

COMPLAINT

1. On the 13th January 2024, Mr [REDACTED] (the “**complainant**”) lodged a complaint against [REDACTED] (the “**controller**”) pursuant to article 77(1) of the General Data Protection Regulation¹ (the “**Regulation**”) alleging that the controller infringed the legislation when it sent him a letter which was enclosed in a window envelope that displayed not only his name and surname, but also his identity card number².

INVESTIGATION

2. Pursuant to the internal investigation of this Office, the Commissioner provided the controller with a copy of the complaint and requested the controller to submit any information which it deemed relevant and necessary to defend itself against the allegation raised by the complainant. On the 3rd February 2024, the controller submitted the following arguments:
 - a. that this is not a common practice, and it was a one-off error;
 - b. that the correspondence referred to by the complainant was a legal letter issued by the internal legal counsel of the controller;
 - c. that the complainant is not a client of the controller, and this was correspondence in relation to a case which the controller has with the complainant;

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.

² The complainant submitted a photo of the envelope as supporting documentation.

- d. that this was a human error which was a result of an oversight of the legal counsel who, as is common practice in judicial letters, erroneously, inserted the identity card of the complainant;
 - e. that the legal counsel has taken note of this error and will endeavor not to repeat it; and
 - f. that the controller always takes great care to correctly process personal data, however, human errors could not be totally avoided.
3. The Commissioner provided the complainant with the opportunity to rebut the submissions of the controller. On the 5th February 2024, the complainant submitted the following arguments:
 - a. that a distinction should be made between human error and carelessness;
 - b. that the letter was handled by a legal counsel, and therefore, one would expect, at the very least, even greater diligence and care in the handling of personal data;
 - c. that it is also worrisome that the controller claimed that human errors could not be totally avoided, and this may be indicative that the controller has not as yet fully appreciated the seriousness of the consequences that may arise if personal data are not handled properly;
 - d. that this incident may also be indicative that the procedures of the controller in handling personal data are not sufficient to safeguard the rights of the data subjects; and
 - e. that for the reasons outlined above, the complainant is of the opinion that this incident was the result of carelessness, and the data should have been handled with care and due diligence.
4. On the 7th February 2024, the controller was provided with a copy of the submissions produced by the complainant and the controller further added that the identity card number of the complainant was only exposed to postal employees.

DECISION

5. The complainant alleged that the controller unnecessarily disclosed his identity card number to unauthorised third parties when the controller sent him a letter enclosed in a window envelope

that displayed his identity card number. In the submissions provided during the course of the investigation, the controller submitted that this was an oversight of its employee who prepared the letter addressed to the complainant, which was a result of human error.

6. The Commissioner noted that the photo which was submitted with the complaint demonstrates that the identity card number of the complainant together with his name and postal address were visible through the plastic window of the envelope. The Commissioner wanted to ensure that the inclusion of the identity card number is not a systematic approach which is being applied by the controller when sending correspondence to data subjects. However, the controller ascertained that this is not the practice of the company, and this was “*a one-off error*”.
7. The Commissioner further noted that this incident which led to the unnecessary disclosure of the identity card number of the complainant to third parties does not derive from a deliberate action of the controller, but from an unintentional human error caused by inattentiveness. These incidents may be avoided by (a) providing regular training on data protection legislation; (b) double-checking the correspondence; and (c) avoiding the use of windowed envelopes, where possible.

On the basis of the foregoing considerations, the Commissioner is hereby concluding that the controller unnecessarily disclosed the identity card number of the complainant to third parties. However, it is unlikely that this incident results in a risk to the rights and freedoms of the complainant especially when considering that the only individuals who viewed this information are the employees of the postal service.

Notwithstanding this, the controller is being warned that in the event of another infringement of a similar nature, the appropriate enforcement action will be taken accordingly, which may include the imposition of an administrative fine.

Ian
DEGUARA
(Signature)

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by Ian DEGUARA
(Signature)
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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.