

REPUBLIC OF CYPRUS No. Fax: 11.17.001.009.070 OFFICE OF THE PERSONAL DATA PROTECTION COMMISSIONER

DECISION on the complaint of Mr. XXX against Altius Insurance Ltd for a breach of personal data Claims of the parties Claims of the complainant The said complaint stated that: I refer to the complaint that has submitted to my Office, on April 29, 2021, on behalf of Mr. XXX (hereinafter the "complainant") against Altius Insurance Ltd (hereinafter the "Professor"), as well as all correspondence related to the above matter , which is part of the case file, based on which there is a violation, on the part of the Defendant, of articles 5(1)(c) and 6 of the General Data Protection Regulation, (EU) 2016/679 (hereinafter the rule"). A. 2.

2.1. the complainant had concluded an insurance contract with the Defendant, while recently, he was a partner - insurer of the Defendant, 2.2. on the complainant's life insurance policy, which is dated XXX, in the fields "State whether you are related to the policy." the complainant chose the answer "YES", while in the question "If "YES", what is the relationship?" the complainant answered "Member of a political party", 2.3. after the insurance policy was submitted, Ms. XXX, an employee of Kathy's underwriting department, contacted the complainant and persistently asked him to disclose further information and more specifically, the political party to which he belonged. To the complainant's question about the purpose for which she needs this information, she received as an answer that it was "for AML purposes". In fact, the complainant gave a written answer to Ms. XXX, without, however, as he states, keeping a copy of his written answer. 3. On May 6, 2021, a letter was sent to the Defendant, requesting, among other things, that she submit her positions on the specific incident, inform on what is the legal basis of the question regarding the political party to which she belonged the complainant, and submit to my Office the complainant's written response as well as any correspondence regarding the incident. Claims of Ms. Iasonos 1, 2nd floor, 1082 NICOSIA / PO Box 23378, 1682 NICOSIA. Tel: 22818456, Fax: 22304565 E-mail: commissioner@dataprotection.gov.cy, Website: <http://www.dataprotection.gov.cy> In her reply dated May 20, 2021, the Court stated the following: 4. 4.1. an exclusive representation and collaboration agreement dated XXX was signed between the complainant and the Defendant, which was terminated on XXX, i.e. XXX weeks before the complaint was submitted, 4.2. the period of XXX years between the alleged incident and the submission of the complaint constitutes a long delay, while the submission of such complaints/complaints is usually carried out within a reasonable period of time without excessive delay, 4.3. on XXX, the Lady received an insurance proposal, with number XXX, from the complainant, who during the evaluation of the proposal stated that he is a member of a political party. The evaluation was carried out by Mr. XXX, working in the underwriting department of Kathy. The Prosecutor, in her letter to my Office, attached an e-mail message from the complainant to Mr. XXX, which concerns the assignment of the

contract with the same number to the Prosecutor, 4.4. the issuance and processing of the contract was carried out by Ms. XXX, an employee of the Client. A copy of the contract was sent to the complainant on XXX, 4.5. on XXX, the Defendant received from the complainant an insurance proposal, with the number XXX, who during the evaluation of the proposal stated in writing that it was not related to the policy. The evaluation of the proposal was carried out by Mr. XXX, 4.6. both in the file of the complainant, and in the e-mail of the officers of the Defendant, mentioned above, there is no written correspondence, in relation to the alleged incident, 4.7. the employees of the Company faithfully follow and apply the internal instructions and/or regulations, which in no way represent what the complainant claims, 4.8. the Defendant's position is that the complaint was filed abusively and/or vindictively, due to the termination of the agreement that existed between the complainant and the Defendant, especially since the complainant openly stated his political beliefs and/or positions both verbally and in the mass media, as a member of a specific political party, without any intention to hide and/or protect them. 5. Ms.'s life insurance proposal form, which was sent to my Office with Ms.'s above letter, includes, among other things, the following proposals (hereinafter the "referred proposals"): ☐ ☐ State if you are related to politics. If "YES", what is the relationship? Declare any professional relationship or first-degree relationship with a political figure. 5.1. On August 25, 2021, I sent a letter to the Defendant, asking her to clarify the legal basis of the proposals in question. 6. In her letter, dated September 2, 2021, the Court stated the following: 6.1. the legal basis of said proposals is the Client's compliance with a legal obligation, as a data controller, and more specifically with Article 64(2) of the Prevention and Combating of Money Laundering Law of 2007, Law 188 (I)/2007, which states that "An obligated entity shall take reasonable measures in order to determine whether a beneficiary

2 Legal framework Pursuant to Article 5, paragraph 1 of the Regulation, the data of a personal life insurance policy or other insurance policy with an investment purpose or/ and possibly, the beneficiary's beneficial owner is a politically exposed person." 6.2. in addition to legal compliance, this proposal is included in the life contract in order to protect the Client from increased risks, found in transactions or business relationships with politically exposed persons and/or close relatives and/or associates of a politically exposed person . B. 7. According to article 4 of the Regulation, personal data is interpreted 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 identity number, location data, an online identifier or one or more factors specific to physical, physiological, genetic, psychological, economic, cultural or social identity of the natural person in question". 8. character: "a) they are processed lawfully and legitimately in a

transparent manner in relation to the data subject ("legality, objectivity and transparency"), b) they are collected for specified, explicit and legal purposes and they are not further processed against in a manner incompatible with those purposes; further processing for archiving purposes in the public interest or for scientific or historical research or statistical purposes shall not be deemed incompatible with the original purposes pursuant to Article 89(1) ("purpose limitation"), c) are appropriate, relevant and limited to what is necessary for the purposes for which they are processed ("data minimization"), d) are accurate and, where necessary, updated; all reasonable steps must be taken to promptly delete or correct personal data which are inaccurate, in relation to the purposes of the processing ("accuracy"), e) are kept under the form that allows the identification of the data subjects only for the period required for the purposes of the processing of the personal data; the personal data may be stored for longer periods, as long as the personal data will be processed only for archiving purposes in the public interest, for the purposes of scientific or historical research or for statistical purposes, in accordance with Article 89 paragraph 1 and as long as the appropriate technical and organizational measures required by this regulation are applied to safeguard the rights and freedoms of the data subject (" limitation of the storage period"), f) are processed in a way that guarantees the appropriate security of personal data, including their protection against unauthorized or illegal processing and accidental loss, destruction or deterioration, using appropriate techniques or organizational measures ("integrity and confidentiality")'. 3 Regarding the legality of processing, article 6, paragraph 1 of 9. Regulation provides that: "The processing is lawful only if and as long as at least one of the following conditions applies: a) the data subject has consented to the processing of his personal data for one or more specific purposes, b) the processing is necessary for the performance of a contract to which the data subject is a party or to take measures at the request of the data subject prior to the conclusion of a contract, c) the processing is necessary to comply with a legal obligation of controller, d) the processing is necessary to safeguard a vital interest of the data subject or another natural person, e) the processing is necessary for the fulfillment of a task performed in the public interest or in the exercise of public authority delegated to the controller processing, f) the processing is necessary for the purposes of the legal interests pursued by the controller or a third party, unless these interests are overridden by the interest or the fundamental rights and freedoms of the data subject that require the protection of personal data , in particular if the data subject is child".

10. Pursuant to Article 58(2), the Personal Data Protection Commissioner has the following corrective powers: "a) to issue warnings to the controller or processor that intended processing operations are likely to violate the provisions of this regulation, b ) to address reprimands to the controller or the processor when processing operations have violated provisions of this

regulation, c) to instruct the controller or the processor to comply with the requests of the data subject for the exercise of his rights in accordance with this regulation, d) to instruct the controller or 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) to instruct the controller processing to announce the breach of personal data on the data subject, f) to impose a temporary or definitive restriction, including the prohibition of processing, g) to order the correction or deletion of personal data or restriction of processing pursuant to articles 16, 17 and 18 and notification order of these actions to recipients to whom the 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, 4 j) to give an order to suspend the circulation of data sent to a recipient in a third country or an international organization'. 11.

Regarding the special categories of personal data, Article 9, paragraph 1 of the Regulation provides that "The processing of personal data revealing the racial or ethnic origin, political opinions, religious or philosophical beliefs or participation in a trade union is prohibited organization, as well as the processing of genetic data, biometric data for the purpose of indisputable identification of a person, data concerning health or data concerning a natural person's sexual life or sexual orientation". 11.1.

Also, paragraph 2 of the above article provides that paragraph 1 does not apply, among other things, when "e) the processing concerns personal data that has been manifestly made public by the data subject". 12. A politically exposed person, according to the 2007 Law on the Prevention and Combating of Laundering of Income from Illegal Activities, Law 188(I)/2007, is defined as "a natural person who has or had been entrusted with an important public function in the Republic or in another country, an immediate close relative of such person, as well as a person known to be a close associate of such person: Provided that, for the purposes of this definition, "significant public function" means any of the following public functions: (a) Head of State; head of government, minister, deputy minister and deputy minister; (b) member of parliament or similar legislative body; (c) member of the governing body of a political party; (d) member of a supreme court, constitutional court or other high-level judicial body whose decisions are not subject to further remedies, except in exceptional circumstances; (e) member of the audit conference and board of directors central of a bank; (f) an ambassador, chargé d'affaires and high-ranking officer of the armed forces and security forces; (g) a member of an administrative, management or supervisory body of a state-owned enterprise;

(h) a director, deputy director and member of a board of directors or a person holding an equivalent position in an international organization; (i) mayor: Provided further that the above-mentioned public functions do not include a person holding an intermediate or low position in the official hierarchy: Provided further that "close relative of a politically exposed person" includes the following persons: (a) Spouse, or a person resembling a spouse of a politically exposed person; (b) a child of a politically exposed person and his spouse or a person resembling a spouse of a child of a politically exposed person; (c) parents of a politically exposed person; It is further provided that "a person known as close associate of a politically exposed person" means a natural person - 5 ( a) who is known to be a joint beneficial owner of a legal entity or legal arrangement or to be associated with any other close business relationship with a politically exposed person; (b) who is the sole beneficial owner of a legal entity or legal arrangement known to have been established for the de facto benefit of a politically exposed person;"

According to article 2A, of Law 188(I)/2007, this law applies, among 13. others, to financial organizations, while such an organization, by virtue of article 2, is also considered "(b) insurance and/or reinsurance company in the sense given to this term by article 2 of the Law on Insurance and Reinsurance Businesses and Other Related Matters, to the extent that it carries out life insurance activities that fall within the scope of said law". 14. Pursuant to article 64, paragraph 1 of Law 188(I)/2007 "A obliged entity shall apply increased customer due diligence measures, in addition to the measures referred to in articles 60, 61 and 62, in the following cases (...) ». Also, paragraph 2 of the above article provides that: "(2)(a) An obligated entity takes reasonable measures to determine whether a beneficiary of a life insurance policy or another insurance policy with an investment purpose and/or possibly, the beneficial owner of the beneficiary is a politically exposed person. (b) The measures referred to in paragraph (a) shall be taken at the latest at the time of payment of the product of the insurance policy or at the time of assignment, in whole or in part, of the insurance policy. (c) When - (i) a beneficiary of a life insurance policy or other insurance policy, with an investment purpose and/or possibly the beneficial owner of the beneficiary is determined to be a politically exposed person at the time of payment of the insurance policy product or at the time of assignment . senior management prior to payment of the insurance policy product, and (bb) conducts increased scrutiny of the entire business relationship with the counterparty." C. 15. The complainant, as mentioned in paragraph 2.3. of the present, he claimed that he was persistently asked to reveal further information and more specifically the political party to which he belonged, while he gave a written answer to the employee of the Defendant who submitted the specific question. In this regard, the Professor stated in the letter dated May 20, 2021, that both in the file of the complainant and in the e-mail of the relevant Commissioner's

Evaluation (Rationale) 6 of the Defendant's officials, there is no written correspondence in relation to the alleged incident. 15.1.

The delay of more than XXX years in the submission of the specific incident makes the investigation in question difficult, especially when it comes to oral communication. 16. Based on Law 188(I)/2007, it follows that an insurance company is obliged to identify politically exposed persons, as well as their close relatives or close associates. 17. The basic principle of the processing of personal data is principle of minimization, Article 5(1)(c) of the Regulation. Based on this principle, the data processed must be appropriate, relevant and are limited to what is necessary for the purposes for which they are submitted to processing. Therefore, the processing should be carried out and concern only those data is needed to achieve the purpose of the processing. Processing more data or data that are not related and/or do not serve it achievement of the purpose is a violation of this principle.

18. Despite the fact that the proposals in question, which are included in Kathy's life insurance proposal form, appear to be associated with the the Client's obligations as they arise from Law 188(I)/2007, are not clearly formulated and/or outside the framework of the Client's obligations.

18.1. Proof of the above is the complainant's response, that is to say is a "member of a political party". This answer does not automatically imply that the complainant is considered a politically exposed person, since there is an important number of natural persons, who while being members of a political party are not counted, pursuant to Law 188(I)/2007, as politically exposed persons.

19. Considering that in the letter dated May 20, 2021, stated that the legal basis of the proposals in question is its legal obligation, it can easily be inferred that the purpose of the specific processing coincides with the purpose of the relevant legislation. But the response he received from complainant, which does not go outside the scope of the question, in the general sense, no serves or does not fully serve the specific purpose. Therefore, the said

personal data of the complainant, i.e. his answer, is not suitable but not necessary for the achievement of this purpose.

20. It appears, therefore, that the Defendant did not observe the principle of minimizing data, as provided by virtue of article 5(1)(c) of the Regulation.

21. In addition to the complainant, the said wording of the specific sentences, may result in them being submitted, and by other customers and/or prospective clients of Kathy, answers unnecessary and/or incompatible with them purposes of Law 188(I)/2007, which would also lead to a violation of the principle of data minimization.

22. The legal obligation of the Defendant cannot be considered as a legal basis of Article 6(1)(c) of the Regulation, since there is no obligation based on it

7

legislation to generally know which of its customers are related to politics, but the its obligation to know the politically exposed persons, a quality which is adequately interpreted in Law 188(I)/2007.

23. Despite the fact that the Court did not collect from the complainant excessively data in the question State any professional relationship or relationship first degree with a political person, since the complainant's answer was negative, the art because the proposal is not consistent with the obligations of the Defendant pursuant to Law 188(I)/2007, the which clearly defines the concept of a close associate of a politically exposed person.

24. The Court stated in the letter dated May 20, 2021, that in addition to the legal compliance, the relevant proposal is included in the life contract with in order to protect it from increased risks found in transactions or in business relations with politically exposed persons and/or close relatives and/or associates of a politically exposed person. The above cannot be done acceptable, since the proposals in question are not precisely related to politics

exposed persons, but with persons related to politics or politicians

faces.

25. The collection of data regarding the party to which the complainant belonged did not

is necessary, does not affect or should affect, but does not serve as such

in any way the performance of a contract to which the complainant is a party

part.

25.1. Despite the fact that the proposals in question were made in the context of the conclusion

contract with the complainant, and since the fact that the complainant belonged to

political party is not necessary for the execution of the contract but neither to

measures are taken at his request before the conclusion of a contract, it follows that he cannot

paragraph 6(1)(b) of the Regulation shall be considered as a legal basis.

26. The processing cannot also be based on any other legal basis

of article 6 of the Regulation, thus indicating that the processing was not

common law, as provided for in said article.

27.

The fact that, as stated in her letter dated May 20

2021, the complainant openly declared his political beliefs and/or positions, did not

may act as a disincentive for the complainant to submit

complaint to my Office. Nor, of course, can the above be a justification

to inquire about the party to which he belonged.

27.1. Despite the fact that, by virtue of Article 9, paragraph 2, item (e) of

Regulation, the processing of personal data which

reveal political opinions when "the processing concerns personnel data

of a nature which have been manifestly made public by the data subject",

the collection of the complainant's specific response and/or data to

specific context cannot be justified.



## Conclusion

D.

28. Considering the fact that conflicting arguments have been placed before me positions, as mentioned in paragraph 15 hereof, as well as the resulting one hardship, as referred to in paragraph 15.1, the incident regarding the Question by the Court to the complainant about which party he belonged to, he cannot to be investigated further.

29.

As far as the complainant is concerned, Kathy did not follow her principle minimization, collecting unnecessary and inappropriate personnel data character than what was required to fulfill its legal obligations, violating article 5(1)(c) of the Regulation, without there being a legal basis for the specific processing, thus also violating article 6 of the Regulation.

30. In exercising the remedial powers conferred on me by section 58(2)(d) of Regulation, by virtue of which "Each control authority has all the following corrective powers: d) instruct the controller or the executor the processing to make the processing operations in accordance with its provisions of this Regulation, if necessary, in a specific manner and within a certain period deadline"

I decided

at my discretion and subject to the above provisions,  
to give an Order to the Client as, within one month of receipt of this,

(a)

carry out an appropriate reformulation of the mentioned proposals of the form life insurance proposal, so that the provisions of the articles are respected

5(1)(c) and 6 of the Regulation, and sends the new form to my Office,

(b)

to give a Mandate to her as, within three months of receiving it

present, proceed with the destruction of all the responses of its customers to the sub

reference proposals, and which violate articles 5(1)(c) and 6 of the Regulation,

and inform me about it.

In the event that there is no compliance with the above orders, exercising them

powers granted to me by article 58, paragraph 2 of the Regulation, possibly to

more severe penalties are imposed.

Irini Loizidou Nikolaidou

Protection Commissioner

Personal Data

Nicosia, September 10, 2021