

REPUBLIC OF CYPRUS E P I T R O P O S No. Fac.: 11.17.001.007.270 OFFICE OF THE COMMISSIONER FOR PERSONAL DATA PROTECTION DECISION Complaint/complaint XXXXXX against the All-Cyprus Association of Motor Appraisers for breach of personal data I am referring to the complaint submitted to my Office, on December 09, 2019, by the lawyer Mr. XXXXXX of the law firm L. Papafilippou & Co., on behalf of Mr. XXXXX (hereinafter the "complainant") against the Pancyriot Association of Motor Vehicle Appraisers (hereinafter the "Professor"), as well as in all correspondence related to the above matter, which forms part of the case file. The complaint/complaint is dated December 5, 2019. A. 2.1. As stated in the complaint/complaint, the complainant has been a member of the Defendant since XXXXXX 2015. Attached to the complaint is the complainant's membership certificate dated this date. On XXXXXX 2018, a letter was sent to the members of the Association, signed by the president of the Board. of the Association, Mr. XXXXXX, stating among other things that based on article 8 of the Code of Ethics of the Association, the Board of Directors is forced to "kick out" from the Association people who charge low for their services, pointing out that: Claims of the Complainant "He who charges so low gives the right to doubt his honesty and integrity, because as they say, he who works to his detriment, gets them from somewhere else. This attitude, colleagues, offends the association and the other members and for this we will be forced as a council, based on article 8 of the code of ethics, to expel them from the association. So please comply and show the necessary seriousness if we want to maintain a respectable image of our association." 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> The complainant claims that the above, in conjunction with letter 2.2. of the Board of Directors of the Association dated XXXXXX 2019 to the insurance companies, which refers to the deletion of the complainant from the Association, violate his personal data, and in particular his membership in a union and his connection with allegedly, as he states, illegal actions. This letter, which was attached to the complaint submitted to my Office, states, among other things, that the Board of Directors of the Association would like to emphasize, once again, that the appointment of qualified appraisers members of the association should be made, for a correct professional approach and safe repair of the vehicles involved in an accident, where fair compensation and protection of the interests of these companies are ensured . Parenthetically, I point out that, in this letter, the insurance companies are informed of the deletion of two more members of the Defendant, while it is also stated that any relationship or connection with the link is strictly prohibited. 2.3. In the complaint, the complainant's lawyer also mentions that his client, until that moment, had not received any letter or any information about his alleged deletion, nor the reasons for

which it has been allegedly deleted. He also states that, on the instructions of the complainant, he has addressed a letter to the Professor. This letter is attached to the complaint. I also note that this letter, from the complainant's lawyer to the Defendant, dated December 02, 2019, was communicated to my Office on December 03, 2019, via fax. In this letter, the complainant's lawyer states that he considers the reference to the deletion of the complainant, in the Defendant's letter to the insurance companies, dated XXXXXX 2019, to be completely unacceptable and impermissible, and that this action constitutes libel, defamation and damaging mendacity. B. 3.1. On January 02, 2020, an email was sent on my behalf to the chairman of the Board of Directors. of the Association, to the email address of the Association, with which the Defendant was informed about the complaint in question and was invited, as by January 31, 2020, to submit specific documents, data and information. More specifically, in paragraph 4 of the attached file, it was requested that, by the above date, the Statute of the Association be sent, as well as Regulations, if any, governing the operation of the Association, clarifying whether the practice of the profession of motor vehicle appraiser requires the membership in the Association, and, if not, state the number of members of the Association, as well as the number, or an estimate of the number, of motor valuers who do not belong to the Association. It was also requested to provide any other information or documents deemed necessary for the investigation of the complaint. 3.2. Despite the fact that the Defendant was supposed to submit the requested information by the above date, he did not take any action, not even to contact or inform my Office. Intermediate Actions 2 This deadline also passed without the submission of the requested On February 04, 2020, an Officer of my Office contacted 4. by telephone the chairman of the Board of Directors. of the Association, and after informing him of the complaint, granted an extension of the requested implementation until February 14, 2020. 5.1. On February 07, 2020, the Defendant's lawyer, Mr. XXXXXX, called my Office by phone, leaving his contact information. On the same day he was contacted by telephone by an Officer of my Office. During the communication, the lawyer of the Defendant informed that he works on behalf of the Association and that there will be an effort to reconcile with the complainant. Upon his request, a further extension was granted until February 25, 2020. 5.2. information or contacting or informing my Office. 6.1. contacted the Defendant's lawyer by phone, without success. The same Officer contacted the Defendant's lawyer again 6.2. by phone on February 28, 2020. The lawyer again informed about an attempt to reconcile with the complainant. The Officer stated that the complainant's lawyer requested, a few days ago, to be informed about the actions and investigations that my Office had carried out up to that time, without leaving any suggestion of the existence or knowledge of the existence of an attempt at reconciliation. At that time, the Defendant's lawyer stated that the

Association had met the night before, and that the conciliation effort would take place the following week, and therefore an extension of one more week was requested. Based on the above, an exclusive deadline was again given for the response and submission of the requested information until March 8, 2020. 6.3. the requested information, nor did he contact or inform my Office. On February 27, 2020, an Officer of my Office attempted to Despite the fact that the filing deadline had passed, the Defendant did not submit 7.1 On February 25, 2020, the Complainant's attorney requested by fax to be informed of the actions and/or investigations which I conducted in relation to the complaint. 7.2 On March 3, 2020, I sent an email to the Complainant's attorney informing him that, following the initial investigation conducted by my Office, I have requested specific information and evidence from the Prosecution, who has final deadline for their submission, March 08, 2020. 8. On May 06, 2020, an Officer of my Office contacted the vice-president and secretary of the Board by phone. of the Association, Mr. XXXXXX and Mr. XXXXXX respectively, in order to be informed who are legally responsible for receiving the Association's correspondence. On the same day, i.e. May 6, 2020, the Defendant's lawyer contacted 9.1. by phone with my Office. When communicating with the Office Officer, he was asked to send an appointment document under the Pancypriot Association of 3 Motor Appraisers and to indicate who are the persons legally responsible for receiving mail on behalf of the Association. 9.2 On May 12, 2020, an Officer of my Office contacted the Defendant's attorney, following a voicemail the latter left with the Office on May 6, 2020. During the conversation, the attorney indicated that he would send the appointment document the same or the next day, and that, as informed by the Professor, by law the president, vice-president and secretary of the Association are responsible for receiving correspondence of the Association. Also, after a relevant question, he was given general procedural information concerning prima facie decisions. 9.3 On the same day, i.e. on 12 May 2020, the Defendant's lawyer sent electronically the document appointing a lawyer under the Cypriot Association of Motor Appraisers. Also, in his electronic message he informed that asis informed, competent persons to receive correspondence are the president, the vice-president and the secretary of the Professor. Due to the fact that the above appointment did not have the seal of the Association, 9.4 nor did the name and status of the person signing on behalf of the Association appear, in an electronic letter from the Office dated May 25, 2020, the Defendant's lawyer requested as resends an appointment document, which should include the above. 9.5 On June 5, 2020, an electronic letter was sent to the Defendant's lawyer granting an exclusive deadline until June 10, 2020 to satisfy the above. 9.6 On June 09, 2020, the Defendant's lawyer re-sent the appointment document bearing the seal of the Association. Also, in his e-mail there was the reference that the appointment letter is signed by Mr. XXXXXX and Mr. XXXXXX, vice-president and

secretary, respectively, of the Professor. 10. On 22 June 2020, the Defendant's lawyer was served with a prima facie decision dated 18 June 2020, after finding that there is a prima facie violation of Articles 5, 6(1), 9(1) and 31 of the Regulation (EU ) 2016/679 and article 33(1)(b), (l), (m) of Law 125(I)/2018. My prima facie assessment (reasoning) is set out in full in paragraph 35 of this. 10.1. Also, before making a decision regarding the possible imposition of an administrative fine, the Defendant's lawyer was summoned to submit, within six weeks of the receipt of the prima facie decision, the comments and positions of his clients in relation to the aforementioned prima facie violations of the Regulation and Law 125(I)/2018, as well as any other comments or positions of his clients regarding the case. 11.1 06 May 2020, as informed of my position, regarding the complaint. The complainant's lawyer requested, by e-mail dated 4 Indeed, on the same day, the aforementioned received the said documents in On July 03, 2020, the complainant's lawyer was informed that a prima facie decision has been issued against the Defendant for violation of the Regulation (EU) 2016/679 and Law 125(I)/2018. 11.3 On 06 July 2020, the complainant's solicitor telephoned my Office leaving his details. On the same day, an Officer of my Office, called the aforementioned, who asked to be informed about what a prima facie decision means, and he was given the corresponding clarifications. 12. On July 02, 2020, the Defendant's lawyer sent an electronic letter requesting that he be provided with full copies of the case file, in order, as he stated, on the one hand to be able to advise his clients accordingly and on the other hand to submit the comments and positions of his customers. The lawyer of the Defendant, on July 9, 2020, informed that the copies 12.1. of the case file documents would be received by Ms. XXXXX, a lawyer in his office. 12.2. inspection framework of the administrative file of the case. 13.1. On July 24, 2020, the Defendant's attorney submitted questions to my Office by email. Specifically, he questioned how the complainant should be cross-examined, as well as whether his clients' positions should be presented in writing or orally. If the written statement of the Defendant's positions and comments was required, due to workload and for personal reasons, he requested a six-week extension to submit the requested, and as he stated, at least until mid-September. On July 28, 2020, I sent a letter to the Defendant's lawyer, at 13.2. response to the questions he submitted on July 24, 2020. I informed him that as an Administrative Body I carry out my duties by issuing enforceable administrative acts through a written process, and therefore there is no right of review of the complainant in that process. I also informed him that he has the right to refute allegations in writing if he is requested to do so. In addition to the above, I cited article 43(4) of the General Principles of the Administrative Law Law of 1999, L. 158(I)/1999, based on which, the comments and positions of his clients regarding the case could to be submitted either orally or in writing. I pointed out, however, that it is preferable that they

be submitted in writing, taking into account the special circumstances of the COVID-19 pandemic. Regarding the extension he requested for a response, in the event that his comments were required in writing, he was granted an extension of two weeks, i.e. until August 17, 2020, after I took into account the long window of time he had already been given. On August 17, 2020, i.e. the last date on which 14.1. the lawyer of the Defendant to submit his positions and comments on my prima facie decision, the aforementioned visited my Office. He called 5 Claims of the Defendant In his letter, the lawyer of the Defendant stated that: On September 21, 2020, the chairman of the Board of Directors of the Defendant brought the complainant's lawyer to the telephone, and a call was held in open hearing, i.e. with the simultaneous participation of both lawyers. During this call, the complainant's lawyer did not object to an extension of the period for submission of a response by the Defendant's lawyer, which I accepted. The Defendant's lawyer was also asked to send the extension request in writing. On the same day, the Defendant's lawyer sent an electronic letter to 14.2. my Office, with notification to the complainant's lawyer, stating that discussions on the merits of the matter are being held between the parties and there is a strong possibility of an "out-of-court" settlement of the case. He requested an extension of the deadline for his response, until September 21, 2020. 14.3. On the same day, I sent an electronic letter to the Defendant's lawyer, with notification to the complainant's lawyer, in which I granted the former the requested extension, namely an extension until September 21, 2020. C. 15. My office, the response of his lawyer How about. 15.1. 15.1.1. He is unable to understand the legal meaning and interpretation of the term "there appears to have been..." a violation of the provisions of the Regulation. He wondered if there might not have been a violation, and why, then, his clients are asked to submit their positions and comments. I note that the Defendant's lawyer refers to my letter to him, dated June 18, 2020, in which I stated that "based on the evidence I have before me, there appears to have been, prima facie, a violation of the provisions of the Regulation (EU ) 2016/679 (...)' 15.1.2. Three, in his opinion, important questions are raised: Why did it take XXXXXX from the letter of the president of the University, dated XXXXXX 2018, for the complainant to be "offended" and to proceed with his complaint? Why did it take XXXXXX months from the Association's letter to the insurance companies, dated XXXXXX 2019, for the complainant to be "offended" and make the complaint? notify its customers of the complainant's complaint? 15.1.3. The letter from the president of the Professor to the members of the Association, dated XXXXXX 2018, takes the form of informing the members of the Association about the General Assembly that preceded it, on XXXXXX 2018, it refers to a multitude of issues, it spends a few lines towards the end on the disputed issue and ultimately signed only by the president of the Association. Why did my Office need almost a month to - - - 6 15.1.4. The time frame I set

in my letter dated January 02, 2020, to the Professor, for a response until January 31, 2020, and indeed, as he states, during the Christmas and New Year holidays, is something "objectively impossible" . Also, that the above is incompatible with the not-so-immediate response, as he mentions, of my Office, since, for example, it took 13 days to ask him to resend an appointment document with specific information. 15.1.5. Through the calendar data listed in my letter dated June 18, 2020, he attributes to his clients, as he states, some form of inconsistency and/or obstruction. He points out that these same diary entries prove the exact opposite, that his clients and himself, given the given conditions and circumstances, were completely consistent and formal in everything they should have done in relation to the case. Unless, as he states, one would expect that in the midst of the New Year holidays initially and more importantly "in the midst of the Corona virus pandemic" afterwards, he would place the complainant's complaint and the submission of the requested information to my Office as the highest priority. .He also wonders if my Office was operating, and if so, if it was performing work of this nature, since the Courts suspended their work. For this reason, please be informed about the manner and the days and hours of operation of my Office for the period January - May 2020. 15.1.6. It is of the position that my conclusion on the existence of a prima facie violation, of the Regulation and Law 125(I)/2018, is based mainly on the erroneous, as he mentions with all due respect, finding of "failure to give due importance and non-cooperation » on behalf of his clients. For this reason, he submits that the above is not true and should be reversed and/or revoked. 15.1.7. The question arises as to how the provisions of Regulation and Law 125(I)/2018, which I cited in my letter to him dated June 18, 2020, were applied to the case, and also raises the question on what the relevant findings are in law and fact. He also submits the position that neither legal and factual findings nor the manner of their application and evaluation in relation to the case are listed. 15.1.8. The right to be heard by the "accused", the statement of the assessment and its justification in relation to any findings of the judge, the information (caution) of the "accused" about the existence of proceedings against him and the information (caution) of the "accused" about the possibility of hearing the case in his absence, they are, as he states, cornerstones of the administration of justice. Also, that the above is established, it has been emphasized and underlined in thousands of decisions over time without exaggeration. He is of the opinion that the above was not implemented in any way whatsoever. In addition, it states that the importance and criticality of the correct application of the above principles is perceived, given that cases of this nature are treated as "quasi-criminal cases". 7 15.1.9. It raises the question, whether what the complainant attributes to his clients actually constitutes a violation of the Regulation and Law 125(I)/2018, meeting firstly the required conditions and secondly the constituent elements of any alleged violation. He also

mentions that having gone through the case in depth, he undoubtedly answers "no" to the above questions. I am quoting the facts, as he mentions, on which he bases his opinion: "A) No form of intention appears from the facts to have existed in the general actions of either the Association or the President personally. B) There is no relevance or connection between the two letters, namely the President of the Association dated XXXXX 2018 and the Association dated XXXXXX 2019. C) Between the above two letters, there is a time difference of XXXXXX months, so that the claim of the complainant that the combination of these two letters in any way violates "his personal data and in particular the participation of him in a union and his connection with illegal activities". D) Udamou in the Association's letter dated XXXXX 2019 reference is made to the President's letter dated XXXXX 2018 is not even connected to it, moreover these two letters have completely different contents. E) The Complainant received official notice of his expulsion (and not deletion) by means of a relevant letter dated XXXXX 2019 after a previous meeting with the Board of Directors of the Association. F) The conclusion reached by the Complainant himself through the combination of the two disputed letters, is baseless and arbitrary, and lacks any legal and factual basis. G) In the same complaint of the Complainant dated XXXXX 2019, which took place through a letter from his lawyer, it is clear that the Complainant is possessed by a feeling of revenge against the Association. Specifically, the Complainant states in paragraph 6 of the said letter/complaint: "With the above and in combination with the letter dated XXXXX 2019 our client is essentially photographed as the person who commits illegal and/or dishonest acts. I should note that it is known to the members of the Board of Directors of the Association in question that our client mostly cooperates with a specific insurance company, Cyprus General Insurance, providing valuer services after assigning to him a bid which he submitted to the Bank of Cyprus group . The members of the Association's Board of Directors, and in particular its President, also cooperate with the insurance company in question." In other words, the Complainant leaves a point that the Board of Directors of the Association accidentally deleted him for self-interested purposes. From this thought alone of the Complainant, I devoutly submit that his alien motives and pursuits are evident." 8 15.1.10. He is of the position that all the facts that make up the present case easily lead to the conclusion that no violation was committed by his clients and that, in any case, the present case does not ultimately and with all due respect, as he states, fall within the competences and my powers, as defined and defined in the Regulation and Law 125(I)/2018. 15.1.11. He conveys the assurance of his clients about the sense of legitimacy that distinguished them and distinguishes them, their non-intention to harm in any way the prestige, reputation and character of anyone and their disposition and intention, in order to avoid issues of this nature. 15.2. The letter from the Defendant's lawyer included the

Association's Statutes, the Code of Professional Conduct, the complainant's membership application dated XXXXXX 2015, the complainant's letter of approval for admission to the Association dated XXXXXX 2015, the complainant's expulsion letter from the Association dated XXXXXX 2019, as well as proof of registered mail to the complainant dated XXXXXX 2019. 15.2.1.

Pursuant to the Statute of the Association, article 2 - Purposes, point 5, the purpose of the Association is "To take any measure and take any step that the association deems appropriate to promote, advance and protect the scientific and professional interests of its members" . Pursuant to Article 8 of the Statute - Obligations of members and discipline: "A. The members of the Association are expected to behave with decency and in general with their action and participation in the events of the Association to serve and promote its purposes. They must also comply with the Code of Ethics to be adopted by the General Assembly. B. A member may be expelled if he repeatedly and despite the warnings of the Executive Committee behaves inappropriately or circumvents the purposes of the Association or the Code of Conduct or the provisions of this Statute. (...)" . 15.2.2. The Code of Professional Conduct, which states that "The terms below bind, obligate and govern the professional conduct of motor vehicle appraiser members", includes, among others, the following provisions: "8) The member must always conduct himself in a manner that does not expose or insult the association, other members or his position as a member thereof". "10) The board of directors of the association will be the competent body that will determine whether the professional code has not been observed by a member or members and will have the power to decide depending on the case up to and including the expulsion of the member or members." 9 15.2.3. In the complainant's letter of approval for admission to the Association dated XXXXXX 2015, the following is included: "We consider it necessary to inform you and draw your attention to the fact that our association is bound by a code of professional conduct and you will be asked to sign the relevant form." 15.2.4. In the complainant's letter of expulsion from the Association dated XXXXXX 2019, the following passage is included: "It is with great regret that we are contacting you today to express our disappointment regarding your obligations to the Association. Despite repeated efforts and after personal contact and a meeting with the board of directors, you have not taken the necessary actions, resulting in a conflict with the terms of the statute and the code of professional ethics. We are obliged and based on the statute to expel you from the association. "member obligations and discipline" "article 8" Please remove from the expert reports that you deliver and/or carry out on behalf of any insurance company and/or elsewhere, any element or logo that connects you with the Pancyriot Association of Motor Vehicle Appraisers". Legal framework D. Pursuant to article 5, paragraph 1, of the Regulation concerning the Principles 16. governing the processing of personal data, these



data, among other things, are processed lawfully and legitimately in a transparent manner in relation to the data subject ("legality, objectivity and transparency"). 17. Under the same article, paragraph 2 clarifies that the controller bears the responsibility and is able to demonstrate compliance with paragraph 1 ("accountability"). 18. According to paragraph 1 of article 6 of the Regulation, 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 the controller, 10 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 a delegated public authority to the controller, f) the processing is necessary for the purposes of the legitimate interests pursued by the controller or a third party, unless these interests are overridden by the interest or fundamental rights and freedoms of the data subject that require the protection of personal data, in particular if the data subject is a child. 19. Based on paragraph 1 of article 9 of the Regulation, the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or membership in a trade union is prohibited, as well as the processing of genetic data, biometrics data for the purpose of unambiguous identification of a person, data concerning health or data concerning a natural person's sex life or sexual orientation. 20. previous paragraph does not apply in the following cases: In the same article, i.e. article 9, in paragraph 2 it is clarified that a) the data subject has provided express consent to the processing of this personal data for one or more specific purposes, unless the law of the Union or a Member State provides that the prohibition referred to in paragraph 1 cannot be lifted by the data subject, b) the processing is necessary for the performance of the obligations and the exercise of specific rights of the controller or the data subject of data in the field of labor law and social security and social protection law, if permitted by Union or Member State law or by collective agreement in accordance with national law providing appropriate guarantees for the fundamental rights and interests of the data subject, c) processing is necessary for the protection of the vital interests of the data subject or another natural person, if the data subject is physically or legally unable to consent, d) the processing is carried out, with appropriate guarantees, in the context of the legitimate activities of an institution, organization or other non-profit entity with a political, philosophical, religious or trade union objective and on the condition that the processing concerns exclusively the members or former members of the organization or persons who have regular communication with it

in relation to its purposes and that the personal data is not shared outside of the specific entity without the consent of the data subjects, e) the processing concerns personal data that has been manifestly made public by the data subject, f) the processing is necessary for the establishment, exercise or support of legal claims or when the courts act under their jurisdictional capacity, g) the processing of ai necessary for reasons of substantial public interest, based on the law of the Union or a Member State, which is proportionate 11 to the intended objective, respects the essence of the right to data protection and provides for appropriate and specific measures to ensure the fundamental rights and interests of the data subject, h) the processing is necessary for the purposes of preventive or occupational medicine, assessment of the employee's fitness for work, medical diagnosis, provision of health or social care or treatment or management of health and social systems and services under Union law, or of the law of a Member State or by virtue of a contract with a healthcare professional and subject to the conditions and guarantees referred to in paragraph 3, i) the processing is necessary for reasons of public interest in the field of public health, such as protection against serious cross-border by threats to health or ensuring high standards of quality and safety of healthcare and medicines or medical devices, based on Union law or the law of a Member State, which provides for appropriate and specific measures to protect the rights and freedoms of the subject of the data, in particular professional confidentiality, or j) the processing is necessary for archiving purposes in the public interest, for the purposes of scientific or historical research or for statistical purposes in accordance with Article 89(1) based on the law of the Union or a Member State, which are proportionate to the intended objective, respect the essence of the right to data protection and provide for appropriate and specific measures to safeguard the fundamental rights and interests of the data subject. According to article 31 of the Regulation, the data controller and the 21. processor and, as the case may be, their representatives cooperate, upon request, with the supervisory authority for the exercise of its duties. Pursuant to Article 57(1)(f) of the Regulation, the Commissioner, among other things, 22. handles complaints submitted by the data subject or by an institution or organization or association in accordance with Article 80 and investigates, as appropriate , the subject of the complaint. 23. has all 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 processor when operations processing have violated provisions of this regulation, c) instruct the data controller or processor to comply with the requests of the data subject to exercise his rights in accordance with this regulation, d) instruct the data controller or to 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,

Pursuant to paragraph 2 of article 58 of the Regulation, the Commissioner 12 e) instructs the controller to announce f ) to impose a temporary or permanent restriction, including the violation of personal data on the data subject, 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 an order to notify the actions thereof 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, third country or to an international organization. 24. According to article 83 of the Regulation, paragraph 2, administrative fines, depending on the circumstances of each individual case, are imposed in addition to or instead of the measures referred to in article 58 paragraph 2 items a) to h) and in article 58 paragraph 2 element j). When deciding on the imposition of an administrative fine, as well as on the amount of the administrative fine for each individual case, the following shall be duly taken into account: j) order the suspension of data traffic to a recipient in a) the nature, gravity and duration of the violation, taking into account the nature, extent or purpose of the relevant processing, as well as the number of data subjects affected the breach and the degree of damage suffered, b) the intent or negligence that caused the breach, c) any actions taken by the controller or processor to mitigate the damage suffered by the data subjects, d) the degree of responsibility of the controller or processor, taking into account the technical and organizational measures they apply pursuant to articles 25 and 32, e) any relevant previous violations of the controller or processor, f) the degree of cooperation with the control authority to remedy the breach and limit its possible adverse effects, g) the categories of personal data affecting i) the violation, h) the way in which the supervisory authority was informed of the violation, in particular if and to what extent the data controller or processor notified the violation, i) in case it was previously ordered to take the measures referred to in the article 58 paragraph 2 against the controller involved or the processor in relation to the same object, compliance with said measures, 13 j) compliance with approved codes of conduct in accordance with Article 40 or approved certification mechanisms in accordance with Article 42 and k) any other aggravating or mitigating factor resulting from the circumstances of the specific case. 25. Pursuant to Article 83, paragraph 3, in the event that the controller or processor, for the same or related processing operations, violates several provisions of this regulation, the total amount of the administrative fine shall not exceed the amount is set for the most serious offense. 26. Pursuant to article 83,

paragraph 4, violation of the provisions concerning, among other things, the obligations of the controller and the processor in accordance with articles 8, 11, 25 to 39 and 42 and 43, entail, in accordance with paragraph 2, administrative fines of up to EUR 10 000 000 or, in the case of undertakings, up to 2% of the total worldwide annual turnover of the previous financial year, whichever is higher. According to paragraph 5 of this article, i.e. article 83, 27. violations of the basic principles for processing, including the conditions applicable to the approval, according to articles 5, 6, 7 and 9 entail, according to paragraph 2, administrative fines of up to EUR 20 000 000 or, in the case of undertakings, up to 4% of the total worldwide annual turnover of the previous financial year, whichever is higher. E. Rationale Despite the fact that I consider it self-evident, I clarify that I did not examine allegations, which do not relate to 28. actions, facts, evidence and/or powers provided to me based on the Regulation and Law 125(1)/2018. 28.1. Therefore, I did not examine issues concerning, among other things, the correctness or otherwise of the Defendant's decision to expel/delete the complainant from the Association, the connection/identification or not of the complainant with allegedly illegal actions, the existence or not libel, defamation and damaging falsehood against the complainant, the existence or non-intent in the actions of either the Defendant or the president of the Association personally, the existence or non-relevance or connection between the letter of the Defendant's president dated XXXXXX 2018 and of the letter dated XXXXXX 2019, whether the complainant is possessed by a feeling of revenge, as well as whether in actions and/or allegations that have been cited to me, there is a discrepancy between the two parties or a failure to inform me, as I cite for example in the following paragraph, which in no way affect the substance or nature of the act of processing personal data concerning the competent authorities my things By way of example and in continuation of the above, I quote the following: despite the fact that the Defendant's lawyer in the letter dated September 21, 2020, attached the letter of expulsion of the complainant from the Association dated 14th XXXXXX 2019, as well as proof of registered mail to the complainant dated XXXXXX 2019, the complainant's lawyer in the letter in which the complaint was submitted on 09 December 2019, stated that the complainant had not, until that time, received any letter or any information about his alleged deletion, but neither the reasons for which it has allegedly been deleted, and that, with the instructions of the complainant, he has addressed a letter to the Professor. I note, further, that the aforementioned letter from the complainant's lawyer to the Defendant is dated December 2, 2019, but the Defendant's lawyer has not made any reference to it. The validity or otherwise of the elements of this paragraph do not affect the essence of the complaint regarding the act of processing personal data under consideration, therefore I have not made, nor will I make, an attempt to clarify or clarify them. Based on the above, I expressly point out that

the authority granted to me by 28.2. Regulation and Law 125(I)/2018 is to examine whether the notification of the expulsion/deletion of the complainant to the insurance companies, as an act of personal data processing, was lawful and in accordance with the legislative framework I mentioned above. 29. I note that, in this Decision, as well as in my previous letters, I use the terms expulsion and deletion, without any distinction between them, since while in the Statute of the Association, article 8, in the letter of the President of the Court to the members of the Association dated XXXXXX 2018 and in the letter of the Defendant to the complainant dated XXXXXX 2019 the word deletion appears, or its counterpart, in the letter of the Defendant to the insurance companies dated XXXXXX 2019 the word deletion appears. 30. I quote in full my prima facie assessment (reasoning), as included in my letter to the Professor, dated June 18, 2020: "26. No evidence has been placed before me in the Association's defense to refute the complainant's allegations of a breach of his personal data since, despite the fact that your clients have been granted three extensions of time to submit the requested by my Office's letter dated 02 January 2020, they did not take any action, contact or inform the Office. 27. The non-sending to my Office of the Statute of the Association, as well as Regulations, if any, governing the operation of the Association, as requested in the letter from my Office dated January 02, 2020, does not prove that the personal data is submitted to a lawful and fair processing in a transparent manner with respect to the subject. 28. Despite the fact that the Association, as a data controller, bears the responsibility and must be able to demonstrate compliance with paragraph 1 of article 5 of the Regulation, your clients did not take any action towards my Office. 15 29. No evidence or argument has been provided to document the lawfulness of the processing carried out by your customers. 30. Your clients have not taken any action to demonstrate the non-prohibition of the processing of personal data revealing trade union membership and in general the processing of special categories of personal data. 31. The three submission deadlines requested by my Office's letter dated January 02, 2020, which were granted to your clients, passed without any evidence being submitted, and without my Office being informed or contacted about their non-submission . Moreover, even after the last deadline, your clients did not submit any information, nor did they inform or contact my Office. The above data prove their non-cooperation with my Office. 32. In the letter from my Office dated January 02, 2020, the Statute and any Regulations governing the operation of the Association were requested. I find that submitting them required little or no burden. Your clients have also been asked to clarify whether the practice of motor vehicle appraisers requires membership of the Association and, if not, to state the number of members of the Association and the number, or estimated number, of appraisers of motor vehicles that do not belong to the Association, as well as to provide any other

information or documents they deem necessary to investigate the complaint. I believe that the above data or information was known to your customers, and therefore easily accessible and available for submission. 33. Based on the above, and taking into account that more than five months have passed since the letter of my Office was sent without the submission of the above or any other information, the choice of giving undue importance and non-cooperation with the Office is clearly demonstrated in which your clients were obliged to perform, for the exercise of my duties. 34. After evaluating the information before me I find that there is a prima facie violation of articles 5, 6(1), 9(1) and 31 of Regulation (EU) 2016/679 and article 33(1)(b) ), (l), (m) of Law 125(I)/2018.” 31. Regarding the reference of the Defendant's lawyer in the letter dated September 21, 2020, as also mentioned in paragraph 15.1.1. of the present, that he is unable to understand the legal meaning and interpretation of the term "there appears to have been..." a violation of the provisions of the Regulation, as well as to his question, whether there may or may not have been a violation, and why, then, the clients to submit their positions and comments, I must remind him that with this particular letter he is informed, based on the information that had, until then, been placed before me, that there is a violation of specific provisions of the Regulation and 16 I must also point out that according to during the restrictive measures due to Law 125(I)/2018, and before my final decision is taken, he is given the opportunity to be heard, since his clients may be affected by the issuance of an administrative act, submitting comments and positions to mitigate the potential sanction. In addition to the above, with the evaluation of the positions and answers, which he was asked to give, a possible violation of the provisions of the Regulation and Law 125(I)/2018 would ultimately be judged, as well as the imposition of the corresponding, under the circumstances, administrative sanction . 32. The Defendant's lawyer comments on specific points, as presented in paragraphs 15.1.2. and 15.1.4. of this, delay in actions of my Office. I must, however, point out to him that even if there was any delay, it in no way had a negative effect on him and his clients. And especially for the appointment document that he was asked to send again and on which there is clearly the seal of the Association he represents and the name and status of the person signing it is written, it was something that he himself owed from the beginning and dutifully to take care and draw up properly. 33. of the COVID-19 pandemic, my Office has had continuous and uninterrupted operation. 34. Regarding the reference of the Defendant's lawyer in the letter dated September 21, 2020, as presented in paragraph 15.1.7., that neither legal and factual findings are listed nor the manner of their application and evaluation in relation to the case, I emphasize that the analysis and documentation contained in my letter dated June 18, 2020, was based on all the information available to me up to that time. His non-response and non-submission of the Defendant's positions resulted in the

specific analysis and documentation. After all, pursuant to Article 5(2) of the Regulation, "The data controller bears the responsibility and is able to demonstrate compliance with paragraph 1 ("accountability")". 35. In the letter of the Defendant's lawyer, dated September 21, 2020, he states that the following did not apply in any way: Both in my letter dated January 2, 2020, and in my letter dated 18 June 2020, the Defendant was granted the right to be heard. After all, the Defendant's lawyer himself admitted in his letter dated September 21, 2020, that his clients are invited to submit their positions and comments.

"The "accused"'s right to be heard" "The statement of the assessment and its justification in relation to any findings of the adjudicator" The assessment and justification are included in Part C. Prima facie assessment of the Commissioner (reasoning) of my letter dated June 18, 2020 to Prof. I repeat, as above, that the analysis and documentation presented were based on all the information that was presented to me and that I had, until that moment, at my disposal. 17 "The information (caution) of the "accused" about the existence of a proceeding against him" This information is evidenced by my letter dated January 02, 2020.

The Defendant's response at all or not in time does not, in any case, negate the act of informing him, which I duly proceeded with. "The information (caution) of the "accused" about the possibility of hearing the case in his absence" My letter dated January 02, 2020, but mainly my letter dated June 18, 2020, which requests the positions and comments of the before making a decision regarding the possible imposition of an administrative sanction, they prove that there is no possibility of the case being tried in the absence of the "accused", since the Defendant was properly informed about the case and was called to submit his positions. The choice of not submitting the Defendant's positions, in any case, is not understood as "adjudication of the case in his absence". Based on my explanations, as listed above, it follows, therefore, that none of the specific positions of the Professor are substantiated. 36. In the letter from my Office dated January 02, 2020, the Statute and any Regulations governing the operation of the Association were requested. Also, the Defendant was asked to clarify whether practicing the profession of motor vehicle appraiser requires registration in the Association, and, if not, to state the number of members of the Association, as well as the number, or estimate of the number, of motor vehicle appraisers not belonging to the Association, as well as to provide any other information or documents it deems necessary to investigate the complaint. I consider that the submission of the requested documents required little or no burden, while I consider, at the same time, that the above elements or information were known to the Defendant, and therefore easily accessible and available for submission, therefore in no case is it established that it was a thing "objectively impossible", as argued by the Defendant's lawyer in the letter dated September 21, 2020, if we also take into account that this period included 19 working days after the Epiphany holiday. 37. The

original deadline as well as the three submission extensions requested in my Office's letter dated January 02, 2020, namely the dates January 31, 2020, February 14, 2020, February 25, 2020 and March 08, 2020, which had been granted to Prof. and his lawyer, they arrived without submitting any information, and without informing or communicating with my Office about their non-submission. Therefore, it follows that the above, given the given conditions and circumstances, were inconsistent and non-formal in relation to anything they should have done in relation to the case. And I am unable to understand the reason or reasons that the Defendant's lawyer considers otherwise, in the letter dated September 21, 2020. Additionally, the reference of the Defendant's lawyer "in the middle of the Corona virus pandemic" is considered, if nothing more, unfortunate, since the first case in Cyprus was announced on March 09, 2020, i.e. after the third extension that I granted to the Professor had expired. 18

Based on the above, as I mentioned in my letter to the lawyer of 37.1. Accordingly, dated June 18, 2020, the choice of the rendering of undue importance and the non-cooperation with my Office which its clients were obliged to make, for the exercise of my duties, is proven. 38. Regarding the reference of the Defendant's lawyer in the letter dated September 21, 2020, that "cases of this nature are treated as "quasi-criminal cases"", I wish to emphasize that the Commissioner for Personal Data Protection is an independent administrative authority and the procedure followed during the investigation and handling of complaints submitted by the data subject or by an institution or organization or association in accordance with article 80 of the Regulation, obeys the General Principles of Administrative Law. In fact, with the letter of the Defendant's lawyer dated 21 September 2020, the Defendant has not exhausted or answered all the questions I asked in my letter dated 02 January 2020. In particular, he has not has been placed on the lawfulness or legal basis of the processing act that falls under my competence, namely the communication of the removal/deletion of the complainant to the insurance companies. The following excerpt, from the response of the defendant's lawyer dated September 21, 2020, and which is presented in paragraph 15.1.9 hereof, is relevant: of the President personally." 39.1. With the above statement, the Defendant admits that the specific processing act of notification of the expulsion/deletion of the complainant to the insurance companies was carried out, and makes the intention a constituent element of a personal data breach. However, this statement is not accepted to document the non-existence of a violation. 40. The Articles of Association, as well as the Code of Professional Ethics, are binding documents for all members of the Association. There is also a clear reference of the Statute to the Code of Professional Conduct, since by virtue of article 8 - Obligations of members and discipline, the members of the Faculty must comply with the Code of Ethics adopted by the General Assembly of the Faculty. Besides, the Code of Professional Conduct states that "The terms below



bind, oblige and govern the professional behavior of the members of motor vehicle appraisers". 41. Pursuant to the Associations and Institutions and Other Related Matters Law of 2017, Law 104(I)/2017, article 12(3), "Expulsion of a member is permitted in the cases provided for in the statute, as well as in the case in which the member, by all his conduct, actions or omissions, brings about or causes humiliation or reduction of the credibility or prestige of the association or other damage to its interests". The Articles of Association, article 8, provide that "A member may 42.1. expelled if he repeatedly and despite the warnings of the Executive Committee 19 behaves inappropriately or circumvents the purposes of the Association or the Code of Conduct or the provisions of this Statute". 42.2. The Defendant's Code of Professional Conduct provides that "10) The board of directors of the association shall be the competent body to determine whether the professional code has not been observed by a member or members and shall have the authority to decide on a case-by-case basis up to and including expulsion of the member or members". Also relevant is article 8 of the Code of Professional Conduct of the Defendant, "8) The member must always behave in a way that does not expose or insult the association, the other members or his position as a member thereof", since based on this article, as stated in the letter of the chairman of the Board of Directors. of the Association to the members of the Association, dated XXXXXX 2018, the Defendant will be forced to expel members. 42.3. After a thorough study of the Statute and the Code of Professional Conduct of the Defendant, it can be concluded that there is no article or provision, which provides for the notification of the decision to expel/delete members of the Defendant to insurance companies or in general to third parties. 43. the following passage is included, which I quote verbatim: In the letter of the Professor to its members, dated XXXXXX 2018, "To achieve our goal which is the recognition of the Association for the legal regulation by the state, of the scientific and professional branch of Motor Vehicle Appraisers as an independent scientific and professional class, we have prepared a strategy to promote a bill that recognizes the Pancyriot Association of Motor Vehicle Appraisers as the Competent Authority to regulate the appraiser's qualifications and by extension the issuance of the license to practice of the profession. At the same time and in relation to the proposed law, we implemented a training program for the mechanical appraiser of motor vehicles for the preparation of the written examination that will be organized by PSEM for the issuance of the professional Certificate of the Mechanical Appraiser". - Taking into account that: the Defendant never denied the act of data processing of the 44. personal data of the complainant to the insurance companies, the existence of intent is not a constituent element of a personal data breach, but, on the contrary, it is an element that is taken taking into account when measuring the administrative sanction, act of processing, the Defendant failed to document and/or prove the legality of the

relative of the complainant, i.e. disclosure on - - 20 - - the Defendant is not a statutory supervisory authority, were given to In the third extension of submission of the requested the profession represented by the Defendant is not statutory and as well as the following, which possibly and under conditions would have justified the processing act under consideration: based on the relevant documents that have been presented of me, and more specifically the Professor's Statute and Code of Professional Conduct, as well as the letter of expulsion of the complainant from the Association dated XXXXXX 2019, does not demonstrate the fulfillment of any condition in accordance with articles 6 and 9 of the Regulation, on the basis of which the legality of the processing act in question could be established, legally protected, it follows that the disclosure the expulsion/deletion of the complainant from the insurance companies is not based, nor does it have a legal basis in the provisions of article 6(1), or for special categories of article 9(1) of the Regulation, and therefore, the Defendant has violated the principle of legality of Article 5(1)(a) of the Regulation. Considering that: 45. - data, the Defendant and/or his lawyer did not, during this time, - submit any data, nor did they inform or communicate with my Office about the non-submission of the requested data, dated January 02, 2020, justified a possible delay or a request for an extension, and the absence of appropriate cooperation with my Office for the exercise of my duties, as provided for under article 31 of the Regulation, is evidenced. St. Exercising the duties assigned to me by the provisions of article 57(1)(f) 46.1. of the Regulation: "Without prejudice to the other tasks set out in this regulation, each supervisory authority in its territory: f) handles the complaints submitted by the data subject or by a body or organization or association in accordance with article 80 and investigates, to the extent appropriate, the subject of the complaint and informs the complainant of the progress and outcome of the investigation within a reasonable period of time, in particular if further investigation or coordination with another supervisory authority is required," 46.2. 46.3. vesting, and taking on the role of a supervisory authority, valuing and evaluating positively: - the Professor's initiatives for professional institutionalization / legal the lack of complexity and the possession of the requested data were not answered in their entirety the questions I raised in the letter the lawyer of the Professor ' th insisted on the consistency of himself and the Professor, after I took into account and evaluated the claims of the Professor, Conclusion - - - 21 - has been put I decided, the fact that not before me, previously, after I found that the Professor th violated articles 5(1)(a), 6(1), 9(1) and 31 complaint/complaint and/or established violation against the Defendant, 46.4. of the Regulation, in accordance with paragraphs 44 and 45 hereof, and 46.5. exercising the remedial powers granted to me by article 58(2)(a) and (b) of the Regulation, by virtue of which: "Each control authority has all the following remedial powers: a) to issue warnings to the data controller or the controller processing that intended processing

operations are likely to violate provisions of this regulation, (b) address reprimands to the controller or the processor when processing operations have violated provisions of this regulation" 46.6. at my discretion and in compliance with the above provisions, to address: a. Reprimanding the Defendant as from now on he refrains from related processing operations which do not have a legislative basis and/or are not consistent with the principle of legality, and b. Warning to the Defendant that from now on he takes all the necessary actions and responds promptly and with due diligence to requests to facilitate the exercise of my duties, powers and responsibilities under Regulation and Law 125(I)/2018, setting considering that relevant behaviors on his part will no longer be accepted. Irini Loizidou Nikolaidou Commissioner for Personal Data Protection Nicosia, 04 March 202122