

vs

COMPLAINT

- On the 14th April 2025, [REDACTED] (the “complainant”) lodged a data protection complaint with the Information and Data Protection Commissioner (the “Commissioner”) in terms of article 77(1) of the General Data Protection Regulation¹ (the “Regulation”), alleging that the [REDACTED] (the “controller” or the [REDACTED] disclosed information regarding the termination of his [REDACTED] membership in an unlawful manner.
- The complainant submitted the following information in connection with the complaint:

27 th November 2024	“I sent an email to the [REDACTED] memberships clerk indicating asking to stop SEPA payment (exhibit 1).”.
5 th December 2024	<p>“I was refused access to an [REDACTED] delegates meeting (exhibit 2). I asked the [REDACTED] president why (exhibit 3) but did not receive a reply.</p> <p>Later that day, Mr. [REDACTED] who sits on the [REDACTED] wrote a post in the [REDACTED] suggesting that I am not an [REDACTED] member (exhibit 4). This post, related to my personal membership status, was exposed to the 530 members of the group”.</p>

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.

3. The complainant submitted the following supporting documentation along with his complaint:

- a. **‘Exhibit 1’:** An email dated the 27th November 2024, in which the complainant requested an employee of the controller “*to terminate my direct debit mandate as I do not intend to extend my membership for next year*”;
- b. **‘Exhibit 2’:** A screenshot taken from Zoom showing that “[t]he host removed you [the complainant] from the meeting”;
- c. **‘Exhibit 3’:** An email dated the 5th December 2024, in which the complainant requested the [REDACTED] to “*tell me why I wasn’t allowed in today’s meeting?*”; and
- d. **‘Exhibit 4’:** A screenshot of a Facebook post published by [REDACTED] in the private group [REDACTED] which has five hundred and thirty (530) members. The post reads as follows: “*Here is another one, [REDACTED] are you still a member of the union? Because if you are not you cannot be a delegate and consequently you cannot be in a delegates meeting. Mhux hekk? Siehbi*”.



INVESTIGATION

4. Pursuant to the internal investigative procedure of this Office, the Commissioner provided the controller with a copy of the complaint, including the supporting documentation, and enabled the controller to provide any information that it deemed relevant and necessary to defend itself against the allegation raised by the complainant.

Submissions of the controller

5. By means of an email dated the 7th May 2025, the controller submitted the following arguments for the Commissioner to consider during the legal analysis of this case:

- a. that the complainant was a [REDACTED] member and [REDACTED] delegate representing [REDACTED] [REDACTED] however, the relationship with the complainant turned sour owing primarily (but not solely) to the delayed collective agreement negotiations at [REDACTED]
- b. that the [REDACTED] and the complainant also had a commercial relationship for several years, during which the complainant was commissioned to work on a platform and a website for a [REDACTED] project, as well as the [REDACTED] foundation;
- c. that the complainant was well remunerated, but the commercial relationship soured when he requested significant increases through a monthly retainer for website maintenance, a request that was ultimately not accepted;
- d. that, as reported by members and as observed directly through Facebook posts (which have since been deleted by the complainant), the complainant initiated an attack on [REDACTED] in 2024 whilst still being a [REDACTED] delegate and member;
- e. that the [REDACTED] always sought to include the complainant and there were several communications with the complainant, which show that the controller took on board the suggestions of the complainant²;
- f. that, on one occasion, the [REDACTED] had to reprimand the complainant since he was spreading false information to members, which goes against the interest of [REDACTED] its members and its negotiations with [REDACTED]
- g. that the complainant was clearly after his pound of flesh, and in a communication with the [REDACTED] he made several claims for a refund of membership fees over multiple years, arguing that his membership fees should have been reduced by half, however, this claim was rejected;

² The controller submitted correspondence exchanged between the complainant and the [REDACTED] on the 11th September 2024.

³ The controller submitted an email dated the 23rd November 2024, wherein the [REDACTED] warned the complainant: "[REDACTED]"

- h. that the complainant also requested the SEPA payment to be stopped and his intention to terminate the [REDACTED] membership followed;
- i. that the incident referred to by the complainant occurred on the 5th December 2024⁴, which was not an ordinary day. [REDACTED]
[REDACTED]
[REDACTED] following what was perceived as an attack on the union;
- j. that, on the 5th December 2024, the [REDACTED] held a meeting for delegates to update them about the situation, and, on the same day, there was another press release of the Government, which was followed by a press release of the [REDACTED]
- k. that during the said period, the complainant was frequently attacking the [REDACTED] and his attacks targeted negotiations and [REDACTED]
- l. that the controller further explained that the role of [REDACTED] is unique as he is the [REDACTED] he is one of [REDACTED] and he is [REDACTED] of the [REDACTED]
- m. that, contrary to the complainant's claim, the [REDACTED] did respond to his email dated the 5th December 2024⁷ and made an effort to defuse the situation by offering to meet with the complainant to provide clarification;
- n. that, in fact, [REDACTED] requested [REDACTED] to remove the Facebook post, which is the subject of the complaint, to avoid confrontation, and [REDACTED] complied immediately;
- o. that the complainant has been acting and posting in the Facebook group [REDACTED] as a [REDACTED] delegate for several years, and his membership in the [REDACTED] was widely known among the lecturers;

- p. that the complainant failed to mention that, in the same post, he had clarified in an amicable tone (referring to [REDACTED] as “sieħbi”) that he was still a member of the [REDACTED];
- q. that, therefore, this indicates that the complainant had no issue sharing that he was a member of the [REDACTED] similarly to his statements along the years in which he stated to be a [REDACTED] delegate; and
- r. that whilst the [REDACTED] disagrees with the post published by [REDACTED], it is important to note that [REDACTED] did not make any statements of fact nor disclose any personal data of the complainant, and in fact, [REDACTED] never had access to any personal data pertaining to the complainant.

Clarification sought from the controller

- 6. After reviewing the submissions of the controller, the Commissioner requested clarification on whether the Facebook post published by [REDACTED] using his own personal Facebook was made independently, or in accordance with any instructions issued by the [REDACTED] in its capacity of a controller within the meaning of article 4(7) of the Regulation.
- 7. By means of an email dated the 12th May 2025, the controller submitted that “*I confirm that Mr [REDACTED] used his personal facebook profile and was not acting upon any instructions from the undersigned [REDACTED] and or from [REDACTED]*”.

Submissions of the complainant

- 8. Pursuant to the internal investigative procedure of this Office, the Commissioner provided the complainant with a copy of the submissions provided by the controller, including the supporting documentation, and enabled the complainant to submit any counterarguments. By means of an email dated the 2nd June 2025, the complainant submitted the following salient arguments for the Commissioner to consider during the legal analysis of the case:
 - a. that the assertion made by the controller that the past commercial relationship between the controller and the complainant is relevant to this issue is entirely unfounded - that after five (5) years of service, the complainant exercised his right to revise his rate and the controller, in turn, exercised its right not to renew the engagement;

- b. that, however, as recently as February 2025, well after the incident, the complainant continued to collaborate with his successor, without requesting any compensation;
- c. that the complainant stopped writing in the [REDACTED] and removed earlier contributions in protest when [REDACTED] started expelling colleagues for being critical to the [REDACTED] and the complainant disagreed with this attitude especially since the group does not belong to the [REDACTED]
- d. that the complainant had served as a [REDACTED] delegate since before [REDACTED] became president, and had witnessed the gradual decline in delegate engagement over the year - [REDACTED] had a long-standing practice of meeting delegates regularly at its premises, a practice that has waned;
- e. that, in this context, the complainant had expressed concern about the lack of recent delegate meetings and [REDACTED] took issue with his comment;
- f. that the complainant was never seeking a “pound of flesh” as accused by the controller, and in fact, the complainant voted in favour of a motion by [REDACTED] to extend his own term by six months, however, the only concern of the complainant is protecting his right to data privacy and standing up to bullying;
- g. that, as a delegate, the role of the complainant was to serve as a liaison between [REDACTED] members and the [REDACTED] leadership, and the complainant raised his concerns on multiple occasions, always in a respectful and cordial manner, namely, the expulsion of members; and
- h. that while the complainant has grown increasingly disillusioned about the leadership’s direction, the claim of the controller that the complainant was attacking the [REDACTED] or [REDACTED] is unfounded.

Final submissions of the controller

- 9. As part of the investigative procedure of this Office, the controller was provided with the final opportunity to provide its submission in connection with the case. By means of a letter dated the 18th June 2025, the controller reiterated its submissions and further added that “[REDACTED] takes data handling issues very seriously and in line with its Data Handling Policy in force from time

to time. To this effect, membership data is accessible only to a limited number of personnel, which consist of [REDACTED] and [REDACTED]. There are different levels of data access ranging from the full data access of the undersigned to limited data access or no data access of [REDACTED] depending on the respective duties and responsibilities. No one other than [REDACTED] have access to the [REDACTED] membership data.”.

10. To this end, the Commissioner requested the controller:

- a. to provide a copy of the Data Handling Policy, which is mentioned in its submissions dated the 18th June 2025;
- b. to indicate whether the controller has any policies or procedures in place governing the confidentiality of the data pertaining to membership; and
- c. to explain how [REDACTED] learned about the termination of the membership of the complainant.

11. On the 25th June 2025, the controller submitted a copy of the [REDACTED] Data Handling Policy and argued that “[m]y office did not provide any information about the complainant’s membership to [REDACTED]”. The Commissioner requested the controller to clarify the relationship between the [REDACTED] and [REDACTED]. By means of an email dated the 21st July 2025, the controller stated that “[REDACTED] is not a union official and he is not a union employee. He is a [REDACTED]. I reiterate that [REDACTED] did not pass any data to [REDACTED]”.

LEGAL ANALYSIS AND DECISION

12. For the purposes of this legal analysis, the Commissioner proceeded to assess the content of the complaint, in which the complainant alleged that the controller unlawfully disclosed information in relation to his trade union membership within a Facebook group [REDACTED] [REDACTED] which at the time comprised of five hundred and thirty (530) members. The complainant explained and corroborated this with an email dated the 27th November 2024 addressed to the [REDACTED] memberships clerk, wherein he stated: “I am writing to ask you to terminate my direct debit mandate as I do not intend to extend my membership for next year”. On the 5th December 2024, the complainant was denied access to an [REDACTED] meeting. Later that day, [REDACTED] published a post in the [REDACTED] Facebook group suggesting that the complainant is

no longer a [REDACTED] member. To this end, the complainant considered that this post unlawfully exposed his personal membership status with other members of the Facebook group.

13. Personal data revealing trade union membership, including, information indicating that a person has terminated his membership, is classified as a special category of personal data under article 9(1) of the Regulation. This provision prohibits the processing of personal data that reveals such information unless one of the specific grounds set out in article 9(2) of the Regulation is met, and a lawful basis for processing exists under article 6(1) applies. The rationale for this heightened protection is to safeguard individuals from potential adverse consequences, arising from the disclosure of a special category of personal data.
14. The Commissioner examined the submissions of the controller, including the clarifications sought during the investigation, in which the controller held that, whilst the Union is responsible for managing and administering the memberships, the controller did not disclose such information to [REDACTED] or instruct [REDACTED] to publish a post on the Facebook group suggesting that the complainant is no longer a member of the Union. The [REDACTED] stated that he does not support these types of posts, and in fact, requested [REDACTED] to remove the post in question, with which [REDACTED] complied immediately. Despite the controller's assertion that "[m]y office did not provide any information about the complainant's membership to [REDACTED]", it is evident that [REDACTED] was aware of the intention of the complainant not to renew his membership a few days after he sent an email to the membership clerk of the controller. In such circumstances, although it cannot be definitively established, it also cannot be ruled out that this awareness may have arisen directly or indirectly from information that may have been disclosed by the controller, whether intentionally or inadvertently.
15. In view of the fact that it remains unclear how [REDACTED] became aware of the complainant's termination of membership and given the difficulty in ascertaining how the disclosure may have potentially occurred, particularly considering the time that has elapsed between the alleged unauthorised disclosure of personal data and the lodging of the complaint, the Commissioner sought to examine whether the controller had in place any safeguards to mitigate the risk of unauthorised disclosure of personal data.
16. Accordingly, the Commissioner requested the controller to clarify whether it has in place any policies or procedures regulating the confidentiality of personal data. By means of an email dated the 25th June 2025, the controller submitted a copy of its internal document titled "Data

Handling Policy” (undated). The Commissioner examined the policy, which aims primarily to establish rules for the collection, processing, storage, protection, and disposal of all personal data managed by the controller. The policy provides for access right to be assigned on a need-to-know basis, aligned with the individuals’ roles and responsibilities. Notably, the Commissioner examined section 1.3.6 of the policy which seeks to ensure the ongoing confidentiality of the data: [REDACTED]

On the basis of the foregoing considerations, the Commissioner is hereby deciding that [REDACTED] acted independently and, by means of his personal Facebook profile, disclosed information concerning the complainant’s trade union membership within the [REDACTED] Facebook group, without having received any instructions or directions from the controller. Therefore, the complaint is being dismissed.

However, the Commissioner emphasises that the controller, as a trade union processing special categories of personal data as part of its core data processing activities, should ensure that it has in place the appropriate technical and organisational measures to safeguard the ongoing confidentiality of such data. The Commissioner recommends the implementation of the following measures:

- (i) the inclusion of explicit confidentiality clauses within employment contracts;
- (ii) the implementation of a “read and sign” approach in relation to the data protection policy to ensure that all individuals handling personal data, formally acknowledge and comprehend their confidentiality obligations; and
- (iii) the provision of tailor-made training, along with periodic refresher sessions, to all the individuals handling personal data as part of their daily work responsibilities.

Ian
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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 (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.⁸

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*”.

⁸ Further information is available on the IDPC’s portal at the following hyperlink: <https://idpc.org.mt/appeals-tribunal/>