

No. Fax: 11.17.001.007.219 May 8, 2020 To Mr. xxxxxxxxxxxxxxxx Karapatakis Pavlides LLC Right of access to closed circuit monitoring Complaint Ms. xxxxxx xxxxxxxxx DECISION Following the correspondence between my Office, in relation to the above complaint/complaint dated October 9, 2019, I bring the following to your attention: Facts: 2. On December 13, 2019, after clarifying correspondence exchanged between us, we sent a letter to the DPO of Pop Life Electric Shops Ltd, informing her of the receipt of related complaint/complaint on behalf of your client. 2.1 The complaint/complaint related to the right of access to recording material made by KKBP and which would show an accident that the Complainant had in the parking lot of the Pop Life branch in Ypsona Limassol (Article 15 of GDPR 2016/679). You specifically requested the material dated 08/02/19 between the hours of 17:30-19:00 pm. The Complainant had tripped over wooden stands (pallets) that were exposed in the parking area. Your letter was sent to the Ypsona Limassol store on 25/6/19, without receiving any response until the registration of your complaint on 9/10/19. 2.2 As you mentioned in the correspondence between us, you had also registered a Lawsuit for damages as a result of the accident in question (under number xxxxx/19). You clarified that in the said Proceeding the material in question had not been requested by any Decree, nor had you reached the stage of document disclosure, so that there would be an obstacle to our intervention (Article 55(3) of GDPR 2016/679). 2.3 As we informed you in writing on 12/30/19, after communication we had with the Complainant's Office of the Ombudsman, it became clear that due to incorrect advice from their legal advisors and the insurance company, they did not proceed to satisfy the access request , since they thought that the matter would end up in court. They realized their obligations after our intervention and subsequently, after our prompting to get in touch with them, on 1/31/20 the YPD of the Defendants of the Complaint had sent you the videotaped material. 2.4 You replied on the same day to the Complainant's Office of the Complainant, stating that the video that was sent only shows the moment of your client's fall and that it is particularly important that the video that shows the client with her husband be sent to you as well during the time they park, but also when they leave the 1 scene after the accident. You were not requesting video time/material that does not include your client. 2.5 On 12/2/20 the Ministry of Foreign Affairs replied that there is no other video. Whatever was recorded on that day is what was sent to you. There was no way they could retrieve another video due to time lapse. Their machine only records and stores data for one month. 2.6 You returned on 13/2/20, stating that the one month period had long since passed since the date of the accident and therefore the allegation was not true. You also mentioned that it is puzzling that only the scene of the fall, lasting less than a minute, was recorded. You repeated the request you made on 1/31/20. 2.7 The Ministry of Foreign Affairs replied on the same day, that the material that

was sent to you was recorded by the KKBP and kept in their file. There is nothing else to send. 2.8 On the basis of this response, on 14/2/20 you raised the issue of your client's right of access not being fully satisfied by insisting that you be given "a copy of the entire videotaped scene". You made the claim that you were sent footage from a camera with material and angle, at the Complainant's choice, and not from a camera that more clearly shows the scene of the accident, even though they have such cameras. 2.9 We sent a letter on 24/2/20 to the Pop Life DPO, taking into account your queries and asking them to tell us if they have any other data recorded, from any camera. He was also asked how the single file they had already given was still available to them after such a long time. 2.10 The Ministry of Foreign Affairs, as we had informed you, replied on 19/3/20 that the video they sent you was from their file, as it had been retrieved on 14/2/19, after they had received the letter you had sent from part of the Complainant. Footage of the fall was recorded and given on 2/14/19 to their insurance company, who were assigned to handle the case. The insurance company itself had asked them for additional evidence on 28/3/19, which however could not be retrieved due to the passage of time, since the KKBP only keep their data for one month. 2.11 You replied on 2/4/20 stating that the company has deliberately not sent you any other material and that their claims about the lapse of time etc are baseless and are excuses, especially after their claim that they kept part of the video after you contacted them, which in their opinion was relevant. Your view is that the entire video including the Complainant is relevant. 2.12 Following a telephone and written communication that followed on 4/5/20, we called the DPO of the Defendants in the Complaint to provide us with supporting evidence of the position that the KKBP of the Ypsona Limassol branch only retains data for one month and therefore there are no other data to be given to the data subject, as requested. 2.13 Later on the same day, the Complainant's Office of the Complainant sent a relevant certificate that it had received from the company that installed the CCTV at the Ypsona Limassol branch. With this certificate, the company MS Network Solutions Ltd assured that the recordings made by the KKBP remain in the computer's memory for a period of three (3) weeks. Legal Aspect: 3. According to Article 4(1) of GDPR 2016/679 personal data is "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 identity 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". 3.1 Article 15 of GDPR 2016/679 gives the right to a data subject 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 to access the

personal data character and specific information, as described in detail in par. 1 of the said Article. 3.2 Pursuant to Article 12(3) of GDPR 2016/679, "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 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.' 3.3 Furthermore, according to Article 58 para. 2(c) each control authority, among other things, has the power to "order the controller or processor to comply with the data subject's requests for the exercise of his rights in accordance with this regulation". Rationale: 4. The visualized image of the data subject, if it leads to his identification, can be considered his personal data in accordance with the provisions of Article 4(1) of GDPR 2016/679. A copy of this can be requested by exercising the right of access in accordance with Article 15 of GDPR 2016/679. The controller has a duty to act on such a request, within one month of receiving the request (see Article 12(3) GDPR 2016/679). 4.1 In the present case, the controller – As the Complaint had not acted within one month of receiving the request, i.e. from 25/6/19 3 of the judicial registration of the process. Then where the access request was sent in writing, due to wrong legal advice he had received. It was argued that there was a claim pending on the same matter damages from the Complainant and it was considered that this issue would be resolved by the stage of complaint to the Office of the Personal Data Protection Commissioner Character and after it was clarified that our intervention would not interfere with any legal proceedings, we have informed the Office of the Complainant's Office of the Complainant provisions of Articles 12 and 15 of GDPR 2016/679, but also for the obligation to comply with the request of the data subject, regardless of the fact that pending legal proceedings and given that they had not reached a stage where art due material would be delivered anyway. Subsequently, the Plaintiffs, complied with our instructions, but also with the request of the data subject,

by sending a clip of video material that depicted the subject of the data at the time of its fall, due to an accident, in the parking area branch in Ypsonas Limassol. As they explained, this was the only point that had been kept and detained in their files, after receiving the letter dated 2/14/19 by the Complainant's lawyer. The specific snapshot was then given to their insurance company, in the context of assigning the case. The insurance company itself company had requested further material on 28/3/19, which however the Defendants in the Complaint reported that it could not be recovered due to the lapse of time, since their CCBPs they only keep data for one month. Relevant certificate from the company which installed the KKBP at the Ypsona Limassol branch, reports that the records they remain in the computer's memory for up to a period of three (3) weeks.

Conclusion:

5. Bearing in mind the above facts, as they have been exposed, as well as the powers provided to me by Article 58 of GDPR 2016/679 and in particular that according to Article 58 par. 2(c) there was compliance of the Complainant with the instructions of the Office me to satisfy the request of the data subject, I consider the right access of the data subject to personal data belonging to him, as these had been recorded by the Pop Life Electric Shops Ltd hypermarket's FSA on 8/2/19 between the hours of 17:30-19:00 pm at the Ypsona Limassol store, has been satisfied.

6. Whether or not the claims of the Complainant are true, that is this is the only passage preserved in their records, it is something which it will also become clear during the judicial process stage.

Irini Loizidou Nikolaidou

Data Protection Commissioner

Personal Character

E.X.

