

[REDACTED]

vs

[REDACTED]

COMPLAINT

1. On the 23rd of May 2023, [REDACTED] (the “**complainant**”) lodged a complaint with the Information and Data Protection Commissioner (the “**Commissioner**”) pursuant to article 77(1) of the General Data Protection Regulation¹ (the “**Regulation**”), alleging that [REDACTED] (the “**controller**”) had failed to “*adhere to their legal obligations in terms of law, not only by failing to tangibly reply to the data subject access request but also by failing to reply within the time prescribed by law and, by also seeking to rely on a derogation without providing justification for seeking to do so and also by failing to adhere to article 13 in relation to the CCTV policy*”.
2. The complainant, a former employee of the controller, provided the following facts surrounding her request to access her personal data pursuant to article 15 of the Regulation. The complainant filed a subject access request on the 5th of April 2023 wherein she requested the following:

“Please also consider this letter to be a Personal Data Access Request, [...] in terms of the GDPR (EU Reg. 2016/679) further to which she requests to have information about the personal data which your Company processes about her, including any and all correspondence (including emails, memos and minutes of the Board of Directors).”
3. The controller reverted with a response by means of a letter dated the 12th of April 2023, which according to the complainant, completely disregarded the subject access request. Accordingly, on the 13th of April 2023, the complainant reminded the controller of the request.

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

4. On the 26th of April 2023, by means of a written communication, the controller enclosed the minutes of meetings and a copy of the CCTV recordings showing the complainant during a disputed incident. Following receipt of the same, the complainant asked the controller for the following:

- 1. Confirmation of the date of the footage captured in the recording;*
- 2. Confirmation of the date on which the footage was accessed, and by whom;*
- 3. A copy of the CCTV policy/protocol regulating same;*
- 4. Evidence that our client was informed of the CCTV policy."*

5. However, in an email reply dated the 9th of May 2023 related to the documents requested by the complainant, namely the date on which the footage was accessed and by whom, the controller invoked regulation 4 of Subsidiary Legislation 586.09 and held that they could not provide the information requested since *"a data request can be denied if providing access would be likely to prejudice ongoing investigations, regulatory proceedings or legal proceedings"*. Moreover, the controller did not provide the complainant with a copy of the CCTV policy/protocol and evidence that she was informed about it, on the basis that such information did not classified as personal data.

INVESTIGATION

6. On the 24th of May 2023, pursuant to article 58(1)(a) of the Regulation and this Office's internal investigation procedure, the Commissioner requested the controller to provide its submissions on this complaint, and to:
 - a. indicate if it had conducted a necessity and proportionality test prior to restricting the right of the complainant in terms of the Restriction of the Data Protection (Obligations and Rights) Regulations ("**Subsidiary Legislation 586.09**") and, if in the affirmative, to provide a copy of such assessment;
 - b. indicate which personal data pertaining to the complainant were restricted in terms of Subsidiary Legislation 586.09; and
 - c. submit a copy of the CCTV Policy and evidence that the information about the processing activity was provided to the complainant at the time of collection.

7. In its submissions, the controller contended that [REDACTED] have adhered to their legal obligations in terms of Article 15 of the GDPR since [REDACTED] has provided all of the specified and requested personal data deriving from this Data Subject Access Request made on the 5th and 13th April 2023 [...]. Furthermore, [REDACTED] have certainly replied within the time of one month prescribed by the GDPR since the Data Subject Access Request was received by [REDACTED] on the 5th April 2023 and [REDACTED] sent the requested personal data to the Complainant on the 26th April 2023.”

8. In relation to the restriction invoked pursuant to Subsidiary Legislation 586.09, the controller clarified that the date of the captured footage during the recording was sent to the complainant via the same CCTV recording as the date was visible on the top left part of the video. The controller explained that the refusal to disclose the recipients who had accessed the mentioned footage relates solely to a specific list of people who accessed the footage, and argued the following:

[REDACTED] did not provide ‘the date on which the footage was accessed and by whom’ in the response on the 9th May since this would have detrimental impacts upon the employment related dispute at hand revealing potential witnesses and exposing employees at [REDACTED] who are working on this case internally at a very early stage. Furthermore, in accordance with Article 15 of the GDPR, the right to obtain a copy of the requested personal data shall not adversely affect the rights and freedoms of others – [REDACTED] is strongly of the view that providing a list of persons who accessed the CCTV footage, along with the date when it was accessed would adversely affect the rights and freedoms of the employees of [REDACTED] since this is a very sensitive case and many employees have remained friends with the complainant following her resignation”.

9. In furtherance, with respect to the complainant’s rights in terms of article 15 of the GDPR, the controller submitted that “article 15 entitles the data subject to information regarding ‘the recipients or categories of recipient to whom the personal data have been or will be disclosed’, and such information has been duly provided”, and further clarified that the categories of recipient who have access to the footage are those employees involved in the handling of the dispute.

10. Concerning the Commissioner’s request to indicate whether a necessity and proportionality assessment had been conducted prior to restricting the right of the complainant in terms of Subsidiary Legislation 586.09, the controller replied in the affirmative and forwarded a copy to the Commissioner for verification purposes. The Commissioner noted that the necessity and proportionality test is an internal document of the controller and therefore, the document was solely used by the Commissioner for the purpose of investigating this complaint.

11. The controller also provided a copy of the CCTV policy which establishes that “*access to the CCTV footage is restricted to authorised personnel only. [REDACTED] may authorise further access to footage if so required when relevant to purpose/s specified above. Staff who are provided with access to the CCTV System are made aware of the sensitivity of handling CCTV images and recordings*”. The controller also enclosed photo evidence of CCTV notices attached to doorways.

12. On the 12th of June 2023, the Commissioner gave the complainant the opportunity to rebut the arguments made by the controller, and to put forward her final submissions. The complainant submitted the rebuttal on the 20th of June 2023 wherein she asserted the following salient remarks:
 - a. that the original subject access did not request a specific category of personal data, but rather a general request for all personal data processed by the controller in relation to her, and therefore the controller had the obligation to pass on any and all personal data, even those not specified in the request. In this regard, the controller should have requested the complainant to confirm that her request was met in order to ensure compliance with the timeframes stipulated by law;

 - b. that the complainant was not aware of the existence of the CCTV footage, and was never furnished with a copy of the CCTV policy, and to this effect, neither did the controller provide any proof that such CCTV policy and/or emails were in fact presented to the complainant. The complainant further asserted that it is the controller’s legal obligation to provide data subjects with processing information as per article 13 of the Regulation, despite policies not being classified as personal data; and

 - c. that the controller cannot rely on the derogation contained in Subsidiary Legislation 586.09 as it is not intended to be evoked in such circumstances.

13. In line with the Office’s complaint-handling procedure, the Commissioner provided the controller with the final opportunity to rebut the arguments made by the complainant. In this regard, on the 10th of July 2023, the controller submitted its reply and highlighted the following principal arguments:
 - a. that the original subject access request was not general in nature and was focused on ‘*emails, memos and minutes of the Board of Directors*’, and the wording and inclusion of

- the word ‘including’ in the subject access request by the complainant narrowed the scope of the request;
- b. that the controller complied with the complainant’s request and provided her with the requested minutes and CCTV footage;
 - c. that the controller adhered to its legal obligations in terms of article 15 of the Regulation since it provided all of the specified and requested personal data deriving from the access request, and this within the one-month timeframe as prescribed by the Regulation;
 - d. that the restriction stipulated in regulation 4(e) of subsidiary legislation 586.09 permits restrictions to the rights of data subject where these are a necessary measure required for the establishment, exercise or defence of a legal claim. That given the fact there could be a potential Industrial Tribunal case between the parties, the derogation is necessary since the lack thereof *“would undoubtedly have detrimental impacts upon the employment related dispute at hand, revealing potential witnesses and exposing employees”*;
 - e. that a policy is not personal data in terms of data protection law, and that it does not fall under any of the points contemplated under article 15(1) of the GDPR and hence the refusal to grant a copy of the CCTV policy does not constitute a breach of the data protection law, since the controller is not obliged to provide a copy of the CCTV Policy in response to a data subject access request; and
 - f. that the complainant was well aware of the CCTV monitoring due to the CCTV Policy, other employment manuals being delivered to her at onboarding stage and CCTV notice signs affixed at the premises.
14. Together with its submissions, the controller included a declaration made by the IT and New Projects Manager at the Firm wherein it was stated that the complainant *“would have been in receipt of the email addressed to [everyone@](#) [REDACTED] sent on Monday 26th September 2022 which included the latest version of the [REDACTED] Data Protection Manual”*. In this regard, given that the declaration was not considered to be sufficiently clear, the Commissioner requested a further confirmation that the complainant was included in the said mailing list, and that she had in fact received the internal manuals which included the CCTV policy. The controller submitted a sworn declaration to the Commissioner, together with screenshots of the mailbox demonstrating that the complainant was indeed in receipt of the email.

LEGAL ANALYSIS AND DECISION

15. For the purpose of this complaint, the Commissioner sought to establish whether the controller:
- (i) had handled the subject access request in accordance with its obligations deriving from article 15 of the Regulation; and (ii) had provided information to the complainant about the processing activity conducted by means of the CCTV camera pursuant to article 13 of the Regulation.
16. The Commissioner established that the complainant had exercised her right to access her personal data pursuant to article 15 of the Regulation on the **5th of April 2023**. A fact which was also acknowledged by the controller when it stated in its submissions dated the 31st of May 2023 that “**█** received the Complainant’s Data Subject Access Request on the 5th April 2023”. The controller replied on the **26th of April 2023** and provided to the complainant a copy of the minutes relating to meetings held during the complainant’s employment and a CCTV footage captured in November 2022. The next day, the complainant requested the controller to provide information in relation to (i) the date of the footage captured in the recording and confirmation of the date on which the footage was accessed, and by whom; and (ii) a copy of the CCTV policy and evidence that the complainant was informed of the CCTV policy. On the **9th of May 2023**, the controller invoked a restriction in terms of regulation 4(e) of Subsidiary Legislation 586.09 in relation to the information concerning the CCTV footage and argued that the remaining information was not ‘personal data’. The complainant considered this to be an infringement of the Regulation, in particular that “**█** have failed to adhere to their legal obligations in terms of law, not only by failing to tangibly reply to the data subject access request, by failing to reply within the time prescribed by law, by also seeking to rely on a derogation without providing justification for seeking to do so and also by failing to adhere to article 13 in relation to the CCTV policy”.
17. As a preliminary step of the investigation, the Commissioner sought to examine the wording of the request submitted by the complainant on the 5th of April 2023. The request of the complainant was worded as follows: “Please also consider this letter to be a Personal Data Access Request, made on behalf of our client, in terms of the GDPR (EU Reg. 2016/679) further to which she requests to have information about the personal data which your Company processes about her, including any and all correspondence (including emails, memos and minutes of the Board of Directors)”. The controller argued that this request was not for a copy of all the personal data processed in relation to the complainant, and referred to the reminder sent by the complainant on the 13th of April 2023, wherein she stated “in the meantime we look forward to receiving your client’s response to our client’s personal data access request within

the time prescribed by law, including copies of the minutes and CCTV footage referenced". Consequently, the controller contended that *"the scope of this Data Subject Access Request was focused on providing the Complainant with 'copies of the minutes and CCTV footage referenced'"*.

18. The Commissioner points out that the request which will be taken into consideration is the first request submitted on the 5th of April 2023, wherein the complainant requested *"to have information about the personal data which your Company processes about her, including any and all correspondence (including emails, memos and minutes of the Board of Directors)"*.
19. The European Data Protection Board (the **"EDPB"**) in its Guidelines 01/2022 provides that every data subject access request shall be interpreted as a request for a copy of all personal data undergoing processing, unless stated otherwise by the data subject. The EDPB provides that the *"Data subjects have the right to obtain ... full disclosure of all data relating to them ... Unless explicitly requested otherwise by the data subject, a request to exercise the right of access shall be understood in general terms, encompassing all personal data concerning the data subject"*².
20. The EDPB further states that a controller may limit access to part of the information if the *"data subject has explicitly limited the request to a subset. In order to avoid providing incomplete information, the controller may consider this limitation of the data subject's request only if it can be certain that this interpretation corresponds to the wish of the data subject"*³ [emphasis has been added]. Therefore, the EDPB makes it abundantly clear that the data subject shall explicitly limit the request to specific information, and the controller shall have no doubt about the wishes of the data subject.
21. Furthermore, recital 63 of the Regulation states that *"the result of those considerations should not be a refusal to provide all information to the data subject. Where the controller processes a large quantity of information concerning the data subject, the controller should be able to request that, before the information is delivered, the data subject specify the information or processing activities to which the request relates"* [emphasis has been added]. Therefore, the wording of recital 63 of the Regulation clarifies that a subject access request should be treated as a request for a complete copy of the personal data processed in relation to the data subject, unless the controller could demonstrate that the data subject had explicitly limited the request

² EDPB Guidelines 01/2022 on data subject rights – Right of access, Version 2.0, Adopted on 28 March 2023, para. 35.

³ Ibid.2, para. 35(a).

to specific information. Any limitation of the scope of the request must be clear and unambiguous.

22. In such case, the Commissioner noted that the request of the 5th of April 2023 is worded in broad terms, especially, the fact that the complainant initiated her request by the words “[p]lease also consider this letter to be a Personal Data Access Request”. Furthermore, the word ‘including’ is not explicitly excluding or limiting the provision of all information processed by the controller in relation to the complainant. It must also be borne in mind that the complainant cannot be expected be aware of all the data which the controller is processing in relation to her. In fact, the complainant stated that, at time of the request, she was not aware of the CCTV footage, which the controller submitted as a reply to her request. Hence, it is the controller who should be able to give the request the broadest effect to the right of access, and in case of doubt, the controller should always seek clarifications from the data subject to ensure that the wishes of the data subject are fully respected. This led the Commissioner to conclude that the request should have been treated as a request for a copy of all personal data undergoing processing.
23. Additionally, in her request of the 5th of April 2023, the complainant requested the controller “to have information about the personal data which your Company processed about her”. Article 15(1)(a) to (h) of the Regulation provides that the data subject shall have the right to obtain from the controller access to information on the processing. This information shall be provided in addition to a copy of the personal data itself, and shall include the purposes of the processing, the categories of personal data, the recipients or categories of recipient, the envisaged duration of the processing or the criteria for determining the duration, the existence of the rights of the data subjects, the right to lodge a complaint with the Commissioner and any available information on the source of the data.
24. The Court of Justice of the European Union (the “CJEU”) held in C-154/21⁴ that article 15(1) of the Regulation echoes the principle of transparency as set forth in article 5(1)(a), which as further accentuated in recital 39, requires that the data subjects shall have information about how their personal data are processed. This would also enable the data subjects to verify the lawfulness of their personal data and exercise other rights pursuant to Chapter III of the Regulation.

⁴ RW v. Österreichische Post AG, decided on the 12th January 2023, para. 35.

25. After examining the replies of the controller dated the 26th of April 2023 and the 9th of May 2023, the Commissioner established that the controller did not provide the complainant with information about the processing pursuant to article 15(1)(a) to (h) of the Regulation within one (1) month from receipt of the request.
26. The complainant further alleged that the controller had relied on a restriction in terms of Subsidiary Legislation 586.09 without providing a justification for deciding to do so in relation to the “*date of the footage captured during the recording*” and “*the date on which the footage was accessed and by whom*”. The Commissioner examined the submissions made the controller dated the 31st of May 2023, wherein the controller stated that the date of the footage captured was already provided to the complainant “*via the CCTV recording on the top left of the video*” and clarified that the information in relation to the “*date on which the footage was accessed and by whom*” is the information which is being restricted pursuant to regulation 4(e) of Subsidiary Legislation 586.09. The controller further contended that “*██████ did not provide ‘the date on which the footage was accessed and by whom’ in the response on the 9th May since this would have detrimental impacts upon the employment related dispute at hand revealing potential witnesses and exposing employees at ██████ who are working on this case internally at a very early stage.*” Furthermore, the controller stated that “*notwithstanding the restriction which ██████ is well within its right to invoke, Article 15 entitles the data subject to information regarding ‘the recipients or categories of recipients to whom the personal data have been or will be disclosed’, and such information has been duly provided. For the sake of clarity, the category of recipient who have access to such footage are those ██████ employees that are involved in handling this dispute*” [emphasis has been added by the controller]. The controller further added that this is without prejudice to article 15(4) of the Regulation, which enables the limitation to the right of access to protect the rights or freedoms of its employees.
27. The Commissioner proceeded to examine article 15(1)(c) of the Regulation, which states that the data subject shall have the right to obtain from the controller “*the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations*”. Article 4(9) of the Regulation defines a ‘recipient’ as “*a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not*”.
28. The CJEU’s judgment in the case ‘J.M. vs Pankki S’⁵ related to circumstances where the data subject requested to know the identity of the staff members who accessed his data, the dates

⁵ C-579/21, decided on the 22nd June 2023.

and purposes of the access and the log data generated by the access. Salient points which were established by the CJEU and which are also relevant to the present case, include:

- (a) that “[a]lthough it follows from Article 15(1)(c) of the GDPR that the data subject has the right to obtain from the controller information relating to the recipients or categories of recipient to whom the personal have been or will be disclosed, **the employees of the controller cannot be regarded as being ‘recipients’, within the meaning of Article 15(1)(c) of the GDPR ... when they process personal data under the authority of that controller and in accordance with its instructions**”⁶; [emphasis has been added]
- (b) that “the information contained in the log data relating to the persons who have consulted the data subject’s personal data could constitute information falling within the scope of Article 4(1) of the GDPR ... capable of enabling him or her to verify the lawfulness of the processing of his or her data and, in particular, to satisfy him or herself that the processing operations were actually carried out under the authority of the controller and in accordance with its instructions”⁷;
- (c) that “[e]ven if the disclosure of the information relating to the identity of the controller’s employees to the data subject may be necessary for that data subject in order to ensure the lawfulness of the processing of his or her personal data, it is nevertheless liable to infringe the rights and freedoms of those employees”⁸;
- (d) that “[i]n those circumstances, in the event of a conflict between, on the one hand, the exercise of a right of access which ensures the effectiveness of the rights conferred on the data subject by the GDPR and, on the other hand, the rights or freedoms of others, a balance will have to be struck between the rights and freedoms in question. Wherever possible, means of communicating personal data that do not infringe the rights or freedoms of others should be chosen”⁹; and
- (e) that “Article 15(1) of the GDPR must be interpreted as meaning that information relating to consultation operations carried out on a data subject’s personal data and concerning the dates and purposes of those operations constitutes information which that person has the right to obtain from the controller under that provision. On the other hand, **that provision does not lay down such a right in respect of information relating to the identity**

⁶ Ibid.5, para. 73.

⁷ Ibid. 5, para. 75.

⁸ Ibid. 5, para. 79.

⁹ Ibid.5, para. 80.

*of the employees of that controller who carried out those operations under its authority and in accordance with its instructions, unless that information is essential in order to enable the data subject effectively to exercise the rights conferred on him or her by that regulation and provided that the rights and freedoms of those employees are taken into account*¹⁰. [emphasis has been added]

29. In its submissions, the controller stated that the footage taken from the CCTV camera was accessed by its employees. After examining the circumstances of the case and, in the light of the aforementioned judgement, the Commissioner concludes that the employees of the controller carried out this processing operation on the personal data of the complainant under the authority, and in accordance with the instructions of the controller pursuant to article 29 of the Regulation, and therefore, their personal data should not be disclosed.
30. On the other hand, in relation to the date when the footage was accessed, the Commissioner noted the ruling of the CJEU, which states that “[i]n respect of information such as that requested by J.M., the communication, first of all, of the dates of the consultation operations is such as to enable the data subject to obtain confirmation that his personal data have actually been processed at a given time. In addition, since the conditions of lawfulness laid down in Articles 5 and 6 of the GDPR must be satisfied at the point of the processing itself, the date of that processing is a factor which makes it possible to verify its lawfulness”¹¹. Therefore, the CJEU concluded that article 15(1) of the Regulation must be interpreted as meaning that information relating to the date(s) of consultation constitutes information which the data subject has the right to obtain from the controller under that provision.
31. In the present case, the controller restricted the right of the complainant to obtain “*the date on which the footage was accessed*” pursuant to regulation 4(e) of Subsidiary Legislation 586.09. The Commissioner emphasises that, in terms of article 5(2) of the Regulation, the controller bears the onus to demonstrate the necessity to restrict the fundamental right of the complainant to receive information in relation to the processing operation carried out on her personal data. To this end, the Commissioner examined the necessity and proportionality assessment, and noted that the controller had failed to mention how restricting the information in relation to “*the date on which the footage was accessed*” is indeed necessary to enable the controller to defend itself before any tribunal or court. Furthermore, at the time of the test conducted by the controller, there is no mention of any proceedings initiated by the complainant against the controller. Therefore, after considering the recent judgment delivered by the CJEU and the

¹⁰ Ibid.5, para. 83.

¹¹ Ibid.5, para. 62.

necessity and proportionality test conducted by the controller, the Commissioner concludes that the controller was not justified to restrict the right to receive information in relation to “*the date on which the footage was accessed*”.

32. The complainant further requested access to the CCTV policy and evidence that the controller had informed the complainant of the CCTV policy. The controller disagreed and did not consider this information to be ‘*personal data*’. The Commissioner clarifies that a distinction must be made between the information which the controller is obliged to provide to the data subject at the time of collection pursuant to article 13 of the Regulation and the information which the controller is required to provide to the data subject in terms of article 15(1)(a) to (h) of the Regulation, following the exercise of a right of access request.
33. The EPDB states that “[i]n the context of an access request under Art. 15, any information on the processing available to the controller may therefore have to be updated and tailored for the processing operations actually carried out with regard to the data subject making the request. Thus, referring to the wording of its privacy policy would not be a sufficient way for the controller to give information required by Art. 15(1)(a) to (h) and (2) unless the « *tailored and updated* » information is the same as the information provided at the beginning of the processing”¹². Whereas some of the information contained in the CCTV policy is the same information which shall be provided by the controller when replying to a subject access request, however, this does not necessarily mean that the controller shall provide a copy of the CCTV policy insofar as the controller can effectively demonstrate that the reply to the subject access request contains all the information which meets the requirements set out in article 15(1)(a) to (h) of the Regulation.
34. The reply provided by the controller on the 26th of April 2023 included a copy of a footage taken from the CCTV camera installed at the workplace, which effectively demonstrates that the controller was indeed processing the personal data of the complainant by means of a CCTV camera. However, the controller had failed to provide information about this processing operation pursuant to article 15(1)(a) to (h) of the Regulation.
35. Finally, in relation to the request to receive “*evidence that the complainant was informed of the CCTV policy*”, the Commissioner clarifies that this falls outside the scope of the subject access request. Notwithstanding this, the complainant requested the Commissioner to investigate whether the controller had complied with article 13 of the Regulation on the basis that “[o]ur

¹² Ibid.2, para. 113.

client refutes that she was ever given access to the data protection manual and the CCTV policy”.

36. During the course of the investigation, the controller furnished the Commissioner with a copy of the CCTV policy as well as an extract from the Data Protection Manual, which includes the Employee Privacy Notice. Evidence of notices affixed at the offices indicating the use and surveillance of the CCTV was also provided. The controller stated that the Data Protection Manual and the CCTV policy are made available to all employees during their onboarding and, at all times, via the controller’s public folders. In addition, the controller submitted a “signed declaration from [REDACTED]’s IT and Projects Manager which declares that it is [REDACTED]’s company policy that all employees of [REDACTED] are immediately added to the [REDACTED] email distribution group the moment that their user account is created (as soon as the employee is employed with [REDACTED]). Furthermore, this declaration confirms that [REDACTED] was included in the [REDACTED] email distribution group and therefore received the email sent to the same group on Monday 26th September 2022 (Complainant was employed with [REDACTED] at this time) whereby the updates to the Data Protection Manual were notified to all employees as shared by way of example in [REDACTED]’s response dated 31/05/2023”.
37. For the purpose of his deliberations, the Commissioner has not only relied on this declaration but specifically requested the controller to provide a further confirmation that the complainant was indeed included in the said mailing list, and that she had in fact received the internal manuals which included the CCTV policy. To this effect, the controller submitted a sworn declaration to the Commissioner, together with screenshots of the mailbox, demonstrating that the complainant was indeed in receipt of the email containing such information.
38. The Commissioner reached the conclusion that the controller provided sufficient evidence to effectively demonstrate that the complainant was informed of the processing activity undertaken by means of the CCTV camera at the time of her employment pursuant to article 13 of the Regulation.

On the basis of the foregoing considerations, the Commissioner is hereby deciding that:

- **the controller had failed to provide the complainant with information in relation to the processing pursuant to article 15(1)(a) to (h) of the Regulation and a copy of all her personal data undergoing processing in accordance with article 15(3) of the Regulation within one (1) month of receipt of the request;**

- the employees of the controller acted under the authority and in accordance with the instructions of the controller, and therefore, the personal data of those employees who accessed the CCTV footage shall not be disclosed;
- the controller failed to demonstrate the necessity of restricting the right of the complainant to receive information in relation to the “*date on which the footage was accessed*”;
- the request for “*a copy of the CCTV policy/protocol regulating same*” and “[e]vidence that our client was informed of the CCTV policy” does not fall within the scope of the right of access request; and
- the controller had provided the complainant with information in relation to the processing undertaken by means of the CCTV camera pursuant to its obligations under article 13 of the Regulation.

As a result, the controller is hereby being served with a reprimand pursuant to article 58(2)(b) of the Regulation for failing to provide the complainant with information in relation to the processing pursuant to article 15(1)(a) to (h) of the Regulation and a copy of all her personal data undergoing processing.

In terms of article 58(2)(c) of the Regulation, the controller is hereby being ordered to provide information about the processing in accordance with article 15(1)(a) to (h) of the Regulation and a copy of all personal data undergoing processing, whilst taking into account the rights and freedoms of the employees and others, pursuant to the limitation set forth in article 15(4) thereof.

The controller shall comply with this order within twenty (20) days from the date of receipt of this legally-binding decision and shall inform the Commissioner of the action taken immediately thereafter. Non-compliance with this order shall lead to an effective, proportionate and dissuasive administrative fine in terms of article 83(6) of the Regulation.

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Ian Deguara
Information and Data Protection Commissioner

Right of Appeal

The parties are hereby being informed that in terms of article 26(1) of the Data Protection Act (Cap. 586 of the Laws of Malta), any person to whom a legally binding decision of the Commissioner is addressed, shall have the right to appeal to the Information and Data Protection Appeals Tribunal within twenty (20) days from the service of the said decision as provided in article 23 thereof.

An appeal to the Tribunal shall be made in writing and addressed to “The Secretary, Information and Data Protection Appeals Tribunal, 158, Merchants Street, Valletta.”