

Athens, 07-09-2022 Prot. No.: 2211 DECISION 40/2022 (Department) The Personal Data Protection Authority met, at the invitation of its President, in a regular meeting in the composition of the Department at its headquarters on 08/06/ 2022, in order to examine the case referred to in the history of the present. The meeting was attended by teleconference by Georgios Batzalexis, Deputy President, due to the disability of the President of the Authority, Konstantinos Menoudakos, and the alternate members Demosthenes Vougioukas and Maria Psalla attended, as rapporteurs in place of the regular members Konstantinos Lambrinoudakis and Grigorios Tsolia who did not attend due to disabilities although they were legally summoned in writing. The meeting was attended, by order of the President without the right to vote, by Haris Symeonidou, specialist scientist - auditor as assistant rapporteur and Irini Papageorgopoulou, employee of the Authority's administrative affairs department, as secretary. The Authority took into account the following: With the no. prot. C/EIS/7944/19-11-2020 his complaint A complains about non-satisfaction of his rights regarding the processing of his data by the company DHL EXPRESS HELLAS A.E. (hereinafter "DHL"). In particular, according to the above complaint, during the delivery of a DHL parcel to the complainant at a Clever Point in ..., the company's partner requested to enter the complainant's police ID number into the system on his computer as recipient. Due to the complainant's refusal to provide this number, the employee received and recorded, according to the 1-3 Kifisias Ave., 11523 Athens T: 210 6475 600 E: contact@dpa.gr www.dpa.gr complaint, the number of professional identity of the complainant. Subsequently, according to the complaint, on ... the complainant requested from DHL via e-mail to ...@dhl.com, to be informed in which system his details were entered as well as what other personal data of his is included in said system, either in Greek or Latin characters, either from the latest or from previous missions. Finally, as stated by the complainant, he requested that his data be permanently deleted and that a relevant confirmation be sent to him. According to the complaint, the complainant's request was not satisfied and the complainant repeated his requests with a new email to the same address on The Authority, in the context of examining the above complaint, with no. prot. C/EXE/485/27-01-2021 its document, invited the complained company to present its views on the complained. In its response, DHL was asked to clarify in particular: a) whether the complainant actually exercised his rights to access and delete his data, b) whether and how the company responded to the above requests of the complainant and c) what is the general policy that follows the company regarding the identification process of the recipients of the parcels it transports (indicating, in particular, with what information the recipient must be identified, what is the relevant supporting basis, what is the time for observing the identification information and any other relevant information it deems appropriate) . With the no. prot. C/EIS/1121/15-02-2021

its response document, the complainant replied to the Authority that she has contracted with the company "CLEVER SERVICES ANONIME ETERIA PROVIDING SERVICES FOR DISTRIBUTION NETWORK DEVELOPMENT" (hereinafter "Clever Services") which has been licensed by the E.E.T.T. under a General License, which manages the network of Clever Points (i.e. stores such as Mini Market, flower shops, gas stations, wineries, photocopying centers see <https://cleverpoint.gr/about/>) for the purpose of automated delivery of postal items with the mediation of its employees (delivery of envelopes and small parcels) from DHL customers to recipients without collection of cash on delivery, at the specified points. According to the same answer, on ... the extended hours, which etc. to the complainants he received from Clever Point ... a package, which had been sent from ... via the complained DHL on ..., during the receipt of which, he states that he was asked by the responsible employee of Clever Services to register the number of his police identity card, which the complainant refused and in the end only the number of his professional identity card was registered. The complainant states that, in the context of the above facts, she had collected details of the complainant as the recipient of the parcel only from the sender, and the delivery of the parcel was entirely undertaken by the company Clever Services, which carries out an identity check of the recipient "with based on the practices and policies observed by the same in accordance with the relevant regulatory framework". Further, according to the complainant DHL, on ... the complainant addressed the email address ...@dhl.com, asking to be informed what personal data is kept in the company's system, whether it is mandatory to enter PAT data in DHL's electronic system, what are the contact details of the Clever Point company, while he requested the mediation of DHL in order to effectively exercise his right to erasure. The complainant attaches and cites all relevant correspondence between its representatives and the complainant and maintains that the latter was in fact initially concerned and objected to proof of identity when receiving the parcel from Clever Point, then wanted to know more details about with the management company of Clever Point, "whose employee requested to register his police ID number in the electronic system maintained by the company, while he also requested the deletion of the data of his professional ID, which had been registered in its system as above company by its employee". DHL with its above (G/EIS/1121/15-02-2021) response document pointed out that the Clever Services company supports the delivery of parcels, either by transport companies or individual e-shops at selected points, and "maintains its own the information system for the provision of the above service (that is, the receipt of parcels from specific points, regardless of their previous mode of transport)". Following the above, the satisfaction of the requests of the issue and to the then successive complainant DHL stated to the Authority that it considers that the complainant did not expressly exercise

any of the rights mentioned in the General Data Protection Regulation regarding the processing carried out by it. On the contrary, he expressed the intention to be further informed about the identification process carried out by the Clever Services company and to delete his professional ID number from the database of the company in question. According to its above response, the complained-of DHL acted to immediately investigate the complainant, informing telephone communications that "in our systems the information that has been declared in the accompanying transport documents by the sender, a copy of which is delivered to the recipient upon delivery of the of shipment, and are solely intended to ensure the successful completion of mail delivery', and that when receiving a parcel from a DHL store, a legal document is requested for the purpose of identifying the recipient, without the details of the document being retained or recorded in any way by DHL. Subsequently, the complainant returned via e-mail on ..., in which he stated the following: "[...] I would like you to inform me in which system my details were entered, what other personal data is in this system and, of course, confirmation of their permanent deletion. I understand from your reply that this system is not DHL's but since the parcel was delivered by DHL I believe I have a right to know how you are handling my information. I would also like you to inform me what personal data DHL has in your system either in Latin characters or in Greek (with correct spelling or not) not only from the last shipment but also from previous ones and of course confirmation of their deletion. Thank you very much". According to DHL's response, following this, and having already informed the complainant, that it does not retain any of his additional data, other than those provided to it by the sender of the package during shipment, it reconfirmed that the complainant had already received a copy of the data of them, as they were contained in the relevant accompanying document of the parcel, which he had already received. At the same time, its Data Protection Officer was informed DHL, who sent the letter from ... to the company Clever Services, notifying it of the complainant's deletion request, and then, with his reply letter from ..., the CEO of the company (F), confirmed the satisfaction of his right to deletion complainant. DHL maintains that in order to serve its customer it made successive telephone and electronic communications with the complainant and the Clever Services company and provided him with all the necessary information. In particular, DHL claims that it "informed the complainant about the details of the company that manages Clever Points, an employee of which entered his details in the relevant database of the company [...] that was responsible for the service in question, so that he could to properly exercise his rights", that the only data she keeps are the data provided to her by the sender of the package, a copy of which had already been delivered to the complainant, as well as that she forwarded his deletion request to the Clever Services company, so that to facilitate the exercise of his right, "despite

the fact that he had no relevant obligation under the law", subsequently receiving the certificate of satisfaction of his right to deletion from this company. In its response document, the complained DHL emphasizes that the service about which the complainant complains, i.e. the receipt of the parcel via clever point, is the "exclusive responsibility of the company Clever Services which manages the points, has its own information system and employees who carry out the delivery and identification process of the recipient, not only for receipts of parcels transported via DHL, but also parcels transported via other companies, or directly from online stores." Finally, DHL attached to the Authority a copy of the Personal Data Retention Policy (as Related E) which includes (Appendix II) the time and reason for keeping all the personal data it keeps. It is noted that this table does not include information about the data of parcel recipients, such as the complainant. Then, taking into account the above allegations of the complainant, that a) she informed the complainant about the details of the company that manages Clever Points and b) **she was not legally obliged to forward the complainant's deletion request to the Clever Services company**, Authority sent her the no. prot. C/EXE/914/23-03-2021 document to provide clarifications, asking the following questions: 1) if the delivery of the shipment to Clever Point in this case was chosen by the recipient (complainant), at what point in time, with in which way and after which information, 2) what is the form of the complainant's cooperation with the Clever Services company, i.e. if it provides it with instructions regarding the recipient identification process, as the Clever employee is alleged to have stated in the complaint Point to the complainant, 3) how DHL complies with the obligation of transparency towards data subjects regarding the form of its cooperation with the Clever Services company and finally 4) invited it to substantiate the claim that it provided the complainant with full details (name, contact information), of the company that manages Clever Points. With her C/EIS/4106/22-06-2021 explanatory document (which is noted to have been sent late), the complainant answered the above questions as follows: 1) Initially the shipment was carried out by herself (DHL), but due to not finding the recipient at the declared address returned to the undelivered parcels on ... and on the same day the recipient (complainant) contacted DHL customer service, was informed of the possibility to collect his parcel from a specific collection point managed by its third party partner and he chose such a point (Clever Point) in ..., where his package was forwarded to 2) Regarding the form of cooperation between the two companies, DHL stated that it is based on a commercial cooperation agreement signed on 16/10/2018, which specifically stipulates how to serve customers and provides specific identification instructions, including the data that are required for the delivery of envelopes and small parcels. DHL attaches the relevant contract and refers to Annex I, according to which the recipient is identified by means of an 8-digit receipt code (PIN) received

by the recipient by SMS or e-mail. However, he maintains that over time the PIN code has ceased to be used, and he has informed the partner (Clever Services) that identification is done by simply showing the customer's identity. At the same time, it states that "DHL develops and has a central application/software for the management and operation of the service points and takes the necessary measures to keep its own computerized system in operation by assuming the cost of this, as well as to further distribute through its organized network the deliverable shipments to the Partner's stores. In our computerized system, there is no field for ADT. From the above, as well as the Personal Data Processing Agreement concluded between us, it follows that the receipt of the police ID number was never set as a condition for the completion of the delivery. This data was collected and processed by the service provider voluntarily and without our order". 3) Regarding her compliance with the obligation of transparency towards data subjects regarding her collaboration with Clever Services, the complainant replied that a "Controller Processor Agreement" has been signed between the two companies (a contract between the Controller and the Processor), which he attached as well as the cooperation contract "CLEVER SERVICES AGREEMENT - DHL Final.doc" and "CLEVER SERVICES AGREEMENT - DHL modified.doc". In addition, the complained DHL sent to the data]" "summary_dpdl_privacypolicy.pdf" and "DPDHL Data Privacy Policy EN.pdf" which (<https://www.dhl.com/gr-el/home/yposelido/topiki-eidopoiisi-aporritou.html>). Finally, 4) in support of her claim that she provided the complainant with the full details of Clever Services, the complainant relied on their e-mail correspondence, referring to the relevant chat records. [posted personal protection website "Political Authority in the of After receiving knowledge of the above response, with his document G/EIS/5812/16-09-2021 the complainant stated the following: That upon receipt of the package he properly showed the identity and objected only to the registration of his data in the database of the DHL partner, that he requested access to his data not only from the specific shipment but in general to the system of the complainant, a request that was not granted. He points out that what DHL means as a copy of the data he had received, is the proof voucher of the specific shipment. But they never gave him a copy of all his personal data held on DHL's database in general (since in order to print the waybill his details were entered electronically into DHL's records), that they didn't inform him of the Clever Services details, as he was not informed of her address or her telephone numbers, so that he could exercise the right of access to her, nor was he contacted by anyone from this company and that no one informed him if his data had been deleted, that he does not know correspondence between the two companies, they did not inform him of the relevant deletion request from Clever Services, nor did they confirm to him the deletion of his data from DHL's systems. Regarding the relationship and the roles of the two

companies, the complained DHL had claimed in its original response document G/EIS/1121/15-02-2021 that "[...] the service about which the complainant complains, namely the receipt of the parcel via clever point is the exclusive responsibility of the company Clever Systems, which manages the points, has its own information system and employees who carry out the delivery and identification process of the recipient, not only for receipts of parcels that have been transported via DHL, but also parcels that have been transferred through other companies, or directly from online stores", with the no. prot.

C/EIS/4106/22-06-2021 its explanatory document presented to the Authority its agreement with the company Clever Services characterized as "CPA - Controller Processor Agreement" in which the latter is mentioned as performing the processing on behalf of DHL, supporting that "the receipt of the police ID number was never set as a condition for the completion of the delivery. This data was collected and processed by the service provider voluntarily and without our order". In order to clarify the relationship between the two companies, the Authority sent document C/EXE/2063/15-09-2021 to the Clever Services company, in order to provide its views on the complainants, clarifying in particular: a) who is its exact role in the context of the complained processing, and b) whether receiving and keeping the identification number of the received parcels is a practice applied by Clever Services based on its own decision or on the basis of instructions received from the transport companies.

With its C/EIS/6328/30-09-2021 response document, Clever Services describes in detail the process of delivering parcels from Clever Point to a recipient-customer of a partner courier company, citing for documentation indicative images from the screen (screenshots) of the Clever Point store employee. The position of the company in question is that it never entered the identity number (neither police nor professional) of the complainant in its system, as there is no relevant field in the platform that Clever Points partners access and enter information. In addition, it states that usually Clever Services cooperates with stores and courier companies in such a way that they deliver parcels after identifying the recipient through a personal code (PIN) sent to them, and only if they do not have the code they are asked to show it any identification document. However, especially with regard to the complained DHL, and at its own request, a different model is followed without the use of an identification code, according to which the recipient must always show an identification document, but without the details of this document being registered somewhere. Finally, it claims that following the complainant's request, which was conveyed by B (DHL DPO), Clever Services granted the erasure request and responded to DHL accordingly. From the above it is confirmed that Clever Services has the role of performing the processing on behalf of DHL, as a controller. Following the above, the Authority, with G/EXE/677/14-03-2022, G/EXE/670/14-03-

2022 and C/EXE/669/14-03-2022 Calls to the complainant and the companies DHL EXPRESS HELLAS S.A. and Clever Services S.A. respectively, invited the involved parties to a hearing at the Department meeting, on 23/3/2022 at 11.00 am, in order to present their views on the case. During the hearing, the parties developed their views and were given a deadline of 16 days (until 08-04-2022) to submit briefs. During the meeting of 23/3/2022, the complainant was present on the one hand, and on the other hand, on behalf of the complained DHL, C, Proistameni ..., her attorneys, Katia Lampropoulou (AM Board ...) and Spyros Tassis (AM Board of Directors ...) and B, Director ... and Data Protection Officer of the company, who did not take the floor, while on behalf of Clever Services A.E. ST, President and CEO of the company, D, Director ... and the attorney of the company, Stavros Brustas (AM Board of Directors ...) were present. During this meeting, the parties were given a deadline and filed within the deadline, while the complainant no. prot. C/EIS/5452/01-04-2022 memorandum, and the complained DHL the no. prot. C/EIS/5759/08-04-2022 memorandum, while Clever Services did not file a memorandum. Both during the hearing and with his memorandum, the complainant repeated what was stated in his complaint, emphasizing that DHL did not provide him with the details of Clever Services, that no one from this company contacted him, that he still has not received an official response to satisfy his right of access (beyond sharing the voucher of the specific shipment) nor is he sure if his data has been permanently deleted by the complainant. With regard to the letter dated ... from the representative of Clever Services F to DHL confirming the deletion of his data, the complainant claims that no communication between the two companies was communicated to him, while he also disputes the time of writing the letter, because, as he states, "it is not difficult for them to make up a letter after the fact with a specific date, which is not recorded anywhere and remains in their offices". Finally, he reiterated that the employee when delivering the package asked for the complainant's ID in order to enter its number and that the complainant actually saw him enter his business ID number on the screen. The defendant DHL, through its representatives, during the hearing and also with its memorandum, stated that for the delivery of parcels through Clever Services it has designed and developed a special application – software for exchanging information, managing and operating Clever Points, while maintaining and its own computerized system in operation in order to further circulate through its organized network the shipments delivered to the stores with which Clever Services cooperates, which does not include a field for the entry of the ADT, because it has provided for the collection of only the necessary personal data to ensure the correct execution of the transfer and delivery (principle of privacy by design). Recipient identification takes place through an 8-digit unique identifier (PIN code) sent to the recipient's mobile phone, while if no mobile number is available, as in the case of the

complainant, identification is done by presenting an ID or other equivalent public document. The complainant reiterated that after exercising the right of access on behalf of the complainant on ..., she initially informed him through the e-mail from ... that only the details of the accompanying transport document (voucher), a copy of which the recipient had received upon delivery of the shipment, as well as that the identity details of the recipients are not recorded. Regarding the allegation of recording his professional identity, the complainant claims that she investigated it, but it was not possible to confirm it either by herself or by the collaborating company Clever Services. It is noted that during the hearing and the representatives of Clever Services argued that the registration of the identification number in the shipment management system is not provided for and is not requested, as the instructions which it applies as a processor on behalf of DHL state that the identification is done only with the bill of lading number. Further, according to DHL's memorandum, after the complainant clarified that he had provided his professional ID, on 13/8/2020 the complainant informed him in writing of exactly what data she had recorded in her system for the bill of lading in question, as and for deleting his data. As the DHL representatives explained during the hearing, the name and surname of the recipient are elements of the contractual relationship and for this reason, although they have been deleted by Clever Services, they cannot be deleted by DHL, while they then pointed out that all shipment details are deleted after three months and for this reason no details from previous shipments were found for the complainant, except for this particular one, for which they informed him via e-mail. Attached to DHL's memorandum is E's e-mail from ... to the complainant, with the following content: "Following our communications, we would like to inform you that your request to delete your personal information from the system of the partner service point , has already been forwarded to the relevant department for further handling, while a relevant written confirmation is expected to be sent to you as soon as possible. In attachment you can find the information we had at our disposal for the delivery of the shipment with bill of lading number ..., while at this point we would like to mention that without your request citing a specific transport number, it is not possible to search for any information". Further, according to the complainant's memorandum, on ... the process of deleting the complainant's data (name and surname) from the partners and the order tracking systems was completed and in the following days "her representative called A to inform him about this", a claim which the complainant denies. Finally, with regard to informing the complainant of the details of Clever Services as the recipient of his data, during the hearing DHL argued that when the receipt is to be made via clever point at the initiative of the recipient, it is clear for the recipient as the data subject that there is a third company that provides the relevant service. DHL did not provide any explanation, either orally or in its pleadings, for not providing the details

of the company in question to the complainant following his access request. CONSIDERED ACCORDING TO THE LAW 1.

From the provisions of articles 51 and 55 of the General Data Protection Regulation (Regulation (EU) 2016/679 – hereinafter, GDPR) and article 9 of law 4624/2019 (Official Gazette A' 137) it follows that the Authority has the authority to supervise the implementation of the provisions of the GDPR, this law and other regulations concerning the protection of the individual from the processing of personal data. 2. According to article 5 par. 1 a) GDPR "1. Personal data: a) are processed lawfully and legitimately in a transparent manner in relation to the data subject ("legality, objectivity and transparency"). Regarding the transparency of the processing, article 12 par. 1 GDPR states that: "The data controller shall take appropriate measures to provide the data subject with any information referred to in Articles 13 and 14 and any communication in the context of Articles 15 to 22 and Article 34 regarding by processing in a concise, transparent, comprehensible and easily accessible format, using clear and simple wording, especially when it comes to information addressed specifically to children. The information is provided in writing or by other means, including, if appropriate, electronically. When requested by the data subject, the information may be given orally, provided that the identity of the data subject is proven by other means.' Mandatory information provided is provided for in Article 13 GDPR for the case where the data is collected by the subject and in Article 14 GDPR for the case where the data has not been collected by the subject. In particular, this information includes at least "a) the identity and contact details of the controller and, where applicable, his representative, b) the contact details of the data protection officer, where applicable, c) the purposes of the processing for which the purpose of the personal data, as well as the legal basis for the processing, d) the relevant categories of personal data, e) the recipients or categories of recipients of the personal data, f) where applicable, that the controller intends to transmit data of personal nature to a recipient in a third country or international organization and related information, g) the period for which the data will be stored, or, if this is impossible, the criteria that determine said period, h) information about the rights of the subject in accordance with articles 15-22 GDPR". As long as the data has not been collected by the subject, in accordance with article 14 par. 2 sec. f) GDPR, it is required to provide the subject as information "the source from which the personal data originates and, as the case may be, whether the data originated from sources to which the public has access". The information is provided either during the collection of the data, when this is done by the subject (Article 13 GDPR) or within the time period defined in par. 3 of Article 14 GDPR, in the event that the data has not been collected by the subject. According to the OE 29 Guidelines on transparency (WP260 rev.01) when informing subjects in accordance with Articles 13-14 GDPR, the information provided should be specific and definitive:

"The use of language designations such as 'might', 'certain', 'often' and 'likely' should also be avoided. Where data controllers choose to use vague wording, they should be able, in accordance with the principle of accountability, to demonstrate why the use of such wording could not be avoided and why it does not undermine the lawfulness of the processing." (§ 13). 3.

According to article 15 par. 1 and 3 GDPR: "1. The data subject has the right to receive from the controller confirmation as to whether or not the personal data concerning him is being processed and, if this is the case, the right to access the personal data and the following information: a) the purposes of the processing, b) the relevant categories of personal data, c) the recipients or categories of recipients to whom the personal data have been disclosed or are to be disclosed, in particular recipients in third countries or international organizations, d) if possible, the period for which the personal data will be stored or, when this is impossible, the criteria that determine the period in question, e) the existence of the right to submit a request to the data controller for the correction or deletion of personal data or to limit the processing of the data of a personal nature concerning the data subject or the right to object to said processing, f) the right to submit a complaint to a supervisory authority, g) when the personal data is not collected from the data subject, any available information about its origin, h) the existence of automated decision-making, including profiling, provided for in Article 22 paragraphs 1 and 4 and, at least in these cases, significant information about the logic followed, as well as the meaning and intended consequences of said processing for the data subject. [...] 3. The controller shall provide a copy of the personal data being processed.[...] If the data subject submits the request by electronic means and unless the data subject requests otherwise, the information shall be provided in electronic form commonly used". At the same time, Article 12 para. 3 GDPR states the following: "The data controller shall provide the data subject with information on the action taken upon request pursuant to Articles 15 to 22 without delay and in any case within one month of receipt of the request. This deadline may be extended by a further two months if necessary, taking into account the complexity of the request and the number of requests. The data controller shall inform the data subject of said extension within one month of receipt of the request, as well as of the reasons for the delay. If the data subject makes the request by electronic means, the information shall be provided, if possible, by electronic means, unless the data subject requests otherwise." According to the Jurisprudence of the Authority, the right of access according to Article 15 GDPR is not required to be surrounded by a specific formula or to be exercised in a solemn manner, nor to include the reasons why the subject exercises the right (see decision APD 36/2021 and 16/2017 s. 3). The same is also indicated in Guidelines 1/2022 of the ESPD on the right of access (under consultation)¹. 4. Furthermore, according to the above Guidelines of the GDPR

1/2022, the right to receive a copy of the data should be interpreted in a broad sense and include all the different ways of accessing the personal data, as long as the access is complete (i.e. includes all requested personal data) and provides the subject with the possibility to retain it. Thus, the requirement to grant a copy means that the information about the personal data concerning the person making the request is provided to the data subject in a way that allows him to retain all the information and refer back to it (§25). Moreover, an access request should be understood in general terms and include all personal data concerning the subject, unless the subject expressly limits his request to a specific subset of the data, or if the controller processes a large volume of his data subject, in which case he should request clarifications from the subject to remove any doubt as to the content of the request (§35). It is pointed out that the rule of providing as accurate and clear information as possible based on the principle of transparency must also govern the 1 See especially par. 47-51: "...the GDPR does not introduce any formal requirements for persons requesting access to data." (§50), "...there are in principle no requirements under the GDPR that the data subjects must observe when choosing a communication channel through which they enter into contact with the controller" (§51) and par. §13: ".... the aim of the right of access is not suitable to be analyzed as a precondition for the exercise of the right of access by the controller as part of its assessment of access requests. Thus, controllers should not assess "why" the data subject is requesting access, but only "what" the data subject is requesting. information that subjects receive in response to a relevant access request pursuant to Article 15 GDPR. According to the aforementioned EO 29 Guidelines on Transparency (WP260 rev.01), "The principle of transparency accountability applies not only at the point of collection of personal data, but also throughout the cycle lifetime of the processing regardless of the information provided or the communication carried out" (§ 29). Especially in relation to the information on the recipients or categories of recipients of the data, the following is recommended: "The term "recipient" is defined in Article 4 paragraph 9 as "the natural or legal person, public authority, agency or other body, to whom the personal data is disclosed, whether to a third party or not" [emphasis added]. As such, a recipient need not be a third party. Therefore, the remaining data controllers, joint controllers and processors to whom the data is transmitted or disclosed are covered by the term "recipient" [...].According to the principle of legality, controllers processing must provide the recipients with the most important information for the data subjects. In practice, this will generally be the names of the recipients, so that data subjects know exactly who is in possession of their personal data. If controllers choose to provide the categories of recipients, the information should be as specific as possible and indicate the type of recipient (ie, with reference to the activities it carries out), industry, sector, sub-sector and

location of recipients' (see table pp. 49-50, WP260 rev.01). See moreover, the Guidelines 1/2022 of the EDPS on the right of access, §115 and the example cited there: "... already under Article 13/14 GDPR, the information about recipients or categories of recipients must be as specific as possible in terms of compliance with the principles of transparency and legality. The controller should name the actual recipients unless it would only be possible to identify the category of recipients. In any case, it is sometimes still not possible to identify the actual recipients at the time of providing information in accordance with Articles 13 and 14 GDPR, only at a later stage, for example, when an access request is submitted."2 According to above, in the context of the submission by the subject of a request for access to information about the recipients of the data (Article 15 par. 1 f. c GDPR), at a time subsequent to the initial information, i.e. at a time when the transfer has already taken place of his data to specific recipients, the Processor should provide as accurate information as possible about the recipients of the data at the time of the access request, i.e. name them, stating at least the exact name and contact details of any processor to which the applicant's data have already been transmitted, so that the subject is able, if he wishes, to exercise his further rights addressed to them. 5. Regarding the right to erasure, article 17 par. 1 GDPR states the following: "1. The data subject has the right to ask the controller to delete personal data concerning him without undue delay and the controller is obliged to delete personal data without undue delay if one of the following reasons applies: a) the data of a personal nature are no longer necessary in relation to the purposes for which they were collected or otherwise processed, b) the data subject withdraws the consent on which the processing is based in accordance with Article 6(1)(a) or Article 9 paragraph 2 letter a) and there is no other legal basis for the processing, c) the data subject objects to the processing in accordance with Article 21 paragraph 2 "...already under Article 13/14 GDPR information on the recipients or categories of recipients should be as concrete as possible in respect of the principles of transparency and fairness. The controller should name the actual recipients unless it would only be possible to indicate the category of recipients. Nevertheless, sometimes naming the actual recipients is not yet possible at the time of the information under Articles 13 and 14 GDPR, but only in a later stage, for example, when an access request is made." (Guidelines 1/2022 on data subject rights – Right of Access, §115). 1 and there are no compelling and legitimate reasons for the processing or the data subject objects to the processing in accordance with Article 21 paragraph 2, d) the personal data were processed unlawfully, e) the personal data must be deleted, so that comply with a legal obligation based on Union law or Member State law to which the controller is subject, f) the personal data have been collected in connection with the provision of information society services referred to in Article 8 paragraph 1.' At the same time, Article 19 of

the GDPR states that "The data controller shall notify any correction or deletion of personal data or limitation of data processing carried out in accordance with Article 16, Article 17 paragraph 1 and Article 18 to each recipient to whom the personal data, unless this proves impracticable or involves a disproportionate effort. The data controller shall inform the data subject of such recipients if requested by the data subject." 6. Finally, according to Article 28 GDPR, "When the processing is to be carried out on behalf of a data controller, the data controller shall only use processors who provide sufficient assurances of the application of appropriate technical and organizational measures, in such a way that the processing is meets the requirements of this regulation and to ensure the protection of the rights of the data subject", and paragraph 3 of the same article provides for the minimum content of the contract or other legal act, which must bind the processor in relation to the controller. According to the GDPR Guidelines 07/2020 on the concepts of controller and processor in the GDPR, the controller determines the purposes and means of processing, i.e. the reason and manner of processing. The controller must make the decisions concerning both the ends and the means. However, decisions concerning some more practical aspects of the application ("material means") may be taken by the processor. The controller does not need to actually have access to the data being processed to be considered a controller. The processor is the natural or legal person, public authority, agency or other entity that processes personal data on behalf of the controller. In order to identify an entity as a processor, two basic conditions apply: that it is a separate entity in relation to the data controller and that it processes personal data on behalf of the data controller. The processor must not process the data in any other way, except in accordance with the instructions of the controller. The controller's mandates may provide some discretion as to how best to serve the controller's interests, allowing the controller to choose the most appropriate technical and organizational means. However, the processor violates the GDPR if it goes beyond the instructions of the controller and starts to determine the same purposes and means of processing. In such a case, the processor will be considered responsible for the processing in question and may be subject to sanctions for exceeding the instructions of the controller (see summary CG 7/2020 ESPD, pp. 3-4). 7. In the case under consideration, the following emerged from the information in the file: DHL, acting as a data processor for the purpose of transporting and delivering parcels, has entrusted Clever Services, as the processor, with the delivery of shipments to points selection of the respective recipient, from a network of cooperating stores ("Clever Point", "smart", i.e. flexible delivery) and the updating of the shipment management information system with the entry of the delivery information by the partners. The complainant is the recipient of a parcel sent from Germany on ... via the complained courier company, DHL. On ..., as it was not possible to

deliver the parcel to the address stated by the complainant, in a relevant telephone conversation with the representatives of the complainant, he was given the opportunity to choose the collection from Clever Point, as he did, choosing the desired point of receipt at It is noted that with its C/EIS/4106/22-6-2021 explanatory document, DHL stated that the complainant requested to pick up his parcel from Clever Point on ... by telephone ("contacted our company's service department") after the parcel was initially returned as undeliverable, however no prior information of the complainant as a subject of the processing entailed by this option (transmission to recipient/executor of the processing) is obtained. In response to the Authority's question regarding transparency towards data subjects regarding the form of its cooperation with the company Clever Services S.A., the accused DHL invokes the contracts between the companies (which, however, are not known to the subjects) , and 3 different "Data Protection Policy" texts, two of which are in English and their notification to the subjects does not appear ("summary_dpdhl_privacypolicy.pdf" and "DPDHL Data Privacy Policy EN.pdf"), and the third address: <https://www.dhl.com/gr-el/home/yposelido/topiki-eidopoiisi-aporritou.html>. With its memorandum, DHL also refers to another information text on the processing address https://mydhl.express.dhl/content/dam/downloads/global/privacy-notice/express_privacy_notice-v1.2c_gr_el.pdf is posted data , website located at its, at the **From the information in question, it is established that the information about the recipients is general and vague, while no reference is made to Clever Services as a possible recipient,** nor as a category of recipient.³ Consequently, the claim 3 "[...] DHL will transfer your data to the following categories of recipients: [...] Third-party business partners: The transfer to third-party business partners is limited to what is required by applicable law and/or to fulfill the (https: //www.dhl.com/gr-el/home/yposelido/eidopoiisi- contractualaporritou.html) and "We will transfer your data to the following category of recipients: [...] Business partners: the transfer is limited to what is necessary (e.g. for the collection or delivery of your parcel at a point of service, in certain areas for the execution of customs clearance.)" our performance of delivery obligations." the for and or which was put forward by the two companies in the context of the hearing, that is to say that it is clear to the recipient that it is a third company, cannot be accepted as it is not substantiated by the evidence cited. Further, during the process of delivering the package the complainant claims that he was asked by the Clever Point employee to enter his ID number into their computer system, which the complainant refused and instead presented his business ID for the purpose of his identification. A review of the complaint did not establish whether the complainant's business ID number was actually entered into the dispatch system managed by the Clever Point partner, as there is no relevant field, as shown by the screenshots provided by Clever Services. Subsequently, as can be seen from the

submitted correspondence (see Related 1 of document no. C/EIS/1121/15-02-2021) on ... through the application provided by DHL for tracking the shipment, the complainant submitted the following comment: "Good morning, Regarding the package ... that I have received, I asked your colleague over the phone to be informed about what personal information you have in the system and by what procedure they could be deleted. It's been almost a week and I'm still waiting. Also At the smart pick up service point it asked me to enter my ID number into the system. Is that the process? Is this mandatory or is there an alternative way? Who is the administrator of the clever point data? You can help". In this way, the complainant, as a data subject, electronically exercised the right to access the following information according to Article 15 of the GDPR: a) his data that is subject to processing, additionally requesting to know whether the provision and electronic registration of the identity number is mandatory or not ("what personal information do you have in the system... it asked me to enter my ID number in the system. Is this the procedure? Is this mandatory or is there an alternative way?"), b) the (https://mydhl.express.dhl/content/dam/downloads/global/privacy-notice/express_privacy_notice-v1.2c_gr_el.pdf). how to exercise the right to erasure ("by what procedure they could be erased"), c) the recipient of his data in the context of the receipt process from a Clever Point point ("Who is the manager of the clever point data"), in accordance with the provisions of GDPR article 15 par. 1, 15 par. 1 item e) and item c) in order). With E's message from DHL on behalf of DHL, the complainant received the following information: "... our systems display the information declared in the accompanying transport documents by the sender, a copy of which is delivered to the recipient upon delivery of the shipment , and are solely intended to ensure the successful completion of mail delivery. At this point, we would also like to mention that when receiving a parcel from a store or cooperating office, a legal document is requested for the purpose of identifying the recipient, while their details are clearly not kept or recorded in any way by DHL. We would like to inform that the case has been communicated to the authorities for necessary recommendations and corrective actions to avoid similar incidents in future. You have our assurance that the Deutsche Post group, and DHL Express as a member thereof, act in accordance with the General Data Protection Regulation, while the deletion request you have made has already been forwarded to the relevant department for further handling. On ..., the complainant replied to the above message to DHL, providing further clarifications to the submitted access request: "[...] the partner for the delivery of the package, requested and entered electronically into his computer (as he told me he had instructions) the full name as well as my professional ID number as I refused to give the AT number. Consequently, I would like you to inform me in which system my details were entered, what other personal data is in this system and of course

confirmation of their final deletion. I understand from your reply that this system is not DHL's but since the parcel was delivered by DHL I believe I have a right to know how you are handling my details. Also, I would like you to inform me what personal data DHL has in your system[s] either in Latin characters, or in Greek (with correct spelling or not) not only from the last shipment but also from previous ones and of course confirmation of their deletion". From the above, it follows that the complainant, having realized (indirectly, from DHL's response) that the system in which the information for the final delivery of the package was entered was that of another company, third party to DHL, and asked to be informed "in which system the entry was made" essentially meaning who is the third company in question, that is, again asking to know to which recipient his data was shared, in accordance with article 15 par. 1 c GDPR. This question was a continuation of his initial question from 28/7/2020 "who is the manager of clever points". In addition, the complainant repeated the request for access to all his personal data processed by the complainant (article 15 par. 1 GDPR), clarifying that he refers to the information held by the company "not only from the last shipment but also from previous ones", and requesting to search for his name in both Greek and Latin characters, while he also submitted a request to delete his data in accordance with Article 17 GDPR. With the message from E, the complainant received the reply that "[...]your request to delete your personal data from the system of the cooperating service point, has already been forwarded to the relevant department for further handling, while it is expected as soon as possible to be sent a relevant written confirmation. In attachment you can find the information we had at our disposal for the delivery of the shipment with bill of lading number ..., while at this point we would like to mention that without your request citing a specific transport number, it is not possible to search for any information". From the submitted correspondence, therefore, it appears that the complainant, in order to satisfy the right of access, sent the complainant a copy of the details of only the specific shipment, which according to what she asserted during the hearing were the only ones she had at her disposal for the complainant, due to the fact that, as mentioned, these data are kept for three months and then deleted. It should be noted that in the context of the hearing, the representatives of DHL spoke of keeping the data for three months, without, however, providing any relevant evidence in their memorandum. The information provided to the subjects does not reveal the exact time of keeping the details of the recipients.⁴ Besides, with the no. prot. C/EIS/1121/15-02-2021 its response document, the complained DHL presented to the Authority a copy of the Personal Data Retention Policy, (as Related E) which includes (Appendix II) the time and reason for retention of all the personal data it holds. This table does not include information about the data of parcel recipients, such as the complainant. In the section entitled "Contact data for purposes

marketing" it is stated that in the context of complaint management, the communication data (of the complaining customer) are kept for five (5) years from the processing of the complaint, depending on the nature of each request, with the legal basis of the Company's legitimate interest to be aware of any problems, complaints and complaints, in order to defend its position, to deal with related incidents, to satisfy its customers/partners 4 "How long do we keep the data? We will retain your data for as long as is necessary to fulfill our purposes, perform our contracts and comply with any legal obligation. The retention period may vary from country to country based on the applicable laws of each country. We constantly strive to minimize the data retention period where the purpose, legislation or contracts allow us to do so. The data we collect based on your consent will be retained until it is withdrawn. (<https://www.dhl.com/gr-el/home/yposelido/eidopoiisi-aporritou.html>) and "How long we keep your data We will keep your data for as long as necessary to fulfill the our purposes, the performance of our contracts and compliance with any legal obligation. The retention period may vary by country based on applicable country laws. Update: 02.2022 page 10 To comply with applicable legal obligations, we will retain some of your data for a period of up to 11 years, with country-by-country variations as determined by applicable local law. For example, the storage of shipping documents required to process the shipment. We determine an appropriate and reasonable retention period taking into account the nature, sensitivity and necessity of your data. We constantly strive to minimize the data retention period where our purpose, law or contracts allow it. For example, in some countries data for customer satisfaction purposes is kept for a period not exceeding 3 years. The data we collect based on your consent will be processed until you withdraw your consent." (https://mydhl.express.dhl/content/dam/downloads/global/privacy-notice/express_privacy_notice-v1.2c_gr_el.pdf) and/or third parties, to correct errors and malfunctions and to develop business. Furthermore, DHL did not satisfy the complainant's request for access to the recipient of the data, pursuant to Article 15 para. 1 c GDPR, providing the necessary clear, accurate and definitive information and, in particular, the name and contact details of the executor processing by Clever Services, which were not mentioned anywhere in DHL's submitted correspondence with the complainant, despite its unsubstantiated claim to the contrary. In fact, it was not clear for the complainant as the subject of the data nor the fact that it was a third party recipient, as the said company in the communications between them is vaguely referred to as "collaborating office", "authorities", "partner" or "competent department", that is, with phrases that could be perceived by the subject and as parts of the complainant herself, as the Processing Manager. Therefore, DHL did not respond to the complainant's access request as it should, thereby violating Article 15 GDPR. Regarding the request to delete the complainant's data, DHL maintains that on ... its

Data Protection Officer communicated the request in question to Clever Services by letter and on ... received the reply letter from its managing director, F, with the which Clever Services confirmed the deletion of the data. The complainant states that he did not receive any information regarding his request, while he disputes the time of drafting the above letters by the representatives of the two companies. It should be noted that according to DHL's initial opinion (G/EIS/1121/15-02-2021), the complainant did not exercise any of his rights as a data subject towards it ("he did not expressly exercise any of the rights mentioned in the General Data Protection Regulation regarding the processing carried out by our company. Instead, he expressed his intention to be further informed about the identification process carried out by the Clever Services company and to delete his professional ID number from the above company's database "), an allegation which, according to what has been stated above, does not correspond to reality, and which DHL did not repeat at the hearing or with its pleading. According to DHL's memorandum, on ... the process of deleting the complainant's data (name and surname) from its partners and order tracking systems was completed, and the complainant was informed by phone in the following days. However, the complainant denies that he was informed in any way about this matter, while the deletion on ... of the complainant's data, as the recipient of a shipment delivered on ..., seems to contradict both the aforementioned claim of the complainant, that the data is kept on quarterly and then deleted, as long as the data retention period mentioned in the Data Retention Policy in the event of a complaint (5 years). Although it is not clear in which of the cases of article 17 par. 1 the complainant based his request for the deletion of his data, the complained as controller should have examined it and responded to it in accordance with the Data Retention and Deletion Policy which follows and be able to document to the Authority the actions he took, within the framework of the principle of accountability. Therefore, a violation of article 17 of the GDPR on the part of DHL in combination with article 5 par. 2 of the GDPR is established. 8. Following the above, from the information in the file and following the hearing, the Authority finds on behalf of the complained company DHL: a) violation of the complainant's right of access to his personal data according to Article 15 GDPR, because the complained party did not respond appropriately and with the required transparency at the complainant's request, as he did not provide the complainant with the requested information regarding his personal data that he processes and did not provide him with any information regarding the Clever Services company as the recipient of his data b) violation of article 17 GDPR of the right to delete the personal data of the complainant, in combination with the principle of accountability according to article 5 para. 2 GDPR, because the complainant did not give any definitive answer to the request for deletion of the complainant, while she did not document to the Authority the legality of the its actions in connection

with the Data Retention and Deletion Policy followed by it. 9. Based on the above, the Authority considers that there is a case to exercise its corrective powers (imposition of a fine) in accordance with articles 58 par. 2 i) and 83 GDPR with regard to the violations established under point a above. To determine the sanction, the Authority takes into account the criteria for measuring the fine defined in article 83 par. 2 of the GDPR that are applicable in this case. In particular, the following are particularly taken into account: a) The nature, gravity and duration of the violation: It is taken into account that these are two independent violations of two different rights of the subject (access and deletion), which fall under the provision of article 83 paragraph 5 GDPR , therefore incur a maximum penalty of 20 million euros. The processing related to the infringements in question is related to the basic activity of the complained business (parcel delivery). The violation of the right of access is of moderate severity, since it resulted in the subject not being able to further exercise his rights towards the recipient of the data (Clever Services), given that the information provided in accordance with Article 13 GDPR is incomplete , vague and does not list the company in question as the recipient nor in the form of the recipient category. The violation of the right to erasure is also of moderate gravity, because the complained company, even after the intervention of the Authority, did not properly consider the request and did not provide clear explanations regarding the erasure or not of the complainant's data. The above-mentioned violations have lasted for several months (from August 2020 and until today, to the extent that no definitive answer has been given to the complainant to satisfy his rights), and even after the complaint was submitted, the subject was not informed of the requested data. b) The fact that only one subject was affected, who suffered moral damage from the non-satisfaction of his rights. However, the violations demonstrate a systemic problem and incomplete procedures for managing the rights of the subjects (according to article 12 par.2 GDPR). c) The degree of responsibility of the company due to insufficient technical and organizational security measures that led to the violation: In particular, a lack of management procedures and satisfaction of rights of the subjects, lack clear instructions and training of employees in order to recognize and to properly respond to relevant requests, lack of procedures to ensuring compliance with the obligation of Article 19 GDPR, lack of supervision processor and its partners, lack of transparency both in information texts to data subjects (vague and general expressions, lack of information regarding the processor

Clever Services as recipient) as well as in the responses given to complainant following his requests (ambiguity), failure to report of parcel recipients as data subjects in the Preservation Policy and Data Deletion.

d) The fact that special categories were not affected by the violation personal data.

e) The fact that the complainant had a turnover of 74,058,295 euros in the year 2020, according to its balance sheet published in GEMI.

In addition, for the calculation of the fine, aggravating factors are taken into account following:

f) The fact that the Authority was given incorrect, unclear and contradictory information explanations on behalf of the complainant. In particular, in the original document of her opinions (G/EIS/1121/15-02-2021) included the following inaccurate information:

- that the parcel was received on ... instead of ..., as it emerged from answers from Clever Services,

- that the complainant had not exercised any GDPR rights against DHL,

- that Clever Services was responsible for the following on its behalf receipt process,

- that DHL had no obligation to forward the erasure request to

Clever Services, despite the contrary express term 6.9 of the Agreement between them of Data Processing, which was notified to the Authority with C/EIS/4106/22-06-2021 document.

With the second answering document of the complainant (G/EIS/4106/22-06-2021), which was sent to the Authority three months late, is described incorrectly collection process from Clever Points points (identification with a PIN code),

since, as it turned out, this procedure is not followed in her case

DHL. In addition, regarding the relationship of the complainant with Clever Services, h

DHL referred to the Authority four (4) different contract texts

(outside the CPA): With its document G/EIS/4106/22-06-2021, DHL attached two

unsigned drawings, one original dated 10-16-2018 and one drawing

of amendment dated ... (after C/EXE/914/23-03-2021 were requested

clarifications from the Authority). With G/EIS/5759/08-04-2022 with hearing

to its memorandum DHL attached the from ... original signed text of contract

as well as an amendment proposal dated 03-21-2022 and marked

changes (track changes), which does not occur if it was signed. It is noted

that this plan was drawn up after sending a summons to the accused (at

14/3/2022) and two days before the hearing before the Authority (on 23/3/2022).

Finally, regarding the time of keeping the data of received parcels, the

information given to the Authority in the context of the hearing (compliance for three months

and erasure) were not substantiated or repeated with her pleading

complainant, while the way of handling its deletion request

complainant appears to contradict this information.

The above demonstrates the company's lack of technical compliance

and organizational measures and lack of willingness to cooperate with the Authority.

g) The fact that the data processing agreement with the company

Clever Services is signed by the Complainant's DPO, who can be seen

thus to represent her, contrary to the provision of article 38 par. 6 GDPR.

FOR THOSE REASONS

THE BEGINNING

A. Enforces DHL EXPRESS HELLAS A.E. as controller based on

article 58 paragraph 2 paragraph i of the GDPR fine of thirty thousand (€30,000) euros

for the violation of the complainant's right of access according to article 15

GDPR.

B. Enforces DHL EXPRESS HELLAS A.E. as a controller based on

article 58 paragraph 2 paragraph i of the GDPR fine of thirty thousand (€30,000) euros

for the violation of the complainant's right to erasure according to article 17

GDPR combined with the principle of accountability (Article 5 para. 2 GDPR).

The president

George Batzalexis

The Secretary

Irini Papageorgopoulou