




Annual Report on the decisions
issued by the Cyprus Commissioner
for Personal Data Protection in 2023

The background features a dark, wavy pattern of fine green lines that create a sense of depth and movement, resembling a digital or data landscape. A large, bright yellow triangle is positioned in the lower-left corner, pointing towards the bottom right. The text is centered within this yellow area.

“Data protection isn’t just about preventing data breaches; it’s about cultivating a culture of responsibility and respect for the personal information of individuals.”-Elizabeth Denham



Introduction

The General Data Protection Regulation (GDPR), implemented in May 2018, remains a pivotal legal framework designed to protect individual privacy and redefine organisational approaches to data management. As businesses grapple with the evolving landscape of compliance, strategic decision-making is paramount.

This Annual Report summarises the main decisions issued by the Cyprus Commissioner for Personal Data Protection in 2023. The decisions encompass penalties, warnings or recommendations, each levied in response to diverse violations of the data protection laws applicable in Cyprus.

Previous decisions in relation to fines and penalties under GDPR do not necessarily constitute any binding precedent. GDPR fines and penalties are decided on a case-by-case basis and can vary depending on the circumstances of each individual case. Accordingly, when determining fines and penalties for an infringement under GDPR, the Office of the Commissioner for Personal Data Protection takes into consideration the specific conditions and circumstances of each case first and foremost.

Complaint against a Newspaper for Publishing Names and Photos of Police Officers while on duty at Larnaca Airport.

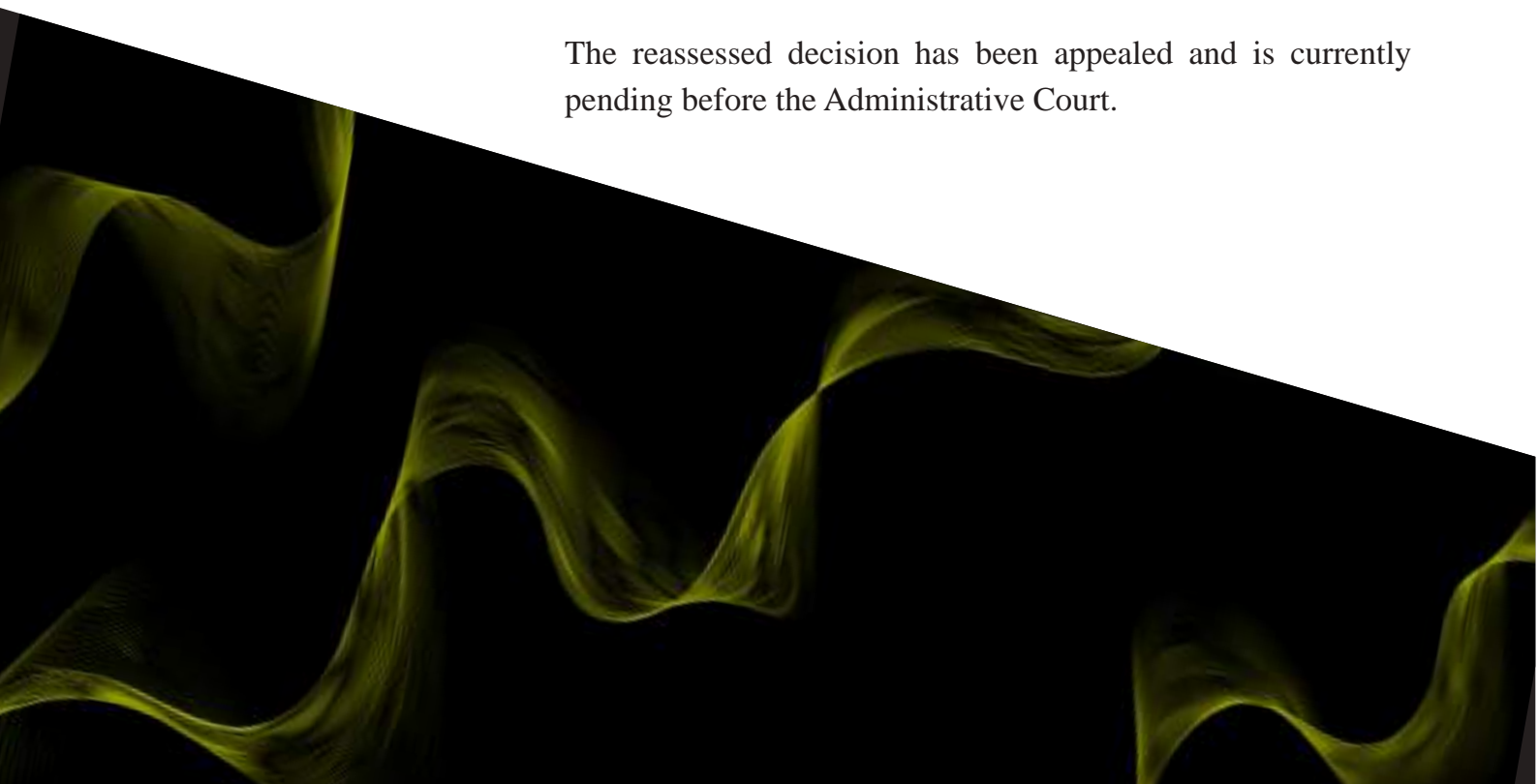
Facts:

A complaint was submitted against a newspaper for illegally publishing the names and photographs of two on-duty police officers in an article. Considering that the purpose of the report could have been achieved without publicizing the police officers' personal information, an administrative fine of €10,000 was issued. On appeal to the Administrative Court, the decision was annulled – albeit not on substance - and was reassessed by the Commissioner.

Decision:

The Commissioner upheld the fine based on the breach of articles 5(1)(c) and 6(1)(c) of GDPR. However, the fine was reduced from the original sum to €7000 due to the differentiation of aggravating and mitigating factors which was taken into account in the reassessment.

The reassessed decision has been appealed and is currently pending before the Administrative Court.





Complaint against a Hotel's Shops regarding Operation of CCTV in a Store

Facts:

The complaint related to the monitoring of an employee and continuous control of her movements in the area, through the CCTV. The complainant was dismissed from her job, allegedly due to material obtained from CCTV cameras monitoring her work. She issued a complaint against the employer for continuous surveillance of her movements.

Decision:

The Commissioner found that the continuous monitoring of the employee's movements was excessive and interferes with the employee's privacy, contrary to articles 5 and 6 of GDPR. CCTV can be used lawfully for the protection of assets, but not for the monitoring of employees.

The Commissioner issued instructions to the defendant, with which they complied:

1. Position CCTV cameras only to oversee valuable objects.
2. Delete recordings not obtained legally.
3. Install signs/warnings to inform of the cameras' presence.
4. Provide evidence of compliance with instructions.



Complaint about Nuisance Calls

Facts:

The complainant had received unanswered phone calls from the sales department of a telecommunication provider in Cyprus, as well as calls which were promptly disconnected when answered. On investigation, it was found that a further 331 former customers had received these calls.

It was unclear how the list containing the phone numbers was being operated and the phone numbers had been retained for a period longer than necessary for reasonable customer purposes. The contemporary data retention policy had therefore not been applied, and measures had not been taken to prevent the retention of the customers' data.

Decision:

The calls had been conducted without legal basis, in violation of article 6(1) of GDPR. Additionally, the retention and use of the customers' data was in violation of articles 24(1) and (2), as well as article 32(1) of GDPR as technical and organisational measures had not been implemented to ensure that the Regulations had been complied with and to ensure that there was security against risks of data retention.

Taking these factors into account, the Commissioner imposed an administrative fine of €3,250 on the telecommunication provider.



Complaint against the Director of a Public Legal Entity

Facts:

An employee of a public legal entity filed a complaint against the director of this office, concerning the deletion of his official email address following a notice whilst he was on extended sick leave.

During the investigation, the director clarified that the address had been transferred to a colleague to avoid possible problems arising during the employee's leave, and that access to the address would be granted on the employee's return to transfer his personal data to other files. The employee had rejected this option.

Decision:

The Commissioner found that access to an employee's email address and in turn, the processing of the personal data therein may be necessary for the proper operation of an organisation.

The Commissioner held that there had been no violation of GDPR or the national legislation Law 125(I)/2018, taking into account that:

- a) the employee was notified of the deletion of his official email address;
- b) he was given access to the address when he returned for the transfer of personal data to other files; and
- c) the reasons that led to the deletion were for the proper operation of the organisation and the protection of its interests.

Complaint about the Non-satisfaction of the Right to Access Personal Data and Information in the Public Sector.

Facts:

A complaint against the Consumer Protection Service (CPS) was filed for failure to afford the complainant his right to access his personal data under article 15 of GDPR; and for failure to allow access to documents held by the CPS relating to his complaint under the Right of Access to Public Information Law 2017 (the Law).

Decision:

The Commissioner held that the complainant should be granted access to the documents containing his file, pursuant to articles 3 and 8 of the Law - concerning his right of access. They do not fall under the absolute exception for information given under the condition of confidentiality and secrecy, as per article 34.

Complaint against the Cyprus Hairdressers and Barbers Registration Council

Facts:

The Cyprus Hairdressers and Barbers Registration Council had installed CCTV in the office, corridor and working space which continuously monitored the employees and third-party visitors. Subsequently, a data subject filed a complaint against the Council for this conduct. In defense, the Council provided consent forms to show that it obtained consent from the employees to operate the surveillance cameras.

Decision:

The legal principle of consent requires free agreement, whereas the power imbalance between the employees and the Council would indicate that the employees did not have the ability to object without fear of negative consequences. Thus, the forms were found not to be sufficiently valid evidence of the agreement by employees to have their personal data processed.

The Commissioner therefore found that the use of the CCTV was illegal - violating articles 5(1) and 6 of GDPR – and accordingly issued three directives, with which the Council complied:

1. To cease the CCTV and remove the camera, or if the cost of removal is disproportionate, cover the camera so it is not operational.
2. Immediately delete all CCTV footage and provide the Commissioner with evidence of deletion.
3. Notify the Commissioner's Office of details of compliance within 2 weeks' notice of the receipt of the directives.



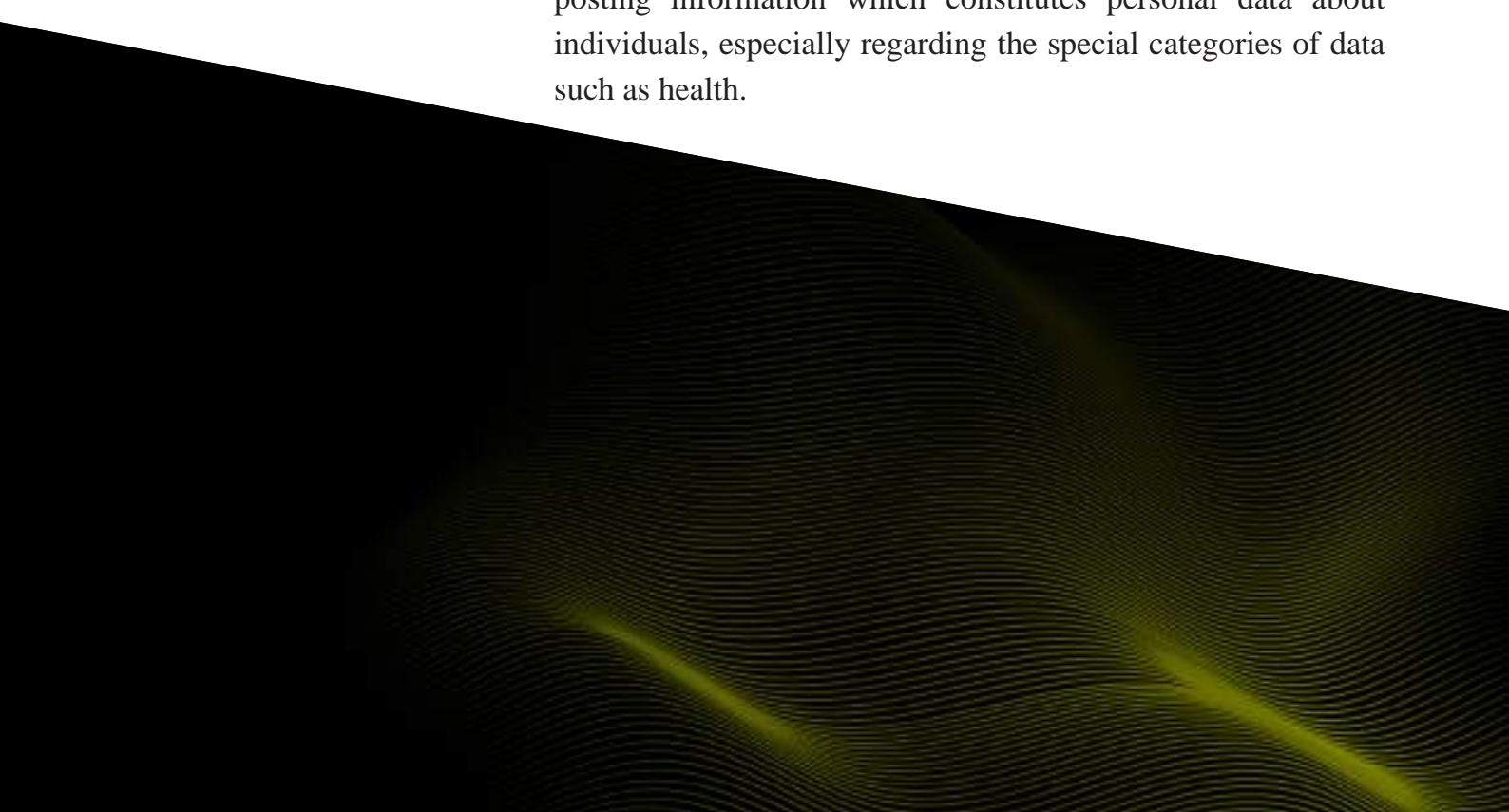
Complaint for Online Disclosure of Personal Data

Facts:

A complainant maintained a Facebook account under a pseudonym, with which he was known by friends to be associated. Information about the complainant's health issues was posted, which was deemed to be 'public online disclosure of sensitive personal data'. The post was taken down following a request by a mutual friend. The person who posted the information claimed that the complainant's identity was not identifiable from the post, and that the post was in accordance with Facebook's regulations.

Decision:

The Commissioner issued a warning to the respondent to ensure compliance with GDPR and to exercise due diligence when posting information which constitutes personal data about individuals, especially regarding the special categories of data such as health.





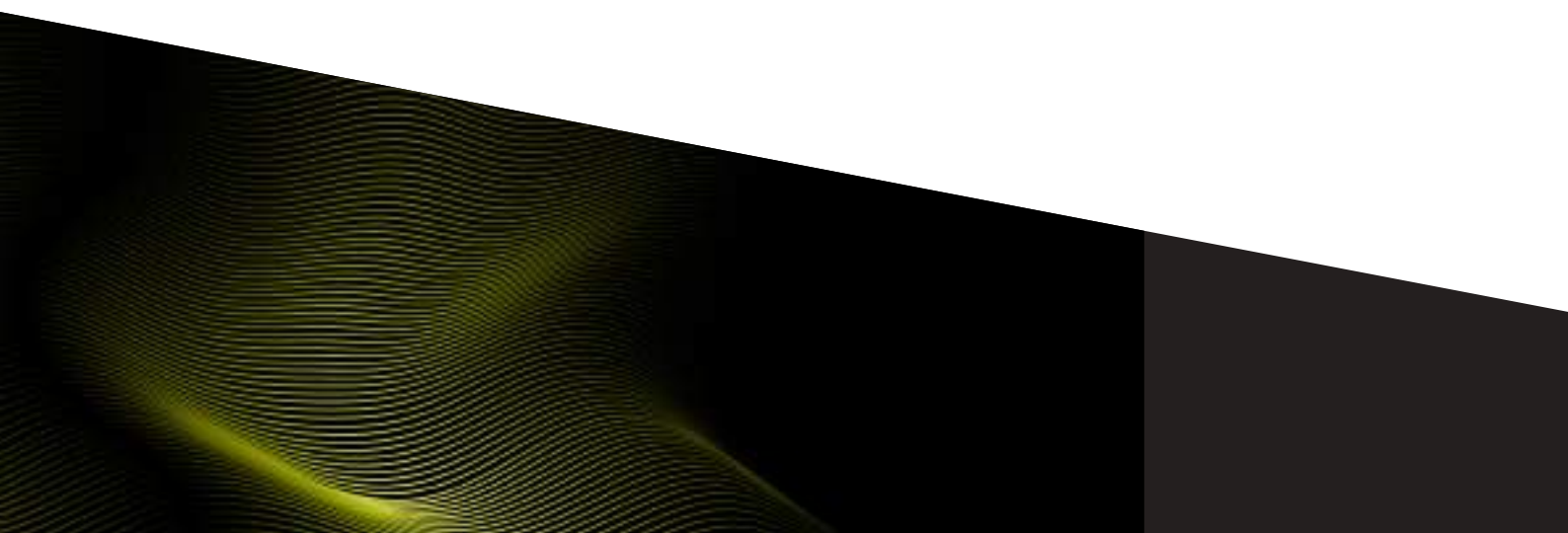
Complaint against a Marketplace Company Concerning Disclosure of Personal Data

Facts:

A complaint was filed against the private company after an email was sent to a large number of clients in which the CC function was mistakenly used instead of BCC for all its clients, thus making the email addresses of over 200 clients visible to others. They promptly sent an apology email and urged the recipients to delete the email from their records. The defendant company also maintained that standard practice is to use the BCC function to comply with their recorded internal policy.

Decision:

The Commissioner issued a warning to the defendant company that similar incidents must not occur in future, based on articles 4, 5, 6, 24, and 32 of GDPR, and notified the complainant of this action.





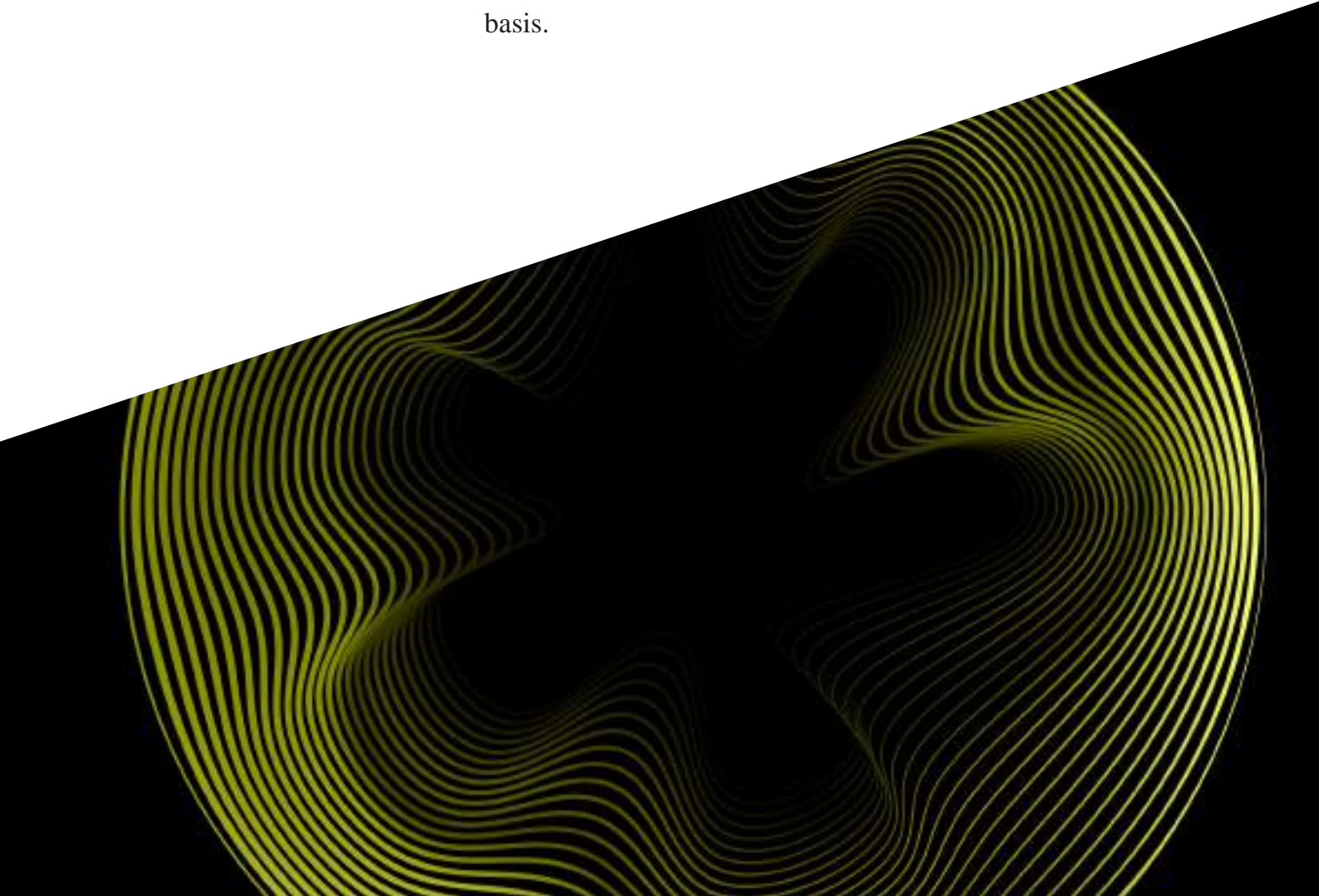
Complaint regarding the Publication of Personal Data

Facts:

The two defendants had published a minor's details on Facebook. No photograph had been posted, but his name had been mentioned in two posts.

Decision:

The Commissioner analysed the mitigating and aggravating factors of the case and chose to issue a warning to the defendants not to post details about the minor in the future without legal basis.





Complaint regarding Audiovisual Recording of Seminar Participants

Facts:

The complainant filed a complaint to the Commissioner against the defendant who had taken audiovisual recordings of excerpts from a seminar in which the complainant was aired. Two of these excerpts had been submitted to the relevant Ministry for another complaint against the complainant.

Decision:

The Commissioner found that there had been a violation of article 5 of GDPR, as there was no necessity in recording and sending the excerpts to various individuals before or during the filing of the complaint to the Ministry.

The Commissioner therefore issued a reprimand to the defendant for the violation.



Complaint for Non-Disclosure Regarding Personal Data Processing

Facts:

A complaint which had been issued to the Polish Data Protection Authority against car rental company (the data controller) was forwarded to the Commissioner's Office for moderation as part of the consistency and cooperation procedure of GDPR.

The complainant had rented a car from the data controller but had not been informed of the processing of their personal data pursuant to article 13 of GDPR. Moreover, the complainant claimed that the car had been equipped with a surveillance camera and a GPS system, which was a breach of their rights under GDPR.

Decision:

On the issue of tracking, the Commissioner found that the devices were installed in Japan, where the car had been manufactured and where it is common procedure to install such devices for the automatic payment of tolls. As the device was inactive, there was no breach of any GDPR regulations.

As for the failure to provide information about the processing of the complainant's personal data, the Commissioner issued a reprimand to the defendant for not disclosing the personal data processing during the data collection process. However, the defendant provided the Commissioner with the due information when requested, in compliance with article 13.



Complaint for Incomplete Fulfilment of Right of Access against a Broker Company

Facts:

The company operates an online investment platform. The complainant requested that the company provides all correspondence and telephone recordings that they had exchanged with the company staff.

The company was delayed in their response and had failed to provide all the requested information. In particular, the company claimed that the person responsible for the processing and storing of the information was in Ukraine and unable to respond.

Decision:

The Commissioner rejected the argument of the defendant company about the location of the person responsible for the processing and storing of information, as the request had been submitted a year before the outbreak of conflict in Ukraine, so the delay was unjustified.

The Commissioner found that the following GDPR articles had been violated:

1. Article 12(3) as the response to the complainant's request exceeded the one-month period.
2. Article 15 for failing to fulfil the access request for the telephone recordings.
3. Article 31 for delay in response to the Commissioner's Office's letters.

Therefore, with regard to the aggravating and mitigating factors, the Commissioner issued a reprimand to the defendant company for failing to comply with GDPR.

Complaint for Receipt of Telemarketing Calls

Facts:

The Commissioner received a complaint from the Polish Authority on behalf of the complainant, as part of a coherence mechanism for the application of GDPR.

The complainant had received two phone calls from a company in Poland, which had served a company registered in Cyprus. The Supervisory Authority of Cyprus therefore accepted the investigation of the complaint.

Decision:

After the complainant had requested to cease telemarketing calls, this request was satisfied within the due time frame as required by articles 12(3), 17(1)(c) and 21(3) of GDPR. Therefore, there was no further action required.





Complaint for Disclosure and Processing of Personal Data by a Private Company

Facts:

Five complainants claimed that the private company had breached their personal data in four publications of a newspaper. The Commissioner found that the defendant had breached the ‘Principle of Data Minimization’ as they could have disclosed less data and still fulfilled their purpose of journalism in the public interest. The Commissioner therefore fined the company €3000.

The defendant company appealed to the Administrative Court, who subsequently upheld the Commissioner’s decision that there was a violation of the complainants’ rights but overturned the decision on the fine. The case was remitted for the recalculation of the fine, having regard to the provisions of Law 158(I) 1999, the instructions by the court, relevant case law and the recommendation of the Legal Service.

Decision:

In reassessing the fine, taking into account the aggravating and mitigating factors, in addition to the fact that three out of the five complainants’ photographs have been posted, the administrative fine of €3000 was upheld for breach of articles 5(1)(c) and Article 6 of GDPR.

Complaint for Receipt of Unsolicited Email Advertisements

Facts:

The complainant had received numerous unwanted email advertisements from a company in the past. They replied to most of these emails stating that they did not wish to receive them. The company had responded with an apology and assured the complainant that they would make internal provisions to ensure the emails did not continue.

The Commissioner had previously issued a warning that email advertisements could only be sent to customers or individuals who consented to receiving such media, and who had the option to unsubscribe from the mail list. The company was informed that this warning would constitute an aggravating factor if the emails continued.

Nevertheless, the complainant continued to receive such emails. The defendant company asserted the defenses that the email address of the complainant had been taken from the complainant's website which expressed a willingness to conduct commerce with interest parties; that measures had been taken to prevent the complainants receiving further emails; and that the emails were not for the purpose of sales.

Decision:

The Commissioner found that the emails were for advertising purposes and violated article 106 of the Law 112 (I)/2014 as they were unsolicited and failed to honour the complainant's request to unsubscribe. An administrative fine of €3500 was imposed.



Complaint for Failure to Satisfy Right of Access by an online Marketing Company.

Facts:

A complaint was filed against an online marketing company by the complainant after the termination of their employment, claiming they were wrongfully dismissed and demanding full access to documents that may have related to the reason for their dismissal.

Decision:

The Commissioner held that the company was not required to give access to all the requested documentation and had provided sufficient information in respect of the termination. It considered that providing all the documentation may affect the rights of others.

Nevertheless, the Commissioner held that the company had breached article 12(4) of GDPR 2016/679 for failing to act at the outset and for not fully satisfying the complainant's request, as well as of the possibility of lodging a complaint to the Supervisory Authority and the right to a judicial remedy. Consequently, the Commissioner issued a reprimand to the company.



Complaint regarding the disclosure by a Ministry of personal data to the House of Representatives

Facts:

The Commissioner's Office commenced an investigation into the lawfulness of the actions of a Ministry which disclosed personal data to the House of Representatives (HoR) following the House's request.

A concurrent investigation was also conducted into this disclosure of data, as requested by the media.

The data disclosed was personal information about the employees of the Service for Management of T/C Properties, Members of the Advisory Committee, and Special Committees of T/C Properties, as well as their close relatives.

The Ministry admitted failing to comply with articles 5(1)(a)(c) and (f) of GDPR.

Decision:

In line with article 58(2)(h) of GDPR, the Commissioner, after evaluating the aggravating and mitigating factors of the case, imposed a fine of €8000 on the Ministry.



Complaint regarding the Non-satisfaction of Access Rights by an International School in Paphos

Facts:

A former employee filed a complaint against the school for alleged gender discrimination in relation to equal pay between men and women for the same work or work of equal value and wrongful dismissal. Considering that all documents relating to her complaint personally identified her, or are related to her, the complainant requested full access.

Decision:

The Commissioner found that the complainant's rights had been sufficiently satisfied, and any further disclosure would affect the rights of the company. Additionally, the documents requested were protected by privilege.

Nevertheless, a violation of article 12(4) of GDPR was found, since the defendant company did not inform the Complainant of the reasons why they did not act and did not fully satisfy her request from the beginning, as well as for the possibility of submitting a complaint to a Supervisory Authority and for the right of judicial appeal. After the defendant was given the right to be heard in relation to the violation of article 12(4), an administrative sanction of reprimand was imposed.



Our Services

We are experts in advising on all aspects of data privacy law and GDPR (General Data Protection Regulation 2016/679), working with our clients on the practical application of data privacy rules, as well as supporting them when they are being challenged under such rules or when they need to comply with data privacy rules. We have serviced many GDPR compliance projects for businesses of various sectors of the economy.

Our key service areas include:

- Reviewing and evaluating your company's data privacy compliance objectives against European privacy laws and regulations including GDPR and helping you to generate and ensure a GDPR compliant work environment in accordance with your business needs and requirements;
- Advising on the use of online advertising and online profiling;
- Representing clients in matters related to violations or investigations pending before the Commissioner for Personal Data Protection and pursuing related complaints on behalf of aggrieved clients. In that respect, we also advise on the protection of both personal and sensitive business data against its unauthorised and illegal collection, use, storage, disclosure, transfer and destruction and further use;
- Counseling clients on complex issues associated with legal compliance and business strategy relating to privacy and security risk management, developing internal policies and procedures, and help IT departments in handling cyber security and technology transactions;
- Providing advice on security and transfer of personal data to third countries and provide data processing agreements and other legal tools for such purposes;
- Providing GDPR training, presentations and risk assessments customized to the needs of each company;
- Providing advice on how to handle employees' personal data within multiple countries and jurisdictions;
- Providing legal opinions on specific matters relating to personal data and guidance on how to handle such matters;
- Assisting as external Data Protection Officers (DPO) or as part of your DPO team

Our Team



Michael Kyriakides
Partner
m.kyriakides@harriskyriakides.law

Expertise

DPO, GDPR audits, representing client before the Office of the Commissioner for Personal Data Protection, and preparation of Privacy Notices, Processing Agreements, Gap analysis and Privacy Policy.

Academic Qualifications

MSt, University of Oxford, 2003
LLM, University College London, 2002
LLB, National and Kapodistrian University of Athens, 2001

Professional Qualifications

Member of the Cyprus Bar Association, 2004
Licensed Insolvency Practitioner



Eleni Neoptoleμου
Partner
e.neoptoleμου@harriskyriakides.law

Expertise

DPO, GDPR audits, representing client before the Office of the Commissioner for Personal Data Protection, and preparation of Privacy Notices, Processing Agreements, Gap analysis and Privacy Policy.

Academic Qualifications

LLM, University of Central Lancashire, 2017
LLB, National and Kapodistrian University of Athens, 2015

Professional Qualifications

Member of the Cyprus Bar Association, 2017



Munevver Kasif
Associate
m.kasif@harriskyriakides.law

Expertise

Assistant DPO, GDPR audits, representing client before the Office of the Commissioner for Personal Data Protection, and preparation of Privacy Notices, Processing Agreements, Gap analysis and Privacy Policy.

Academic Qualifications

LLM in Maritime and Transport Law, University of Rotterdam, 2014
LLB, University of Dundee, 2013

Professional Qualifications

Member of the Cyprus Bar Association, 2019



Phedias Christodoulou
Junior Associate
p.christodoulou@harriskyriakides.law

Expertise

Data Protection, GDPR audits, and preparation of Privacy Notices, Processing Agreements, Gap analysis and Privacy Policy.

Academic Qualifications

LLB, Aristotle University of Thessaloniki, 2022

Professional Qualifications

Member of the Cyprus Bar Association, 2023



Nicosia

1 Kinyra street, 5th floor
1102 Nicosia, Cyprus

Larnaca

115 Faneromenis Avenue, Antouanettas Building
6031 Larnaca, Cyprus

Limassol

12 Platonos Steet,
3027 Limassol, Cyprus

Paphos

4 Nicou Nicolaidi & Kinyra, 2nd floor,
8011 Paphos, Cyprus

Paralimni

164A Georgiou Gourounia, 1st floor,
5289 Paralimni, Cyprus

Tel: +357 2420 1600

Fax: +357 2420 1601

Email: info@harriskyriakides.law

Web: www.harriskyriakides.law