

No. Fac.: 11.17.001.007.099 July 22, 2019 To Ms XXXXXX Secretary of the Institute of Legal Information and Executive Director of the All Cyprus Bar Association To the attention of the Data Protection Officer Dear Madam, Decision SUBJECT: Complaint/complaint against 1. Cylaw and 2. All Cyprus Bar Association Event : Complaint/complaint was received d. May 2, 2019 at the Office of the Personal Data Protection Commissioner, which was as follows: 2. The Complainant, Mr. XXXXXX, who is the Defendant in Civil Case No. XXXXX, District Court of Limassol, complained that with the publication on the CYLAW website of the specific decision, his rights have been violated regarding him and his family and his personal issues have been revealed which have created problems both for him and for the his family (spouse, children and grandchildren). 2.1. On the CYLAW website it is stated that "CyLaw is the online service of the Pancypriot Bar Association". "Management of CyLaw has been entrusted to the Cyprus Legal Information Foundation (KINOP/CyLii) which is a non-profit organization established by the Cyprus Bar Association for this purpose." It has seven members, five appointed by the Cyprus Bar Association and the other two by the Cyprus Legal Information Research Institute, which is the research arm of Cylaw. 2.2. We have asked for your views/opinions regarding the complainant's complaint/complaint, but also regarding the role you consider the Pancypriot Bar Association (to which the CyLaw online service belongs), i.e. whether it acts as a Controller regarding the publications on which is also carried out by KINOP (which is managed by CyLaw), as the Processor, who following the guidance/instructions of the Controller based on GDPR 2016/679. 3. On June 14, 2019, the Pancypriot Bar Association briefly responded to the following: does it act or should it act to A) In the founding purposes of Cylaw (KINOP), among others, is to act as a bank of legal information, which among other things operates a website or sites where access will be provided, with or without charge, to primary and secondary sources of Cypriot, foreign or international law as well as other legal texts or sources of information as well as a tool which can serve both in the legal profession, as well as in academic work and studies related to legal science. B) The Constitution of the Republic of Cyprus, and in particular Article 30(2) thereof, provides for the public recitation of Court Decisions as a rule, except in cases where, for the reasons expressly provided for in the said Article, the Court decides otherwise. The present case was not judged as a case of exception by the first-instance Civil Court. C) In Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, on the protection of natural persons against the processing of personal data and on the free movement of such data, Article 9 provides that the processing of special categories of personal data is lawful when the courts act in their jurisdictional capacity. D) In Article 86 of the Regulation entitled "Processing and public access to official documents" it is provided that "Personal data in official documents held by a

public authority or a public or private body for the fulfillment of a duty performed in the public interest, may be communicated by that authority or body in accordance with the law of the Union or the Member State to which the public authority or body is subject, in order to reconcile public access to official documents with the right to the protection of personal data under of this regulation". The above article finds support in recital no. 154 of the Regulation which, among other things, states "... Public access to official documents can be considered as a public interest. Personal data in documents held by a public authority or body should be publicly disclosed by that authority or body if disclosure is provided for by Union law or the law of the Member State to which the public authority is subject or the public body. Those rights should reconcile public access to official documents and the further use of public sector information with the right to protection of personal data and may therefore provide for the necessary reconciliation with the right to protection of personal data under this Regulation ...". Such public documents provided for in article 86 of the Regulation, which according to article 9 of the Regulation constitute an expression of the Courts, also constitute court decisions. of jurisdictional action 2 E) Article 6 of the Protection of Natural Persons Against the Processing of Personal Data and the Free Circulation of such Data Law of 2018 (125(I)/2018) states that "The processing of the provisions of article 9 of the Regulation of special categories of personal data is allowed and is legal when it is carried out for the purpose of publishing or issuing a decision of any court or when it is necessary for the purposes of administration of justice". F) The relevant Circular No. 125 of the Supreme Court dated 19/07/18 in point 4 provides that: court decisions "Those for publication/editing on the internet will be published with reference only to the last name of the parties natural persons, without reference to any other elements of their name and especially without reference to any pseudonyms" . In addition, point 6.1 provides for further processing by posting on the internet (Cylaw) the names of the witnesses and those involved who provide opinions (e.g. experts, doctors, chartered accountants, etc.) excluding cases where legal entities, Ministries or Services are involved , Independent Institutions, Authorities and natural persons when they represent Institutions. G) With the above instructions, the posting of the complainant's decision in question in Cylaw is entirely in accordance, since the wording makes it clear that it has been anonymized and there is no reference to the Names (which are deleted and replaced with the indication "xxxxx") of parties and/or other involved persons. 4. On June 28, 2019, we presented the above views of the Pancyriot Bar Association to the complainant, who on July 15, 2019 specified to us a point within the court decision which he believes violates his personal data, which is as follows:

[illegible]

at another point in the decision where excerpts of the testimony presented before the District Court are quoted, the complainant pointed out the fact that the names "XXXXXX" and "XXXXXX" were written in full text. 4.2 Based on the above, but also the fact that on the first page of the Court's decision xxxxx XXXXXX is mentioned as the Plaintiff and xxxxx XXXXXX as the Defendant, at the beginning of April, 2019, the complainant was receiving questions from his close family but and friends regarding his personal matters that were referred to in this particular decision and circulated on the internet. Then, he searched and found the decision, which continues to be posted online and causes problems for his family and wider environment. 3 4.3 The complainant finally raised the question, if indeed the Courts are exempted from the Law on the Protection of Natural Persons Against the Processing of Personal Data, this means that those who circulate them on the internet are also exempted, such as e.g. the controller of a company? Legal aspect 5. According to Article 4 par. 1 of GDPR 2016/679, an individual's personal data refers to: "any information concerning an identified or identifiable natural person ("data subject"); the identifiable natural person is that 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' 5.1 In Article 4 of GDPR 2016/679, the controller is defined as "the natural or legal person, public authority, agency or other entity that, alone or jointly with others, determines the purposes and manner of processing personal data" and as a data subject the identifiable natural person "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, his physical, genetic, psychological, economic, cultural or social identity". 5.2 Furthermore, according to article 5 par. 1 of GDPR 2016/679, personal data should: "a) be processed lawfully and legitimately in a transparent manner in relation to ("legality, objectivity and with the subject of the data transparency "), b) are collected for specified, express and lawful purposes and are not further processed 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 is not considered incompatible with the original purposes according 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 , when necessary, are updated; all reasonable steps must be taken to immediately delete or correct personal data 4 that are and inaccurate, in relation to the purposes of the processing ("accuracy"), e) are kept in a form that allows the identification of the data subjects only for the period required for the purposes

of the personal data; the personal data can be stored for longer periods, as long as the personal data will only be processed 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 are applied (measures required by this regulation to ensure the rights and freedoms of the subject of the storage period"), ("data restriction of f) are processed in a way that guarantees the appropriate security of personal data, including their protection from non-authorized or illegal processing Ms j accidental loss, destruction or damage, using appropriate technical or organizational measures ("integrity and confidentiality")." 5.3 Article 89 paragraph 1 of GDPR 2016/679 states: "1. Processing for archiving purposes in the public interest or for the purposes of scientific or historical research or for statistical purposes is subject to appropriate guarantees, in accordance with this Regulation, as to the rights and freedoms of the data subject, in accordance with this Regulation. These guarantees ensure that the technical and organizational measures are in place, in particular to ensure compliance with the principle of data minimization. Such measures may include the use of pseudonyms, as long as such purposes can be fulfilled in this way. To the extent that said purposes can be fulfilled by further processing which does not allow or no longer allows the identification of data subjects, said purposes are fulfilled in this way." 5.4 Article 55 paragraph 3 of GDPR 2016/679 states that "supervisory authorities are not competent to control processing operations carried out by courts within their jurisdiction". Conclusion 6. In this case, the controller is not the Court, whose acts fall within its jurisdiction and cannot be controlled by the supervisory authority. In this case, the controller is the Pancypriot Bar Association, which determines the purposes and manner of processing personal data. It receives the decisions issued by the Courts, for the purpose of publishing the primary and secondary sources of Cypriot law, since it considers that in this way Cylaw becomes a tool that can be used both in the legal profession and in academic work and in studies related to legal science. The subsequent use of the Court's decisions is a new act of processing, which is under the responsibility and guidance of the Cyprus Bar Association. This processing is outside the jurisdiction of the Court. 6.1 The position was put forward by the Pancypriot Bar Association that the publication of said decisions on the internet serves the provisions of Article 86 of the Regulation on public access to official documents and that according to recital no. 154 public access to official documents can be considered a public interest. Court decisions are also such official documents. However, the public's right of access should be reconciled with the right to protect personal data. 6.2 As stated in Article 5, personal data should be kept in a form that allows the identification of the data subjects only for the period required for the specific purposes of the processing. This can

be said to be the case with the processing of personal data before and during the issuance of judicial decisions. The subsequent identification of the data subjects does not serve the original purposes for which they were collected. Therefore, any subsequent processing, even for purposes that are in the public interest, should be in line with the provisions of Article 89, paragraph 1, which requires the application of the appropriate technical and organizational measures required by the Regulation to safeguard rights and freedoms of the data subject. One of these measures may include the use of pseudonyms, as long as the purposes in question (in the public interest) are fulfilled and the identification of the data subjects is no longer allowed.

6.3 The Court of Justice of the European Union, on July 1, 2018, issued a preliminary ruling regarding the right to a public trial and the need to protect the personal data of natural persons. The CJEU concluded the following: "In order to ensure the protection of the data of natural persons involved in requests for a preliminary ruling while guaranteeing that citizens are informed and have the right to open courts, the Court of Justice has therefore decided, in all requests for preliminary rulings brought after July 1, 2018, to replace, in all its public documents, the name of natural persons involved in the case by initials. Similarly, any additional element likely to permit identification of the persons concerned will be removed".

6.4 The complainant (data subject) has been identified by his family and friends after they found on the internet the decision in which his last name is mentioned on the first page and he has received questions about the content of the decision and more specifically about the reference that XXXXXXXXXXXXXXXXXXXX. In addition to the adjective, within the decision there are the names "XXXXXX" and "XXXXXX" which help in some way in further identification by his family and wider environment. The specific identification of the complainant and the specific reference to XXXXXXXXXXXXXXXX has created various problems for him.

6.5 By also studying the specific decision (XXXXXX), as it is published on the Cylaw website, the reader can find a reference to a District Court decision issued and published prior to the implementation of the Regulation. By searching for this earlier decision (numbered XXXXXX) in Cylaw, the reader can locate another related decision numbered XXXXXX which contains a reference to number XXXXXX. The full names of both the Plaintiff and the Defendant of XXXXX are mentioned in the decision number XXXXXX. Therefore, even someone who is outside the family and friendship circle of either the Plaintiff or the Defendant can identify them with a simple search.

6.6 It should also be noted that the Regulation takes precedence over the Circulars of the Supreme Court, on the basis of which the Pannycrypt Bar Association proceeds with the partial anonymization of natural persons.

7. Bearing in mind all the above, as well as the powers granted to me by articles 58 and 83 of Regulation (EU) 2016/679, article 24(b) of Law 125(I)/2018 to examine and impose a corrective measure or administrative fine, I find that the publication of the decisions

by the Pancypriot Bar Association is not in accordance with the provisions of GDPR 2016/679, since subjects of the data can be identified, even with the use of only the adjective them, but also by listing relevant earlier decisions they contain the details of the data subjects.

8. Based on this conclusion, I call on the Pancypriot Bar Association to revise the way Court decisions are published within the Cylaw website and inform me of said compliance within two months from today.

Irini Loizidou Nikolaidou

Data Protection Commissioner

Personal Character

E.X.