorate (ADE) and the Police Headquarters, respectively, to inspect his personal files. 28.1. After the completion of the two (2) inspections, he requested copies of certain documents which were initially not provided to him but he was allowed to take notes during the inspection of his personal files. 29. The Complainant's lawyer by letter dated 15/6/2021, to the Head of the Complainant, exercised the right of access based on Articles 12 and 15 of the GDPR and requested that the Complainant receive a full copy of the contents of his two (2) personal files. 29.1. On 2/7/2021 the Administration and Human Resources Office of the Complainant informed the Complainant's lawyer that a total of 13 copies of documents can be delivered to his client. 29.2. The Office of Administration and Human Resources of the Complainant ignored the fact that the right of access was exercised to obtain a full copy of the Complainant and focused on mentioning specific cases and selected some of them to be delivered to the Complainant, without giving sufficient or even no explanation of the reasons. 29.3. It should be noted that the GDPR takes precedence over any national legislation. Hence the reference to the letter dated 2/7/2021 that Regulation 15(3) of the Police (General) Regulations (K.D.P. 51/1989), as amended to date, provides that a member of the Complainant, is entitled, after his request, to inspect his individual card and his personal file but under no circumstances is it intended that any copies of the file may be granted, except in the event that any member of the Complainant requests a copy of his personal information from his staff envelope, provided to him at no cost, is without object.

30. In the electronic messages dated 21/7/2021 and 26/7/2021, which were sent by an Officer of my Office to the Complainant already mentioned, among other things, that the response of the various departments of the Complainant for partial satisfaction, is not sufficient nor is it a satisfactory explanation. 30.1. The deadline set by my Office for the Defendant to put before me the complaint the reasons why the Complainant's request cannot be satisfied, ended on 23/8/2021. 31. On 8/24/2021, a notified letter was sent to my Office from the Administration and Human Resources Department of the Complainant to the Complainant's lawyer, informing him that the examination of his request has not yet been completed due to

the complexity of the subject matter and the volume of documents. For this purpose, they invoked the provisions of Article 12 par. 3 of the GDPR to extend the deadline for up to two (2) more months. 12 31.1. In the first part of Article 12.3 of the GDPR it is provided that: "The data 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". In the present case, the Complainant submitted his initial request to the Complainant on 15/6/2021, which was not satisfied or did not receive any response, and therefore submitted on 19/7/2021 a complaint to My office. My Office sent letters to the Complainant on 21/7/2021 and 26/7/2021, informing her of the Complainant's allegations and granting a period of time for full satisfaction of the request and/or explanation of the reasons cannot be satisfied. 31.1.2. In the second part of Article 12.3. of the GDPR, it is provided that "... This deadline may be extended by two more 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. If the data subject submits the request by electronic means, the information shall be provided, if possible, by electronic means, unless the data subject requests otherwise"... In the present case, the Complainant I consider not did not adequately inform either the Complainant or my Office of the reasons for the two (2) additional month extension. The letter dated 8/24/2021, makes a general and vague reference to the complexity of the case and volume of documents. Even if I were to consider that the justification for the extension was sufficient, once again the Defendant did not act within the time limits. The two (2) month extension expired on 10/24/2021 and the contents of the two (2) personal files were delivered to the Complainant on 1/5/2022. 32. On 1/11/2021, a letter was sent signed by the Assistant Chief (D) of the Complainant, the content of which is mentioned above in paragraphs 11 to 11.9 and which I will not repeat to save space. 32.1. In the letter dated 1/11/2021 various concerns and questions are recorded regarding the case in question but also more generally about how to handle similar cases. In the email dated 3/11/2021 sent by my Office, it was stated that the questions and issues mentioned in the letter, as well as the guidance requested, have already been answered by my Office and myself personally. In any case, the issues raised were included again in the prima facie Decision that I issued on 7/12/2021 and are repeated below: 32.2. In the content of the letter dated 1/11/2021 reference is made to the minutes of the meeting I had with the Chief of the Complaint on 6/10/2020, where, among other things, the following is written on the specific subject "... Currently it was clarified that the members of the Police , they can get copies of their personal documents, but not the contents of the entire personal file and specific official documents, such as annual evaluations etc...". I should mention that

no reference was made to documents as described in the letter dated 1/11/2021 and in any case, what is considered a service document should be determined by the Complainant herself.

32.3. According to the Manual of Organization and Operation of Archives in the Public Service (3rd edition), issued by the Press and Information Office and prepared with the assistance of the Department of Public Administration and Personnel, in point 3.2.2. under the title Content of the Files, the following are written among others: "... In this respect, in the personal files, the documents that include personal matters and relate to: 1. appointments and promotions 2. should be registered as originals (originals). placement/movement/transfer, 3. salaried placement/joining, 4. passing exams, 5. additional qualifications, 6. recognition of seniority, 7. postings, 8. termination (however, in case of a disciplinary investigation, this is conducted in a separate file and the its final conclusion is also communicated in the personal file), 9. leave (without pay, educational, etc.) – (It is understood that requests for unpaid rest are only registered in the leave files of each employee), 10. retirement/resignation and 11. benefits (pension etc) Copies of the above matters must also be registered in the relevant files of the relevant matters kept in the Archives, except in those cases where the observance of such files is not required at all cells so that there is a complete picture of the personnel matters of each Service... Documents concerning repeated personal matters of the employees, such as private or overtime employment, advances, allowances, etc. do not need to be registered in the personal files. It is also noted that Service Reports are not registered in the personal file."...

32.4. The manual in question has been circulated to all Ministries/Public Departments/Authorities and is also posted on the internet, and it provides clear guidelines and/or guidance for the proper functioning of the Public Service and for the specific issue that concerns the present case, for the i.e. what should the personal file contain. By analogy, the Complainant could already adjust the content of its members' personal files on the basis of this manual. If he is already doing so, this is not evident even from the content of the letter dated 1/11/2021 nor has anything relevant to prove and/or indicate this been put before me.

32.5. Regarding the interpretation given by Kat's of the complaint to specific provisions/reports of the GDPR, I will mention the following.

32.5.1. In the definition of "personal data", the reference to the phrase any information relating to an identified or identifiable natural person, I consider to be self-explanatory and need not specify whether it is copies of documents or e-mails etc.

32.5.2. Recital 63 of the GDPR states, among other things, the following: "... 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. This right should not adversely affect the rights or freedoms of others, such as professional secrecy or intellectual property right and, in particular, the copyright protecting the software. However, these

factors should not result in a refusal to provide any 14 information to the data subject. Where the controller processes large amounts of information about the data subject, the controller should be able to ask the data subject, before the information is provided, to specify the information or processing activities related to the request." 32.5.2.(a). Therefore, in the event that documents that are in the Complainant's personal file, provided to him as such, may negatively affect the rights or freedoms of third parties, including the Complainant, then the Complainant shall be required, in accordance with Article 15(4) of the GDPR to find alternative ways of granting them, such as for example deleting the data of third parties in the copies that will be granted. 32.5.2.(b). Additionally, I have not observed that the Complainant has been asked to limit and/or specify the information he is requesting, or that the issue of the volume of documents has been raised, beyond a general reference in the letter dated 24/8/2021, when informed of the extension. And my Office was informed about the claim of volume of documents in the letter dated 1/11/2021, i.e. after more than four (4) months have passed since the Complainant's initial request and two (2) more months since the deadline set by my Office for the Defendant to file the complaint for the non granting of the documents. 32.5.2.(c). Yes, the right of access is exercised in order for the data subject to be aware and verify the legality of the processing, but this does not deprive him of the right to receive a copy if he wishes, always within the general provisions of the GDPR. 32.6. Bearing in mind the provisions of paragraph 3 of Article 89 of the GDPR, the Complainant could establish a C.D.P, in which the cost of staff hours should be taken into account but not the cost of photocopying expenses, in the event that personal files contain a large number of documents. In the present case, since there is no such legal regulation, the provision of any copies should be made free of charge. 32.7. As far as the present case is concerned, the Complainant could have provided the Complainant with the documents she thought could be provided to him and explained to him the reasons why the remaining documents could not be provided to him. 32.8. It should be noted that the initial access granted to the Complainant, i.e. on 24/3/2021 and 28/5/202 by inspecting his files and taking notes, was unhindered even to documents that the Complainant mentions later in her letters, as "official documents" and/or "memoranda". 33.1. By way of illustration, I repeat the previous guidance I have given from time to time regarding the handling of access requests: 33.1.1. In relation to whether, a summary of the data, which is processed, in an understandable form, which allows the subject to be sure, that the data is accurate and processed, in accordance with the applicable legal data protection framework, 15 is considered sufficient and satisfies the right of access, I refer you to the relevant Decision of the Court of Justice of the European Union dated 17/06/2014, in the co-litigation cases C 141/12 and C 372/12c. In this case it was decided, among other things, that the Dutch

legislation which provided for asylum seekers to be provided with only a summary of the legal analysis for the approval/rejection of their application and not a copy of the said analysis, did not satisfy the requirements of Article 12 of the Directive 95/46/EC. 33.1.2. Therefore, based on the reasoning of the above Decision, the provision of a summary of the data being processed, in an understandable form, which allows the subject to be sure, that the data is accurate and is being processed, in accordance with the applicable legal framework data protection, can be considered to satisfy the requirements of Articles 12 and 15 of the Regulation, provided that the data subject has not explicitly requested a copy of a document that concerns him/her. 33.2.1. In relation to whether the inspection of the personal files and the taking of notes by the Complainant could be considered to satisfy his request, first of all I note that, in accordance with Article 15(4) of the GDPR, Ms. of the complaint has an obligation to ensure that the provision of copies "does not adversely affect the rights and freedoms of others". This article must be interpreted expansively in the following sense: First of all, the word "other" must be interpreted to include both natural persons, apart from the data subject, as well as the Complaint itself. 33.2.2. Secondly, "others" must enjoy the protection of their rights and liberties, both when providing copies and when inspecting files based on Regulation 15(3) of the Police (General) Regulations (K .D.P. 51/1989). Therefore, when exercising the right to inspect the files, the Complainant must ensure that documents or excerpts thereof are outlined, the disclosure of which would adversely affect her or other persons' rights and freedoms. In the instant case, the Complainant, by giving the Complainant the right to inspect his files and take notes during the two inspections on 3/24/2021 and 5/28/2021, failed to protect the rights and liberties of herself or others. 33.2.3. Consequently, the inspection of personal files and the taking of notes by the Complainant could be considered to satisfy the requirements of Regulation 15(3) of the Police (General) Regulations (C.D.P. 51/1989), if the Complainant had not expressly requested copies of documents concerning him. As long as a request expressly concerns obtaining copies, the inspection of the file cannot be considered to satisfy the requirements of Article 15(3) of the GDPR. At the same time, while the inspection of the files was in accordance with Regulation 15(3) of the Police (General) Regulations (K.D.P. 51/1989), the Defendant's failure to outline documents or excerpts of those that damaged the rights and freedoms of herself or other persons, constitutes a violation of Article 15(4) of the GDPR. 33.3. In relation to whether the request to obtain copies could be rejected, when it is submitted for purposes other than the verification of the legality of the data processing activities, a purpose which the Complainant believes can be achieved by the inspection of the files and since the Complainant had not stated the purpose for which 16 he was requesting the copies, as I explain above, the inspection of files meets the requirements of

Regulation 15(3) of the Police (General) Regulations (K.D.P. 51/1989), but does not satisfy the requirements of Article 15(3) of the GDPR. Furthermore, under no circumstances does the Article in question provide for the applicant to state the reason for which he is requesting some copies, since such a thing circumvents both the letter and the spirit of the GDPR. 33.4. In relation to whether official documents can be excluded, on the basis of Article 15(4) of the GDPR or otherwise, since they include personal data of third parties, as I explained above, when the right to inspect the files is exercised, the Complainant must ensure that documents or excerpts thereof are outlined, the disclosure of which would adversely affect the rights and freedoms of her or others. 33.5. There were various remedies which the Complainant could have taken, but did not take, to ensure that the inspection of the files under Regulation 15(3) of the Police (General) Regulations (C.D. P. 51/1989), was done in accordance with the requirements of Article 15 of the GDPR. I mention the following measures as examples:

(a) The adoption of derogations regarding the exercise of the right of access, with internal legislative regulations, pursuant to Article 89 of the GDPR. The these exceptions must in no way limit the right access. However, in derogation of the provisions of Articles 12 and 15, the these settings could e.g. to provide for a longer period to satisfy a request for access by file inspection, where required to outline documents or passages adversely affecting the rights and liberties of others or even the payment of a fee when the request concerns a volume of copies.

(b) The end of the practice of registering "official" documents in personal files, access to which is governed by the Regulation 15(3) of the Police (General) Regulations (K.D.P. 51/1989).

(c) The adoption of a procedure that ensures that, when exercising its right personal file inspection, "official" documents are removed from the personal file and are registered in a temporary file, as well as that, the applicant is informed that:

(j) may inspect both files,



(ii) may receive copies, without shadowing, only from his personal file

and that,

(iii) if it requests copies of the temporary file, the Police has an obligation

to shade documents or passages which adversely affect the rights and

the liberties of others.

34. The Complainant, after receiving the prima facie Decision,

dated 7/12/2021, delivered to the Complainant the entire content

of his two personal files (Provincial and Headquarters), with sketches,

as mentioned, in a small number of documents the personal data

of third parties.

35. I cannot but comment, that although there was compliance on the part of

of Kathi's complaint, however the time period that has passed since

date of submission of the initial request, i.e. 15/6/2021 up to and including

its implementation, i.e. 5/1/2022, was over seven (7) months.

36. The content of the provisions of the GDPR is clear and gives guidance,

to data controllers, how to handle requests that

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concern the rights of data subjects. In the present

case, both before filing the complaint with my Office, and

then, Kat's reduced the complaint and circumvented the deadlines that

provided by the GDPR, without sufficient and/or no justification.

Conclusion/Conclusion:

37. In the light of the superiors and exercising the powers conferred on me by the

provisions of article 58(1)(d) I inform the Defendant of the complaint that I find

violation of Article 12 par. 3 of the GDPR, which concerns his obligation

controller, in the specific case of the Complainant,

to respond to the satisfaction and/or reasoned rejection of the request

of the data subject, within the statutory period of time.

38. Under Article 58(2) of the GDPR, I have the power to impose an administrative penalty

to the Complainant, for the above violation of the provisions of the GDPR.

After taking into account the mitigating (a - f) and aggravating factors below

factors (g – h):

(a) the position of the Defendant, the complaint that the volume of documents which

were asked and the questions he had, led to the delay

satisfaction of the Complainant's request and not on purpose or reason

negligence,

(b) the fact that the Defendant filed the complaint, even with delay

fully satisfied the Complainant,

(c) the fact that the Complainant cooperated with my Office

and appointed a Committee, which will study the prima facie Decision

date 7/12/2021 to submit proposals based on my recommendations with

for the purpose of establishing a personal file management policy,

(d) the fact that the Defendant complies with the complaint technically and organizationally

security measures, which however need frequent updating and

tracking,

(e) the fact that the Complainant does not appear to have suffered any damage

from late satisfaction of the request,

(f) the extent of the breach and the number of subjects thereof

data affected by the breach, i.e. the Complainant,

(g) even though the breach relates only to the Complainant, the

procedures followed by the Defendant in the complaint, lead to a violation

which concerns all of its members, and

(h) the procedures followed by the Defendant in the complaint and provided for in K.D.P. 51/1989 should have been modernized a long time ago, so that they are consistent with the provisions of the GDPR, exercise the powers granted to me by the provisions of Article 58(2).(d) of the GDPR, and I consider it more convenient, in the first instance, to give Kathys the complaint the following COMMAND:

within 4 months, i.e. until 31/7/2022, to establish submission procedures and satisfaction of the rights of the data subjects as provided for in the GDPR and to notify them to my Office.

39. In case the Complainant does not comply with the above ORDER within the aforesaid deadlines, I will consider with a new decision, the necessity of taking stricter administrative measures against her.

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Irini Loizidou – Nikolaidou

Protection Commissioner

Personal Data

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