

CDP/COMP/151/2025

vs

COMPLAINT

1. On the 18th of March 2025, Ms [REDACTED] (the “**complainant**”) lodged a data protection 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 after submitting her resignation to her then-employer, [REDACTED] (the “**controller**”), an email was sent to the entire team of employees informing them of the complainant’s resignation, which also included the personal reasons underlying her decision to resign. The complainant alleged that this was done without her authorisation, and that her letter of resignation did not state the reasons why she was resigning - although she had disclosed that information, in confidence, to Human Resources. The complainant further alleged that when she expressed her frustration about this to the controller, she was informed that it was important to provide a reason for her resignation to the employees.
2. For the purpose of supporting her allegation, the complainant submitted the following documentation: (i) a copy of the letter of resignation which she submitted to Human Resources, the Chief Operating Officer, and the Retail Operations Manager; and (ii) a copy of the email which was circulated to the employees by the Retail Operations Manager informing them of

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.

the complainant's resignation. Notably, the email included the following statement regarding the reasons for the complainant's decision to resign from her role:

"After careful consideration, [the complainant] has decided to pursue a role that aligns more closely with her children's needs, as the demands of her current role have proven difficult to balance with her family commitments."

INVESTIGATION

3. Pursuant to the internal investigative procedure of this Office, the controller was provided with a copy of the complaint and was given the opportunity to make any submissions it deemed relevant and necessary to defend itself against the allegation made by the complainant.
4. By means of a letter sent by email on the 10th of April 2025, the controller made the following submissions for the Commissioner to consider in the legal analysis of the present case:
 - a. that, primarily, the controller strongly emphasises that it has not committed any infringement of the Regulation;
 - b. that, upon receiving the complainant's resignation, the Retail Operations Manager informed the staff, which is comprised of thirty (30) individuals, of the complainant's resignation;
 - c. that this is standard practice and is expected from an employment law perspective, for business continuity purposes;
 - d. that in communicating to the staff that the complainant was departing from her employment with the controller, the controller processed the personal data of the complainant on the legal ground of legitimate interest in terms of article 6 of the Regulation;
 - e. that the email sent to the staff did not disclose sensitive details or special categories of personal data, and therefore, no additional legal ground for processing in terms of article 9 of the Regulation was required;

- f. that the staff were merely informed that the complainant was departing from her employment with the controller due to family commitments, and that the controller did this on the strength of the legal ground of legitimate interest in terms of article 6 of the Regulation;
 - g. that, apart from the fact that the personal data of the complainant was processed based on the legal ground of legitimate interest, the disclosure to the staff was made entirely in good faith by the Retail Operations Manager, to a limited internal audience, for the purpose of business continuity, and for the purpose of thanking the complainant for her invaluable support during her tenure with the controller; and
 - h. that the disclosure was reflective of the controller's positive workplace culture and was not made for the purposes of data misuse or reputational harm to the complainant.
5. The Commissioner shared the submissions of the controller with the complainant to provide her with the opportunity to respond to and rebut the arguments presented. The complainant did not make any further submissions.

Further clarification sought by the Commissioner

6. After reviewing the controller's submissions, the Commissioner requested further clarification from the controller in terms of article 58(1)(c) of the Regulation. Specifically, the Commissioner referred the controller to the following statement, which was made in its submissions:

*"[...] the [controller's] staff were merely informed that the Complainant was departing from her employment with [the controller] due to family commitments and this **on the strength of the legal ground of legitimate interest in terms of Article 6 of the GDPR.**" [emphasis has been added].*

In light of the fact that the legal ground of legitimate interest in terms of article 6(1)(f) of the Regulation requires that the processing of personal data must be "*necessary*" to achieve the legitimate interest pursued, the Commissioner requested the controller to clarify why it

considered that it was “*necessary*” in the present case to disclose the reasons for the complainant’s resignation to the staff.

7. By means of an email dated the 30th of April 2025, the controller submitted the following arguments in response to the Commissioner’s request for clarification:
 - i. as to the requirement of necessity – that “*the necessity in the disclosure lied in the need for business continuity as well as for the purpose of thanking the Complainant for her invaluable support during her tenure with [the controller]*”;
 - ii. as to the intention of the controller when disclosing the information – that “*the reference to the Complainant’s family-related reasons for resignation was shared with sincere and respectful intent, in a manner that reflected [the controller’s] values of appreciation and collegiality. The information was limited in scope and was not intended to disclose any sensitive or special category data*”; and
 - iii. as to the recipients of the disclosed information – “*the disclosure was made to a small, close-knit group of individuals [...] who required, for the purposes of their roles with [the controller], to be made aware of the Complainant’s resignation, once more for business continuity purposes.*”

LEGAL ANALYSIS AND DECISION

8. In her complaint, the complainant alleged that the controller disclosed the reasons for her resignation to the entire team of employees without her authorisation. The complainant substantiated her allegation by submitting a copy of the email which was sent by the Retail Operations Manager, which clearly demonstrated that the email had been circulated to an email distribution list labelled [REDACTED] and that the email disclosed not only the fact of the complainant’s resignation, but also the personal reasons underlying her decision to resign.
9. As a preliminary part of the legal analysis, the Commissioner examined article 4(1) of the Regulation, which defines ‘personal data’ as “*any information relating to an identified or identifiable natural person (‘data subject’)*”. Upon examining the copy of the email submitted

by the complainant, the Commissioner noted that the email identified the complainant by name, and explicitly stated that the complainant was resigning because *“she has decided to pursue a role that aligns more closely with her children’s needs, as the demands of her current role have proven difficult to balance with her family commitments”*. Consequently, in the present case, the complainant clearly constituted an identified natural person, and the reasons for her resignation - as disclosed in the email - constituted *“information relating to”* the complainant within the meaning of article 4(1) of the Regulation. Accordingly, the Commissioner determined that the controller’s disclosure of the reasons for the complainant’s resignation amounted to a disclosure of the complainant’s personal data.

10. During the course of the investigation, the controller did not dispute that it had failed to obtain the complainant’s authorisation prior to disclosing her personal data to the rest of the employees. Rather, in its submissions, the controller argued that the disclosure was justified on the basis of its legitimate interests. Specifically, the controller submitted that *“staff were merely informed that the Complainant was departing from her employment with [the controller] due to family commitments and this on the strength of the legal ground of legitimate interest in terms of Article 6 of the GDPR”*. When the Commissioner requested further clarification from the controller, the controller submitted that it regarded the disclosure as necessary *“for business continuity as well as for the purpose of thanking the Complainant for her invaluable support during her tenure”*, and additionally, that the recipients of the email *“required, for the purposes of their roles [...], to be made aware of the Complainant’s resignation, once more for business continuity purposes.”*
11. Accordingly, the Commissioner undertook to examine whether article 6(1)(f) of the Regulation could serve as a valid legal basis for the controller’s disclosure of the complainant’s personal data - specifically, her personal information concerning the reason for her resignation.
12. In terms of article 6(1)(f) of the Regulation, the processing of personal data shall be lawful where it is *“necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data”*. [emphasis has been added]. The Court of Justice of the European Union (the “CJEU”) has affirmed on a number of occasions that the reliance on article 6(1)(f) of the Regulation as a legal basis for the processing of personal data is contingent on the satisfaction of a three-part

test. In its landmark *Rīgas*³ ruling, the CJEU articulated that the three cumulative conditions that must be satisfied are as follows:

“first, the pursuit of a legitimate interest by the data controller or by the third party or parties to whom the data are disclosed; second, the need to process personal data for the purposes of the legitimate interests pursued; and third, that the fundamental rights and freedoms of the person concerned by the data protection do not take precedence.”

Therefore, the controller’s reliance on article 6(1)(f) of the Regulation as a legal basis shall be valid, and consequently, the disclosure shall be lawful only if the controller is able to demonstrate that each of these conditions have been cumulatively met in the present case.

The first limb of the test

13. In order for the first limb of the test to be satisfied, there must be a specific legitimate interest pursued either by the controller or by a third party that justifies the processing of personal data. The Regulation does not define “*legitimate interest*”, nor does it provide an exhaustive list of interests that are considered as being legitimate. However, the CJEU has explicitly recognised in its rulings that a wide range of interests is, in principle, capable of being regarded as legitimate.⁴ This position is also reiterated in the European Data Protection Board (“EDPB”) Guidelines 1/2024 on processing of personal data based on article 6(1)(f) GDPR,⁵ which further explain that the legitimate interest must be lawful, clearly identified, and already present at the time of the processing – it cannot be merely speculative or hypothetical.⁶ Yet, while a variety of interests may be considered as legitimate, it is ultimately the responsibility of the controller to make its own judicious assessment to determine whether there is a legitimate aim capable of justifying an interference with the data subject’s right to the protection of personal data.

14. During the course of the investigation, the controller submitted that the disclosure of the reason for the complainant’s resignation to the other employees was made for the purpose of business continuity. In this regard, the Commissioner considered the concept of business continuity, and

³ Case C-13/16, ‘*Rīgas satiksme*’, judgement of the 4th of May 2017 (paragraph 28).

⁴ Joined Cases C-26/22 and C-64/22, ‘*SCHUFA Holding and Others (Libération de reliquat de dette)*’ judgment of the 7th of December 2023 (paragraph 76).

⁵ EDPB Guidelines 1/2024 on processing of personal data based on article 6(1)(f) GDPR, adopted on the 8th of October 2024.

⁶ Ibid. (paragraph 17).

that an employer can indeed have a genuine interest in ensuring the continued running of its business operations - including, for instance, managing effective handovers and transitions - following an employee's departure from an organisation. The Commissioner considered that this interest was not unlawful, was identified in clear terms by the controller, and genuinely existed within the organisation. However, merely identifying a legitimate interest is not enough. The controller must also show that the processing activity - in this case, the disclosing of the personal reasons for the complainant's resignation - was *necessary* in order to achieve the interest.

The second limb of the test

15. Accordingly, in order for the second limb of the test to be satisfied, the processing activity must genuinely be necessary for the realisation of the identified legitimate interest. In this regard, the CJEU has consistently reiterated in its judgements⁷ that such processing should be carried out only “*in so far as is **strictly necessary for the purposes of that legitimate interest.***” [emphasis has been added]. The Commissioner examined the recent judgement of *Meta v. Bundeskartellamt*⁸, where the CJEU held that the assessment of what is actually ‘necessary’ requires ascertaining whether the legitimate interest pursued could be achieved just as effectively by alternative means that are less restrictive of the data subject’s fundamental rights and freedoms. In the same judgement, the CJEU further explained that this assessment must be conducted bearing in mind the principle of data minimisation under article 5(1)(c) of the GDPR, which requires that personal data be “***adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.***” [emphasis has been added]. It therefore follows that it is not enough that the processing may be useful in the particular circumstances. Rather, the processing must be limited to what is objectively necessary to achieve the legitimate interest identified in the first limb of the test.

16. During the course of the investigation, the Commissioner requested clarification from the controller as to why the controller considered that it was ‘necessary’ to disclose to the employees the personal reasons for the complainant’s resignation - as opposed to simply informing them of the fact of the complainant’s resignation. In response, the controller

⁷ Joined Cases C-26/22 and C-64/22, *SCHUFA Holding and Others (Libération de reliquat de dette)* judgment of the 7th of December 2023 (paragraph 88), Case C-252/21, *Meta Platforms Inc and Others v. Bundeskartellamt*, judgement of the 4th of July 2023 (paragraph 126).

⁸ Case C-252/21, *Meta Platforms Inc and Others v. Bundeskartellamt*, judgement of the 4th of July 2023 (paragraphs 108-109).

submitted that the need for the disclosure lied in (i) *“the need for business continuity”* and (ii) *“thanking the complainant for her invaluable support during her tenure with [the controller]”*. The Commissioner observed that the controller failed to demonstrate why the processing activity that is the subject of the complaint - that is, the disclosure of the personal reasons for the complainant’s resignation - was necessary for the pursuit of the legitimate interest it had identified. The Commissioner considered that, while informing the employees of the complainant’s resignation may indeed have been necessary to achieve the identified legitimate interest, the content of the email sent to the employees ought to have been limited to that information alone, without including additional information related to the complainant’s personal life. Furthermore, the Commissioner failed to see how the disclosure was necessary for the controller to thank the complainant, noting that the controller could have conveyed its appreciation in the email without disclosing additional personal data about the complainant. The Commissioner further referred to article 5(1)(c) of the Regulation and considered that, had the disclosure been limited only to the fact of the complainant’s resignation, this would have constituted information that was *“adequate, relevant, and limited to what is necessary”* for the purpose of business continuity. However, the disclosure of the complainant’s personal reasons for the resignation went beyond what was necessary. In particular, the Commissioner noted that the disclosure was intrusive given that it related directly to the family and private life of the complainant, and therefore, the second limb of the test is not satisfied.

17. Given that the second limb of the test is not satisfied, the Commissioner shall not proceed to make his legal assessment on the third limb of the test, namely that which involves balancing the interests of the data subject against the interest identified by the controller in order to determine whether the fundamental rights and freedoms of the data subject take precedence over the interest of the controller.

On the basis of the foregoing considerations, the Commissioner is concluding that the controller could not validly rely on article 6(1)(f) of the Regulation as a legal basis for the disclosure of the reason underlying the complainant’s resignation to the employees of the controller, namely, that the complainant *“has decided to pursue a role that aligns more closely with her children’s needs, as the demands of her current role have proven difficult to balance with her family commitments”*.

The disclosure was effectively not necessary for the purpose of ensuring or achieving business continuity, and therefore, the Commissioner is hereby deciding that the processing of the

complainant's personal data was not based on a lawful ground in terms of article 6(1) of the Regulation.

The controller should ensure that any future communications to staff concerning an employee's resignation do not disclose any personal reasons underlying the individual's decision to resign.

Ian
DEGUARA
(Signature)

Digitally signed
by Ian DEGUARA
(Signature)
Date: 2025.05.26
13:50:08 +02'00'

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 (Chapter 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.⁹

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*”.

⁹ Further information is available on the IDPC’s portal at the following hyperlink: <https://idpc.org.mt/appeals-tribunal/>