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Ad Hoc Information Report

Data protection: Redress mechanisms and their use

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Mapping of Redress mechanisms in the area of data protection

Redress Mechanism Number	Type of possible outcomes of procedure	first Instance	Total Number of times this procedure was initiated in 2009 (please provide source of information in footnote)	Total Number of times this procedure was initiated in 2010 (please provide source of information in footnote)	Total Number of times this procedure was initiated in 2011 (please provide source of information in footnote)
1	Administrative sanction: warning with a specific time-limit for termination of the contravention ¹	Commissioner for Personal Data Protection	6	1	1
2	Administrative sanction: fine ²	Commissioner for Personal Data Protection	12	7	1
3	Administrative sanction: temporary revocation of a license ³	Commissioner for Personal Data Protection	0	0	0
4	Administrative sanction: permanent revocation of a license ⁴	Commissioner for Personal Data Protection	0	0	0
5	Administrative sanction: destruction of a filing system or the cessation of processing and the destruction of the relevant data ⁵	Commissioner for Personal Data Protection	1	3	0

¹ Data provided by email sent by Ms. Maria Michaelidou, Administrative Officer at the Office of the Commissioner for Personal Data Protection, on Monday, May 28, 2012.

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6	Decision about the exercise of the right of access ⁶	Commissioner for Personal Data Protection	0	1	0
7	Imprisonment ⁷	District Court (Criminal Section)	Not available	Not available	Not available
8	Fine ⁸	District Court (Criminal Section)	Not available	Not available	Not available
9	Compensation ⁹	District Court (Civil Section)	Not available	Not available	Not available

Detailed information

Redress Mechanism Number 1 (Administrative sanction: warning with a specific time-limit for termination of the contravention):

- **Range of possible outcomes**
Warning
- **Legal basis: (for example section XX of civil code)**
138(I)/01 Data Protection Law, Sections 12(3) and 25
- **Type of procedure**
Administrative
- **Possibilities of appeal**
Yes (Recourse to the Supreme Court in accordance with Article 146 of the Constitution)
- **Burden of proof: please list what the complainant needs to prove**
There is no burden of proof, nor does the applicant have to prove something. The Commissioner may exercise his power in any way he feels fit. There are no guidelines.
- **Available mechanism to lower the burden of proof**
Non applicable (there is no burden of proof. The Commissioner's Office does not have the jurisdiction of evidence collection. On the Commissioner's judgment).
- **Requirement of legal representation**
Legal representation is not mandatory.
- **Is there free legal advice/representation available from a public body (please specify the public body)?**
No
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
The Commissioner may act even on his own accord and accordingly, civil society organizations and associations could file a complaint.
- **Cost of procedure: please provide information on the average cost of the procedure**
There is no cost.
- **Average duration of procedure: please provide available information**

⁶ Data provided by email sent by Ms. Maria Michaelidou, Administrative Officer at the Office of the Commissioner for Personal Data Protection, on Monday, May 28, 2012.

⁷ A letter was sent to the Chief Registrar of the Supreme Court, Ms. Irene Christodoulou on Monday, March 12th 2012. Ms. Natasa Papanicolaou replied on behalf of the Chief Registrar on Friday, March 23, 2012, by email. According to Ms. Papanicolaou there are no data available for the completion of Annex 1.

⁸ A letter was sent to the Chief Registrar of the Supreme Court, Ms. Irene Christodoulou on Monday, March 12th 2012. Ms. Natasa Papanicolaou replied on behalf of the Chief Registrar on Friday, March 23, 2012, by email. According to Ms. Papanicolaou there are no data available for the completion of Annex 1.

⁹ A letter was sent to the Chief Registrar Ms. Irene Christodoulou on Monday, March 12, 2012. Ms. Natasa Papanicolaou replied on behalf of the Chief Registrar on Friday, March 23, 2012, by email. According to Ms. Papanicolaou there are no data available for the completion of Annex 1.

The duration is usually about three (3) months. Minimum one (1) month, maximum twelve (12) months. The actual duration per case mainly depends on the Office's workload.

- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**

There has been compliance in all cases. The cases were settled between the parties and no decisions were taken by the Commissioner.¹⁰

Redress Mechanism Number 2 (Administrative sanction: fine):

- **Range of possible outcomes**
Up to Euro 8,500
- **Legal basis: (for example section XX of civil code)**
138(I)/01 Data Protection Law, Sections 12(3) and 25
- **Type of procedure**
Administrative
- **Possibilities of appeal**
Yes (Recourse to the Supreme Court in accordance with Article 146 of the Constitution)
- **Burden of proof: please list what the complainant needs to prove**
There is no burden of proof, nor does the applicant have to prove something. The Commissioner may exercise his power in any way he feels fit. There are no guidelines.
- **Available mechanism to lower the burden of proof**
Non applicable (there is no burden of proof. The Commissioner's Office does not have the jurisdiction of evidence collection. On the Commissioner's judgment)
- **Requirement of legal representation**
Legal representation is not mandatory
- **Is there free legal advice/representation available from a public body (please specify the public body)?**
No
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
The Commissioner may act even on his own accord and accordingly, civil society organizations and associations could file a complaint
- **Cost of procedure: please provide information on the average cost of the procedure**
There is no cost
- **Average duration of procedure: please provide available information**
The duration is usually about three (3) months. Minimum one (1) month, maximum twelve (12) months. The actual duration per case mainly depends on the Office's workload
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**
There has been compliance in all cases apart from one in which the complaint filed a recourse before the Supreme Court. The recourse has been rejected by the Supreme Court. The remaining cases were settled between the parties and no decisions were taken by the Commissioner¹¹

Redress Mechanism Number 3 (Administrative sanction: temporary revocation of a license):

- **Range of possible outcomes**
Temporary revocation of license
- **Legal basis: (for example section XX of civil code)**
138(I)/01 Data Protection Law, Sections 12(3) and 25
- **Type of procedure**
Administrative
- **Possibilities of appeal**
Yes (Recourse to the Supreme Court in accordance with Article 146 of the Constitution)
- **Burden of proof: please list what the complainant needs to prove**

¹⁰ Information provided by telephone interview with Ms. Maria Michaelidou, Administrative Officer at the Office of the Commissioner for Personal Data Protection, on Monday, May 28, 2012.

¹¹ Information provided by telephone interview with Ms. Maria Michaelidou, Administrative Officer at the Office of the Commissioner for Personal Data Protection, on Monday, May 28, 2012.

There is no burden of proof, nor does the applicant have to prove something. The Commissioner may exercise his power in any way he feels fit. There are no guidelines.

- **Available mechanism to lower the burden of proof**
Non applicable (there is no burden of proof. The Commissioner's Office does not have the jurisdiction of evidence collection. On the Commissioner's judgment)
- **Requirement of legal representation**
Legal representation is not mandatory.
- **Is there free legal advice/representation available from a public body (please specify the public body)?**
No
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
The Commissioner may act even on his own accord and accordingly, civil society organizations and associations could file a complaint.
- **Cost of procedure: please provide information on the average cost of the procedure**
There is no cost.
- **Average duration of procedure: please provide available information**
The duration is usually about three (3) months. Minimum one (1) month, maximum twelve (12) months. The actual duration per case mainly depends on the Office's workload
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**
No cases were recorded.¹²

Redress Mechanism Number 4 (Administrative sanction: permanent revocation of a license):

- **Range of possible outcomes (for example compensation up to Euro 10.000)**
Permanent revocation of license
- **Legal basis: (for example section XX of civil code)**
138(I)/01 Data Protection Law, Sections 12(3) and 25
- **Type of procedure**
Administrative
- **Possibilities of appeal**
Yes (Recourse to the Supreme Court in accordance with Article 146 of the Constitution)
- **Burden of proof: please list what the complainant needs to prove**
There is no burden of proof, nor does the applicant have to prove something. The Commissioner may exercise his power in any way he feels fit. There are no guidelines.
- **Available mechanism to lower the burden of proof**
Non applicable (there is no burden of proof. The Commissioner's Office does not have the jurisdiction of evidence collection. On the Commissioner's judgment)
- **Requirement of legal representation**
Legal representation is not mandatory.
- **Is there free legal advice/representation available from a public body (please specify the public body)?**
No
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
The Commissioner may act even on his own accord and accordingly, civil society organizations and associations could file a complaint.
- **Cost of procedure: please provide information on the average cost of the procedure**
There is no cost.
- **Average duration of procedure: please provide available information**
The duration is usually about three (3) months. Minimum one (1) month, maximum twelve (12) months. The actual duration per case mainly depends on the Office's workload.
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**

¹² Information provided by telephone interview with Ms. Maria Michaelidou, Administrative Officer at the Office of the Commissioner for Personal Data Protection, on Monday, May 28, 2012.

No cases were recorded .¹³

Redress Mechanism Number 5 (Administrative sanction: destruction of a filing system or the cessation of processing and the destruction of the relevant data):

- **Range of possible outcomes (for example compensation up to Euro 10.000)**
Destruction of filing system or cessation of processing and destruction of relevant data
- **Legal basis: (for example section XX of civil code)**
138(I)/01 Data Protection Law, Sections 12(3) and 25
- **Type of procedure**
Administrative
- **Possibilities of appeal**
Yes (Recourse to the Supreme Court in accordance with Article 146 of the Constitution)
- **Burden of proof: please list what the complainant needs to prove**
There is no burden of proof, nor does the applicant have to prove something. The Commissioner may exercise his power in any way he feels fit. There are no guidelines.
- **Available mechanism to lower the burden of proof**
Non applicable (there is no burden of proof. The Commissioner's Office does not have the jurisdiction of evidence collection. On the Commissioner's judgment)
- **Requirement of legal representation**
Legal representation is not mandatory.
- **Is there free legal advice/representation available from a public body (please specify the public body)?**
No
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
The Commissioner may act even on his own accord and accordingly, civil society organizations and associations could file a complaint.
- **Cost of procedure: please provide information on the average cost of the procedure**
There is no cost.
- **Average duration of procedure: please provide available information**
The duration is usually about three (3) months. Minimum one (1) month, maximum twelve (12) months. The actual duration per case mainly depends on the Office's workload.
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**
There has been compliance in all cases. The cases were settled between the parties and no decisions were taken by the Commissioner .¹⁴

Redress Mechanism Number 6 (Decision about the exercise of the right of access):

- **Range of possible outcomes (for example compensation up to Euro 10.000)**
Right of access
- **Legal basis: (for example section XX of civil code)**
138(I)/01 Data Protection Law, Sections 12(3) and 25
- **Type of procedure**
Administrative
- **Possibilities of appeal**
Yes (Recourse to the Supreme Court in accordance with Article 146 of the Constitution)
- **Burden of proof: please list what the complainant needs to prove**
There is no burden of proof, nor does the applicant have to prove something. The Commissioner may exercise his power in any way he feels fit. There are no guidelines.
- **Available mechanism to lower the burden of proof**

¹³ Information provided by telephone interview with Ms. Maria Michaelidou, Administrative Officer at the Office of the Commissioner for Personal Data Protection, on Monday, May 28, 2012.

¹⁴ Information provided by telephone interview with Ms. Maria Michaelidou, Administrative Officer at the Office of the Commissioner for Personal Data Protection, on Monday, May 28, 2012.

Non applicable (there is no burden of proof. The Commissioner's Office does not have the jurisdiction of evidence collection. On the Commissioner's judgment)

- **Requirement of legal representation**
Legal representation is not mandatory.
- **Is there free legal advice/representation available from a public body (please specify the public body)?**
No
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
The Commissioner may act even on his own accord and accordingly, civil society organizations and associations could file a complaint.
- **Cost of procedure: please provide information on the average cost of the procedure**
There is no cost.
- **Average duration of procedure: please provide available information**
The duration is usually about three (3) months. Minimum one (1) month, maximum twelve (12) months. The actual duration per case mainly depends on the Office's workload.
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**
There has been compliance. The case was settled between the parties and no decision was taken by the Commissioner .¹⁵

Redress Mechanism Number 7 (Imprisonment):

- **Range of possible outcomes (for example compensation up to Euro 10.000)**
Imprisonment up to five years, depending on the nature of the criminal offence
- **Legal basis: (for example section XX of civil code)**
138(I)/01 Data Protection Law, Section 26
- **Type of procedure**
Criminal
- **Possibilities of appeal**
Yes (Appeal to the Supreme Court acting as a Criminal Appellate Court)
- **Burden of proof: please list what the complainant needs to prove**
The complainant needs to prove beyond any reasonable doubt that all the elements of the criminal offence have been committed by the accuser.
- **Available mechanism to lower the burden of proof**
Non applicable
- **Requirement of legal representation**
Legal representation is not mandatory.
- **Is there free legal advice/representation available from a public body (please specify the public body)?**
Not applicable.
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
No
- **Cost of procedure: please provide information on the average cost of the procedure**
There is no cost. The police or the Attorney-General would initiate the proceedings.
- **Average duration of procedure: please provide available information**
The duration may vary up to 2 years. The actual duration per case mainly depends on the Court's workload.
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**
No information available.¹⁶

Redress Mechanism Number 8 (Fine):

¹⁵ Information provided by telephone interview with Ms. Maria Michaelidou, Administrative Officer at the Office of the Commissioner for Personal Data Protection, on Monday, May 28, 2012.

¹⁶ Information provided by the Chief Registrar of the Supreme Court, March 23, 2012.

- **Range of possible outcomes (for example compensation up to Euro 10.000)**
Fine up to 5.000 Cypriot Pounds, i.e. 8.507 euro, depending on the nature of the criminal offence
- **Legal basis: (for example section XX of civil code)**
138(I)/01 Data Protection Law, Section 26
- **Type of procedure**
Criminal
- **Possibilities of appeal**
Yes (Appeal to the Supreme Court acting as a Criminal Appellate Court)
- **Burden of proof: please list what the complainant needs to prove**
- The complainant needs to prove beyond any reasonable doubt that all the elements of the criminal offence have been committed by the accuser. **Available mechanism to lower the burden of proof**
Non applicable
- **Requirement of legal representation**
Legal representation is not mandatory.
- **Is there free legal advice/representation available from a public body (please specify the public body)?**
Not applicable.
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
No
- **Cost of procedure: please provide information on the average cost of the procedure**
There is no cost. The police or the Attorney-General would initiate the proceedings.
- **Average duration of procedure: please provide available information**
The duration may vary up to 2 years. The actual duration per case mainly depends on the Court's workload.
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**
No information available.¹⁷

Redress Mechanism Number 9 (Compensation):

- **Range of possible outcomes (for example compensation up to Euro 10.000)**
Compensation, depending on the nature of the offence and in accordance with the Court's discretion.
- **Legal basis: (for example section XX of civil code)**
Articles 15 and 17 of the Constitution of Cyprus
- **Type of procedure**
Civil
- **Possibilities of appeal**
Yes (Appeal to the Supreme Court acting as a Civil Appellate Court)
- **Burden of proof: please list what the complainant needs to prove**
The complainant needs to prove on the balance of probabilities that his right to privacy or data protection has been violated.
- **Available mechanism to lower the burden of proof**
Non applicable
- **Requirement of legal representation**
Legal representation is not mandatory.
- **Is there free legal advice/representation available from a public body (please specify the public body)?**
No. Legal aid might be available in some circumstances.
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
No
- **Cost of procedure: please provide information on the average cost of the procedure**

¹⁷ Information provided by the Chief Registrar of the Supreme Court, March 23, 2012.

May vary depending on the amount of compensation requested, the length of trial etc.

- **Average duration of procedure: please provide available information**
The duration may vary up to 5 years. The actual duration per case mainly depends on the Court's workload.
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**
No information available.¹⁸

¹⁸ Information provided by the Chief Registrar of the Supreme Court, March 23, 2012.