

No. Fac.: 11.17.001.007.068 August 2, 2019 Mayor and Municipal Council of the Municipality XXXXXXXXXXXXXXXX City Hall XXXXXXXXXXXXXXXX PERSONAL DATA PROTECTION COMMISSIONER DECISION SUBJECT: Complaint for a possible violation of the GDPR Regarding the complaint submitted to my Office on 3/15/2020 the lawyer K.X. on behalf of its customers, XXXXXXXXXXXX and XXXXXXXXXXXX (hereinafter "Complainants"), for illegal notification/announcement of their personal data by unauthorized persons of the Municipality XXXXXXXXXXXX (hereinafter "Complainant"), I would like to inform you of the following.

2. In particular, the lawyer of the Complainants, in his letter, states that his clients are workers in the Municipality XXXXXXXXXXXX and that on and/or around November 2018 they found that a list in which their personal data, such as their names, jobs and salary , had been leaked and circulated both in public places (e.g. a coffee shop) and in places used by employees of the Municipality XXXXXXXXXXXX (e.g. warehouses, canteens, etc.). 2.1. It is the claim of the Complainants' lawyer that this list is a confidential document, which was in the custody of the Municipality XXXXXXXXXXXX and access to it is given to the administrative staff of the Municipality. 2.2. As a result of the leak, his clients have been damaged as the release of their data, and especially their payroll, has been commented on in the form of gossip and belittling, and even mockery, both by their neighbors and by their colleagues who work in other sectors of the business. Municipality and/or in other Municipalities. 3. Our Office informed the Plaintiff, Municipality XXXXXXXXXXXXXXXX, about the allegations of the Complainants and asked for his own opinions and positions on the matter. Positions of the Plaintiff according to the letter of his lawyer and the attached documents

4. The lawyer of the Plaintiff responded with an electronic message dated 3/6/2019, in which the following are mentioned: 4.1. On 29/3/2018, a session of the Municipal Council took place at the offices of the Municipality, where, among other things, the Municipal Council was informed about the imminent implementation of the General Regulation on the Protection of Personal Data (EU) 2016/679 (hereafter GDPR). Additionally, in the actual integration process, it was decided that the Municipality should proceed with all the necessary actions for compliance of the Municipality with the GDPR and mainly for the announcement of an offer for a Consultant for the correct implementation of the GDPR. 4.2. On 25/5/2018, the Municipal Secretary sent an informational circular to all employees/executives of the Municipality about the start of GDPR application and at the same time informed them regarding the necessity of their compliance with GDPR, such as not sharing personal data with third parties except in cases where this is required by relevant laws or regulations. 4.3. Around August 2018, the office of Koussios, Korfiotis, Papacharalambous D.E.P.E. was assigned the compliance project of the Municipality XXXXXXXXXXXX with the GDPR, which is still ongoing. 4.4. On 8/29/2018, a session of the Administrative Committee of the Municipality was held,

where the Mayor, among other issues, informed the members of the Administrative Committee and of the Water Supply Department of the Municipality XXXXXXXXXXXX at the Larnaca Water Supply Council (hereinafter "SYL"). The two complainants are employees of the Water Supply Department of the Municipality XXXXXXXXXXXX. Following the session, the list of Municipality employees who will join/move to SYL was discussed. The list in question was prepared by the Municipal Treasurer and reproduced in seven (7) copies, which were delivered to the Mayor in a sealed envelope. Each councilor who took part in the session of the Administrative Committee, officially received a copy of the list.

4.5. On 5/9/2018, a new session of the Management Committee was held, during which, in addition to other matters discussed, the Mayor expressed his displeasure that the list had been leaked between 29/8/2018 and 31 /8/2018, to people outside the Administrative Committee and more specifically to the workers of the Water Supply Department of the Municipality themselves. In addition, the Mayor reminded all the members of the Administrative Committee, the duty of confidentiality and privacy that the members of the Municipal Council have, in relation to the communication of confidential documents and information to unauthorized persons.

4.6. At the session in question, the Municipal Councilor, XXXXXXXXXXXX, admitted that he gave a copy of the list to a third person, but without, as he stated, having bad intentions, since as he stated "those on the list knew that they would be moved in SYL".

4.7. As the lawyer of the Defendant states in the complaint, it is clear that the leakage of the list was done without any bad intention, and in violation of the instructions of the Mayor, the Municipal Secretary as well as the Municipality's compliance procedure with the GDPR.

4.8. Following XXXXXXXXXXXX's admission, the Municipality proceeded with an internal investigation where it was found that the list was given by XXXXXXXXXXXX to the Foreman of the Water Supply Department of the Municipality XXXXXXXXXXXX, who in turn forwarded the information in the list to the workers/employees of his department. The Municipality has no information about the directory or its information being leaked to other people, as the complainants' lawyer claims.

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4.9. In the list in question, information was written about the people who would join the SYL, such as name, date of employment, position scale, scale level in which the employee is and salary details.

4.10. Bearing in mind the above, the Municipality examined and concluded that the leakage in question constituted a violation in accordance with the provisions of the GDPR since there was unauthorized disclosure and access of personal data by unauthorized persons, and then considered the possibility of disclosing the of a breach in my Office and/or to the affected data subjects, which it did not proceed after concluding that the specific case of breach falls within the exception of Article 33 of the GDPR, since it is not likely to cause a risk to the rights and freedoms of the affected natural persons.

4.11. Due to the above-mentioned leak, the

Municipality's GDPR compliance procedures have been accelerated, including detailed training of the staff and all members of the Municipal Council in relation to the GDPR, to avoid, as far as possible, any leaks/ violations. 4.12. In particular, on 13/6/2019, an extraordinary training was held for the members of the Municipal Council by the office of the lawyers of the Complainant, on issues related to the correct application of the GDPR. At the end of the GDPR compliance procedures, training will take place for all the Municipality's staff. 4.13. To date, as the Defendant's lawyer states in the complaint, the following have been completed: □ Report of the existing situation after a study and examination of the gaps and weaknesses of the Municipality in relation to the GDPR (Gap Analysis), □ Data Security Inspection Report , □ Record of Activities, □ Description of GDPR requirements and obligations of the Data Protection Officer, □ Internal Privacy Policy, □ Data Protection System, □ Personal Data Breach Response Plan. 4.14. All the technical and organizational measures that the Municipality already implements or plans to implement are included in the Data Protection System Manual. In addition, the detection, management and response process is covered in the Personal Data Breach Response Plan which also includes the notification of data breaches to my Office. 4.15. On 18/6/2019, the lawyer of the Plaintiff, sent via e-mail, an extract of the minutes of the session dated 5/9/2019 of the Municipality, in which there is a recorded statement of admission of the Municipal Councilor, XXXXXXXXXXXXX that he gave a copy of the list to a third person, justifying his act that everyone who was on the list knew that they would be transferred to SYL. 4.16. In relation to the above mentioned and in support of the positions of the Municipality, its lawyer sent: the Administrative Committee 3 of a) a copy of the Record of Personal Data Processing Activities, which is in the stage of final revision, b) a copy of the list . 5. My Office, by letter dated 19/6/2019, informed the Municipal Councilor, XXXXXXXXXXXXX, about the allegations of both the complainants as well as the Complaint and asked for his own opinions and positions on the matter. Positions of Municipal Councilor XXXXXXXXXXXXX 6. The Municipal Councilor XXXXXXXXXXXXX, XXXXXXXXXXXXX, in a letter dated 7/18/2019 states that he does not disagree with the position of the Municipality XXXXXXXXXXXXX and that with good intentions he gave the Supervisor of the specific Department the list, for internal use, since he knew that all the information contained in said list was known to those affected and interested. 6.1. Specifically, as he mentions, the list included those transferred to SYL, who knew it, as well as their specialties and salaries, information known to each other, since they have been working together for years and know each other's information. 6.2. He repeats that the list in question was given without bad intentions and without knowing that there was any violation, since the specific information was known to all those affected and was given internally to the Municipality. 7. My Office, with a letter dated 16/7/2019, informed the Supervisor

XXXXXXXXXX, about the allegations of the complainants and the Defendant of the complaint and asked for his own opinions and positions on the matter. Foreman Positions XXXXXXXXXXXXXXXX 8. The Foreman XXXXXXXXXXXXX, in a letter dated 30/7/2019 states that considering that the data of the list was all known to those affected and without any bad intention or to the detriment of anyone, he gave the list only to his subordinates, who together with him will move to SYL and who already knew the entire content of the directory. Legal aspect: 9. According to Article 32 of the GDPR concerning the security of processing: "1. Taking into account the latest developments, the cost of implementation and the nature, scope, context and purposes of the processing, as well as the risks of different probability of occurrence and severity for the rights and freedoms of natural persons, the controller and the executor the processing implement appropriate technical and organizational measures in order to ensure the risks, including, among others, as the case may be: the appropriate level of security against 4 the regular testing, of privacy, integrity, assessment and evaluation of the possibility of ensuring a) pseudonymization and encryption of personal data, b) the availability and reliability of processing systems and services on a continuous basis, c) the possibility of restoring the availability and access to personal data in a timely manner in the event of a physical or technical event, d) the procedure for efficiency of the technical and organizational measures to ensure the security of the processing. 2. When assessing the appropriate level of security, particular consideration shall be given to the risks deriving from processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access to personal data transmitted, stored or otherwise submitted to processing. 3. Compliance with an approved code of conduct as referred to in article 40 or an approved certification mechanism as referred to in article 42 may be used as evidence of compliance with the requirements of paragraph 1 of this article. 4. The controller and the processor shall take measures to ensure that any natural person acting under the supervision of the controller or the processor who has access to personal data processes it only on the instructions of the controller, unless required to do so by Union or Member State law." 9.1. In addition, References 74 and 83 of the Preamble of the GDPR state, among other things, that the controller should be required to implement appropriate and effective measures and be able to demonstrate GDPR compliance, including the effectiveness of the measures. 9.2. Such measures should take into account the nature, context, scope and purposes of the processing and the risk to the rights and freedoms of natural persons. To maintain security and avoid processing in breach of this Regulation, the controller or processor should assess the risks involved in the processing and implement measures to mitigate those risks, such as through encryption. Such measures should ensure an appropriate level of security, which includes confidentiality, taking into account the latest developments and

the cost of implementation in relation to the risks and the nature of the personal data to be protected. Facts/Rationale: the Section 10. After an investigation that preceded it, we found that the Water Supply of the Municipality XXXXXXXXXX will be abolished and its workers/employees will be transferred to SYL. The interested parties were aware of this process and were aware of their transfer to the SYL. 11. In the present case, there is the admission of the Municipal Councilor, XXXXXXXXXX, that he gave a copy of the list to the Foreman of the Water Supply Department of the Foreman of the Municipality XXXXXXXXXX and the admission of processing activities on 5 XXXXXXXXXX that he forwarded the list in question to the subordinates of his Department , the details of which, together with the same, are included in the list under reference. 12. The admission that the Municipal Councilor, XXXXXXXXXX gave a copy of the list to a third person, is recorded in the minutes of the session dated 5/9/2019 of the Administrative Committee of the XXXXXXXXXXXXXXXX Municipality. As an excuse for his action, the Municipal Councilor stated that all those on the list knew that they were about to be moved to SYL. 12.1. In addition, the Municipal Councilor XXXXXXXXXX in a letter dated 18/7/2019, responding to my Office's letter dated 19/6/2019, confirmed that he gave the Foreman the list in question, acting as he states in good faith since everyone the interested and affected parties were aware of their movement as well as other items listed in said list. 12.2. This act of the Municipal Councilor XXXXXXXXXX made him a separate data controller with all the consequent obligations under the GDPR and the act in question is being investigated separately. 12.3. The Superintendent XXXXXXXXXX in a letter dated 30/7/2019, in response to a letter from my Office dated 16/7/2019, stated that he forwarded the specific list to his subordinates, without bad intent or with the intention of harming anyone, since its content directory was already known to all affected. 12.4. Given that the relationship of the Municipality with the Foreman and the Foreman with his subordinates is a work one, since both the Foreman and his subordinates belong to the Municipality's staff, the promotion of the said list by the Foreman to the subordinate employees does not makes a separate controller but an act that needs internal handling. 13. The data mentioned in the reference list and concerning the employees are the following: a) full name, b) position title, position scale, step of the scale in which it is located and date of placement in it and c) salary details. 13.1. The names of the employees who would be transferred to SYL were known both to those directly concerned and to other employees, both of the Plaintiff and of SYL. 13.2. All employees of the Complainant are included in the organizational chart. The organizational chart mentions the duties performed by each employee as well as the specialty of each of them. Therefore, for this data, both the complainants and other persons have knowledge 13.3. The recruitment date is known in order to respect the hierarchy in each Department and by extension also in

the Water Supply Department. 13.4. In the Pan-Cypriot Collective Labor Agreement of Municipalities, signed on 5/12/2017 between the Union of Municipalities, including the Municipality of XXXXXXXXXXXX and the Federation of Unions of Parastatal Organizations 6 (except for crawlers) of the Parastatal, Municipal and Co-national OHO-SEK Union and Employees of Cyprus PEO, article 14 entitled Wages/Increases, states "Workers are automatically granted any general increase or any percentage increase agreed between the Ministry of Finance and Trade Unions, for the Municipalities (including similar benefits). The salary scales of the working staff of the Municipalities are shown in Appendix 2 of the Agreement. 13.5. In Appendix 2, the basic salary of each employee is detailed per year and grade. In addition, there are clarifications on the scalepositions, i.e. D6 is a dog car worker (like the Complainant G.G.) and D7 working driver (like the Complainant XXXXXXXXXXXX).

14. The Complainant did not have any further information promotion of the directory, to other third parties, beyond those mentioned above. Nor did my Office find any other leakage, besides of the one mentioned by the Municipal Council and the Supervisor, to third parties.

15. The Complainant became aware of the leak at the end of August 2018 and the matter was taken up in session on 5/9/2018. He researched and concluded that although a member of the Municipal Council, he promoted the list to the Supervisor of the Water Supply Department of the Municipality XXXXXXXXXXXX, without but be consented and/or authorized and/or instructed to do so nevertheless there were no grounds for submitting a Notice of Breach to my Office, because the data contained in said list were already known to the individuals which were listed in the list.

16. Regarding the claim of the Complainants' lawyer, that the list circulated in public places (e.g. XXXXXXXXXXXX's coffee shop) and in places used by employees of the Municipality XXXXXXXXXXXXXXXX (e.g. warehouses, canteens

etc), this has not been proven according to the evidence before us. Kath'ou her

complaint acknowledges the leakage of the list by the Municipal Councillor

to the Overseer and forwarding the catalog from the Overseer to them

existing ones

anyone,

including the Complainants themselves to use

information contained in said list.

17. The fact that the information included in

list, can be found individually and in other ways, by third parties

faces. In the present case, they were all included together in

under catalog reference.

18. The Complainants, according to their lawyer's letter, state that

they found the directory leaked in and/or around November 2018, ie

almost three (3) months after the Municipal Council investigated the matter. Such as

mentioned above, the Overseer himself, after receiving the list from

the Municipal Councilor, communicated it both to the complainants under reference

as well as the rest of the people listed on it and working in the Department

Water Supply of the Municipality XXXXXXXXXXXXX.

18.1. The letter from the Complainants' lawyer is dated 1/29/2019 and

delivered to my Office on 3/15/2019.

it can

afterward,

From

of.

there

and

18.2. The time elapsed since the actual date of the event, end  
 August 2018, until his complaint to my Office is about seven  
 (7) months.

19. Taking into account the appropriate and appropriate measures taken by the Municipality  
 HHHHHHHHHH, I consider that the complaint/complaint against him does not need further  
 investigation. But taking for granted the action of the Overseer, as a member thereof  
 potential of the Municipality, pursuant to Article 58 par. 2.d) I give an order to the Municipality  
 XXXXXXXXX to immediately repeat the training of all its staff  
 Municipality regarding GDPR provisions and to repeat at regular intervals  
 periodic trainings both for the Municipality staff and for them  
 Municipal Councillors.

Irini Loizidou – Nikolaidou

Protection Commissioner

Personal Data