

No . Fac .: 11.17.001.008.230 September 17, 2021 DECISION Complaint against Mediterranean Hospital of Cyprus by xxx concerning the right of access I refer to the above complaint submitted by xxx (hereinafter the "complainant") to my office on 17 December 2020 against of the Mediterranean Hospital of Cyprus (hereinafter the "Professor"), as well as in all correspondence related to the above matter. A) Facts 2. In the complaint dated 17/12/2020, xxx, claims the following: 2.1. On October 21, 2020 xxx contacted the Defendant's Data Protection Officer, requesting that all personal data relating to her be shared with her, specifically, the information regarding payments in her name from the Health Insurance Organization. 2.2. In his response, the hospital's Data Protection Officer indicated that he would prepare them within days. Then, since xxx didn't receive any information, he sent a reminder on 9/11/2020, where he received a reply that the DPO cannot serve because he was sick and out of work. 2.3. Then xxx on 4/12/2020 forwarded the request to the General Manager of the hospital, and requested that the right of access be granted. After the new reminder, on 8/12/2020, xxxxxx replied that he took the request as a threat and did not satisfy it. 3.1. My Office upon receipt of the complaint contacted xxxxxx via email on 1/13/2021 and his views on the above were sought. 3.2. In his reply, on 1/14/2021, he stated that xxx had received information on everything related to employment and the relevant legislation. 3.3 In the communication that followed on 25/1/2021, my Office was requested to provide evidence of the information in question as well as relevant information concerning xxx. xxxxxx's same-day response to said request was negative/disparaging with a specific verbal "NO COMMENT". 4. Following the above response, on 25/2/2021 exercising the powers granted to me by Article 58(1)(a), an order was issued, with a deadline of March 11, 2021, to provide the information requested as above in paragraph 3.3, or to explicitly mention the legal basis that was taken into account for the non-satisfaction of said request. Despite the fact that the deadline has passed, my Office has not received the information in question, nor has the Defendant contacted me with relevant information. 5.1. On July 14, 2021, I issued a prima facie Decision against the Defendant, where I found a prima facie violation of Article 31 and 58(1)(a) of GDPR 2016/679, since he did not cooperate with my Office and did not comply with the order that I mention in paragraph 4 above. He was also asked to state the reasons why he considers that no corrective measure or administrative sanction should be imposed. 5.2. In the rationale of this prima facie Decision, I took into account the following: a. The phrase "NO COMMENT" in response to my Office's letter dated 1/25/2021 insults the institution my Office serves and makes my work as a supervisory authority difficult. b. The information was again requested in the form of an order, but instead the Professor ignored his obligations as a Controller and refused to cooperate with my Office, in breach of Article 31. 6. On 15 July 2021, the Professor He confirmed the receipt of

the above prima facie Decision and additionally apologized for the expression "NO COMMENT" which, as he claimed, was not addressed to the Commissioner and her Office but to the content, the demands and everything he mentions in the complaint xxx.

7. The Defendant returned with a lawyer's letter dated 16/8/2021, where he attached relevant evidence, i.e. the relevant service contract xxx and copies of relevant correspondence between the Defendant and xxx, as requested by my Office in the letter dated 25 /1/2021 and stated, among other things, the following:

- a. xxx had received all the information and documents that the hospital had at his disposal in relation to the clarifications he wanted or the requirements.
- b. The Defendant acknowledges that he should have handled the orders of my Office differently and that he should have forwarded his views and the information requested in the context of examining the complaint.
- c. He assured the cooperation with my Office and conveyed the apologies of the hospital administration regarding the response of xxxxx to my Office's letter dated 25/1/2021 and added that it was not his intention to make the work of my Office difficult.

2 8. In a letter from my Office dated 1/9/2021, I informed the Professor that, after studying the above information, I judged that the access request xxx had been satisfied as far as the information regarding the fees is concerned and that the Professor u had no obligation to share xxx information regarding payments made by the Health Insurance Organization to the Hospital,

B) Legal Aspect

9. Article 31 of the General Data Protection Regulation (EU) 2016/679 (the "Regulation" ) refers to the obligation of the controller and the processor and, as the case may be, their representatives to cooperate, upon request, with the supervisory authority for the exercise of its duties.

10. Article 58(1) of the Regulation states that "Each supervisory authority has all of the following investigative powers:

- a) to instruct the controller and processor and, where appropriate, the representative of the controller or processor the processing to provide any information it requires for the performance of its tasks..."

11. According to article 83(4)(a) of the Regulation, violations of the provisions of article 31 may attract administrative fines of up to 10 000 000 EUR or , in the case of businesses, up to 2% of the total global annual turnover of the previous financial year, whichever is higher

12. According to Article 83(5)(e) of the Regulation, violations of the provisions of Article 58(1 ) can attract administrative fines of up to EUR 20 000 000 or, in the case of businesses, up to 4% of the total global annual turnover of the previous financial year, whichever is higher

more.

C) Rationale

13. First of all, let me state that, although I judged that the access request xxx has been satisfied, it does not change the fact that the Defendant did not meet his obligations as a Data Controller as stated in Article 31 of the Regulation.

14. During the examination of the relevant complaint, my Office on 25/1/2021 asked the Defendant to support his positions, namely that he had satisfied the request xxx, with evidence. The Director's response to my Office's request was "NO

COMMENT". Subsequently, after my Office did not receive a satisfactory response, I issued a relevant order on 2/25/2021 to provide the relevant information to substantiate his claims (see paragraph 4). 3 15. Even if I accept that the above sentence was not related to my Office's request for evidence to support its position that the access request xxx had been granted, I cannot downplay the fact that I did not receive this evidence, not even when I issued an order for its submission. So since the deadline for complying with the order has passed, and my Office only received the information in question when I issued a prima facie Decision for violation of the order, I find it clear that in this case the Defendant ignored my orders and refused to cooperate with my Office in violation of Article 31 and Article 58(1)(a) of the Rules of Procedure. 16. Additionally, I note that the Defendant could have responded to my order without disproportionate effort, as he had finally responded after my prima facie Decision on 8/16/2021. D) Conclusion 17. Therefore, taking into account all the above elements as listed, and based on the powers granted to me by Articles 58 and 83 of Regulation (EU) 2016/679, article 24(b) of Law 125(I) /2018, I find that there is a violation by the Mediterranean Hospital of Cyprus of Article 31 and Article 58(1)(a). 18. Therefore, finding a violation of Article 31 and Article 58(1)(a) of the GDPR 2016/679, as explained above, based on the provisions of Article 83 of the GDPR, to the extent that they apply in this particular case, I take into account as a mitigating factor the the fact that in the subsequent letter of the Defendant's lawyer dated 8/16/2021, the information was provided which was decisive for the conclusion of the investigation of the relevant complaint. 19. Additionally, I consider the following aggravating factors for the imposition of an administrative sanction: a. xxxxxx's inadequate response on 1/25/2021, which insulted the institution my Office serves and b. the fact that the Defendant ignored my order dated 2/25/2021, thereby making the work of my Office difficult during the investigation of the complaint. 20. Bearing in mind the above and based on the powers granted to me by Articles 58 and 83 of the Regulation, I decided as I impose on the hospitalMediterranean Hospital of Cyprus administrative fine of €10,000.

Irini Loizidou Nikolaidou

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Data Protection Commissioner

Personal Character

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