

CDP/COMP/95/2025

VS

COMPLAINT

1. On the 19th February 2025, [REDACTED] (the “complainant”) lodged a data protection complaint with the Information and Data Protection Commissioner (the “Commissioner”) pursuant to regulation 53(1) of the Data Protection (Processing of Personal Data by Competent Authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences of the execution of criminal penalties) Regulations, Subsidiary Legislation 586.08, (the “S.L. 586.08”) alleging that the [REDACTED] (the “controller”) disclosed information concerning his arrest which occurred in October 2020, to an unauthorised third party. The complainant submitted the following information:

“On 16/02/2025, during a discussion regarding an ongoing animal welfare matter involving the [REDACTED] the owner of the animals suddenly shouted about my past conduct in Malta. He went further into detail about an unlawful arrest that occurred in October 2020. When I questioned him about the source of this information, he stated that he obtained it from [REDACTED] I request that any digital footprint between October 2024 and the present be checked to determine how this information was accessed or shared”.

INVESTIGATION

Request for information

2. Pursuant to the internal investigative procedure of this Office, the Commissioner provided the controller with a copy of the complaint and enabled the controller to submit any information

that it deemed relevant and necessary to defend itself against the allegation raised by the complainant. In terms of regulation 49(a)(iv) of S.L. 586.08, the Commissioner requested the controller to provide copies of the audit logs of those users from the [REDACTED] who accessed the personal data of the complainant from the 1st October 2024 up to the 19th February 2025.

Submissions of the controller

3. On the 7th March 2025, the controller informed the Commissioner that details concerning the arrest of the complainant had been publicly available by the following media outlets, namely talk.mt and TVMnews.mt. The controller provided the following links:

[REDACTED]

[REDACTED]

4. In addition, by means of an email dated the 9th April 2025, the controller provided the following submissions for the Commissioner to consider during the analysis of the complaint:
- a. that the [REDACTED] had initiated an internal investigation into the matter and a meeting was scheduled with the complainant, which was held on the 5th April 2025;
 - b. that, during the meeting, the complainant was requested by the [REDACTED] to indicate who had allegedly informed him of the unauthorised disclosure of his personal data;
 - c. that the complainant released a formal declaration, stating that it was a certain [REDACTED], whose father owns a property opposite his own, who had mentioned a past incident in which the complainant was arrested in 2020;
 - d. that when the complainant asked [REDACTED] to indicate the source from where he had obtained the information concerning his arrest, [REDACTED] allegedly responded with the word [REDACTED], and the complainant interpreted this to mean [REDACTED];

¹ The contents of these articles were erased by TVMnews.mt and talk.mt during the course of the investigation.

- e. that the complainant submitted the following declaration to the [REDACTED]
[REDACTED] *“On the 16th February 2025 whilst at my residence in Qrendi, I had a disagreement with a certain: [REDACTED] who is 15 years old, regarding an ongoing animal welfare matter. During this argument, [REDACTED] shouted about my past conduct in Malta. He went further into detail about an unlawful arrest that occurred in October 2020. When I questioned him about the source of his information, he said [REDACTED] and stopped himself there. I asked him to repeat it but he didn't do that. That's why I presumed that by [REDACTED] he was referring to [REDACTED]”;*
- f. that it is important to note that [REDACTED] did not explicitly mention the controller, and therefore, based on the information provided by the complainant himself, one cannot reasonably conclude that a breach originated from the controller; and
- g. that, in addition, the controller reiterated that the arrest of the complainant was the subject of online media coverage, in which the full name of the complainant was publicly disclosed.

Submissions of the complainant

- 5. Pursuant to the internal investigative procedure of this Office, the Commissioner provided the complainant with a copy of the submissions of the controller and enabled the complainant to rebut the arguments submitted by the controller. On the 13th May 2025, the complainant submitted the following counterarguments:
 - a. that the complainant presented a copy of an affidavit² which contained the statement that was given by [REDACTED] to [REDACTED], at the [REDACTED] on the 11th February 2025 at 15:30, and the complainant argued that this statement was given just five (5) days before the incident of the 16th February 2025, during which [REDACTED] directed a series of abusive insults and threats towards the complainant and made explicit reference to his arrest;
 - b. that while it is true that [REDACTED] did not explicitly say that [REDACTED] was the source of the information, this does not eliminate the strong circumstantial basis for the complainant's belief that the information was unlawfully accessed or disclosed by the controller;

² A copy of the affidavit of [REDACTED] was submitted by the complainant as supporting documentation.

- c. that, according to the complainant, during the meeting held with the [REDACTED], a [REDACTED] remarked that the complainant's account was credible and acknowledged the difficulty of accurately capturing, in writing, the nuance with which [REDACTED] conveyed his knowledge;
- d. that, furthermore, the complainant asserted that a witness was present during the incident of the 16th February 2025 and heard [REDACTED] make a statement containing information that went beyond what had been publicly disclosed in news reports;
- e. that the controller referred to publicly accessible online news articles from 2020 as the basis for refuting the claim of the complainant, however, the complainant maintained that [REDACTED] had mentioned details that were not contained in the articles, including specific and personal aspects of the arrest, which led the complainant to believe that the information originated from the [REDACTED] on the 11th February 2025;
- f. that [REDACTED] had previously experienced disagreements with the complainant, yet [REDACTED] had not referred to this matter until after attending the [REDACTED] on the 11th February 2025, and therefore, this abrupt shift in both the nature and content of the comments reinforces the complainant's suspicion that his personal data were accessed or discussed improperly;
- g. that further supporting this claim is the fact that, on the 18th March 2025, [REDACTED] (the father of [REDACTED]) brought up another incident that occurred in July/August 2024 and this matter is particularly sensitive and private, and once again, the fact that this incident was mentioned, reinforces the belief of the complainant that there has been unauthorised access or disclosure of his personal data at some point;
- h. that [REDACTED]'s deliberate reluctance to disclose the source of his information, marked by hesitation and partial evasion, suggests an awareness that revealing the source could expose potential misconduct or a breach of the data protection legislation; and
- i. that the convergence of the following facts: (i) the timing of [REDACTED] statement; (ii) the nature and detail of the information later used by [REDACTED] against the complainant; and (iii) the clear escalation occurring only after the [REDACTED] interaction, strongly suggests that an internal breach likely occurred at the [REDACTED].

Further clarifications sought from the complainant

6. By means of an email dated the 14th May 2025, the Commissioner requested the complainant to further substantiate his allegations and furnish additional information regarding the submissions dated the 13th May 2025. The complainant was requested to provide the following:
 - a. to clearly specify the information allegedly disclosed by the controller to the third party that was not included in any news articles covering the arrest of the complainant; and
 - b. to further elaborate on the new allegation in relation to information allegedly mentioned by the father of [REDACTED] regarding another incident involving the complainant that took place in July or August 2024.
7. The complainant failed to submit the requested information, despite a reminder sent by the Commissioner on the 12th June 2025, which remained unanswered.

Final submissions of the controller

8. The Commissioner provided the controller with a copy of the complainant's submissions and supporting documentation, and enabled the controller to provide its final submissions. On the 4th July 2025, the controller submitted a copy of the audit logs detailing all activities performed within its information system in relation to the report concerning the arrest of the complainant which occurred in October 2020. In addition, the controller submitted the following final remarks:
 - a. that the controller has taken all reasonable steps to investigate the complaint, however, there were no sufficient grounds to pursue the matter further, including attempting to interpret the logs beyond what the circumstances reasonably permit;
 - b. that the complainant claimed that [REDACTED] disclosed more information that what had already been made public through the media, and to support his allegation, he attached an affidavit drawn up by a [REDACTED] in connection with an investigation involving both [REDACTED] and the complainant himself. However, the controller respectfully submitted that the affidavit does not substantiate the claims of the complainant;

- c. that the affidavit submitted by the complainant reinforces the position of the controller that no data breach occurred, and it merely documents [REDACTED]'s statement and the information he himself voluntarily provided to the controller;
- d. that, moreover, the incident reported in the media, which took place in Żurrieq, occurred in a public space, precisely in the town square, at the very heart of the locality and it involved shouting and other disturbances that undoubtedly drew the attention of nearby residents and passers-by; and
- e. that, as implied in the affidavit, it is also evident that the complainant is well known in the area, as certain incidents appear to be frequent.

ANALYSIS AND DECISION

9. As a preliminary point, the Commissioner examined the content of the complaint, in which the complainant alleged that the controller disclosed information in relation to his arrest that occurred in October 2020, after a third party claimed to have obtained such information from the [REDACTED]. However, when the complainant was requested to attend a meeting with the [REDACTED] held on the 5th April 2025, the complainant submitted the following declaration:

“On the 16th February 2025 whilst at my residence in Qrendi, I had a disagreement with a certain: [REDACTED]; who is 15 years old, regarding an ongoing animal welfare matter. During this argument, [REDACTED] shouted about my past conduct in Malta. He went further into detail about an unlawful arrest that occurred in October 2020. When I questioned him about the source of his information, he said [REDACTED] and stopped himself there. I asked him to repeat it but he didn't do that. That's why I presumed that by [REDACTED] he was referring to [REDACTED]”.

10. Therefore, contrary to what the complainant submitted to the Commissioner in his complaint dated the 19th February 2025, the third party did not state that he had obtained the information from the [REDACTED]. The complainant had made this assumption based solely on the word [REDACTED] uttered by the third party, without any supporting evidence beyond his own suspicion.

11. In addition, the Commissioner noted that the incident mentioned by the complainant in his complaint was reported by TVMnews.mt and talk.mt, which the controller identified in its submissions as a possible source from which the information pertaining to the complainant may have been obtained by the third party. After forwarding the controller's submissions to the complainant, the Commissioner noted that the articles reporting on the arrest of the complainant had been removed, presumably following a request by the complainant for the erasure of his personal data in terms of article 17 of the Regulation.
12. Despite the fact that the information pertaining to the arrest of the complainant had been publicly available for years prior to its removal, the complainant alleged that the third party mentioned additional details beyond those reported by the media. Accordingly, the Commissioner requested the complainant to specify which information was disclosed by the third party on the 16th February 2025, that was not included in the media reports. However, the complainant failed to respond to the Commissioner's request, even after a reminder was sent on the 12th June 2025. Similarly, the complainant alleged that the father of the minor disclosed information about another incident involving the complainant that occurred in July/August 2024 and was not reported by the media. Once again, the complainant failed to provide further details when requested by the Commissioner.
13. Additionally, the Commissioner examined the affidavit of a [REDACTED], which was submitted by the complainant on the 12th May 2025, and which the complainant describes it as "*critical piece of evidence: a statement given by [REDACTED] to [REDACTED] at [REDACTED] [REDACTED] on the 11th February 2025 at 15:30hrs*". The controller explained that the affidavit which was submitted by the complainant is an affidavit drawn up by a [REDACTED] in connection with an investigation involving both the complainant and the third party. The relevant part of the affidavit is being reproduced hereunder:

"Thus after making a request to resort to the [REDACTED] watch, on 11/02/2025 at 15:30hrs, [REDACTED], who is 15 years of age, together with his father [REDACTED] reported to the [REDACTED] watch".

14. According to the complainant, the affidavit is "*particularly significant because it was made just five days before the incident on 16th February 2025, during which [REDACTED] directed a series of abusive insults and threats toward me. Notably, in the course of that incident, [REDACTED] made explicit reference to an arrest involving me going back to 2020*". In this regard, the complainant alleged that the information was disclosed by the controller when the third party attended the

[REDACTED] to provide his statement in connection with the case [REDACTED]
[REDACTED]

15. Although the allegation of the complainant was neither concrete nor substantiated in any way, the Commissioner requested the controller to submit a copy of the audit logs in relation to the report concerning the arrest of the complainant which occurred in October 2020. While the Commissioner specifically requested logs covering the period from the 1st October 2024 to the 19th February 2025, the controller provided audit logs spanning from October 2020 to March 2025. Upon examining the content of the logs, the Commissioner noted that no access to the allegedly disclosed data was recorded by any [REDACTED] during the period of the 1st October 2024 up to the 19th February 2025. Furthermore, the [REDACTED] who prepared the affidavit in connection with the case [REDACTED] had never accessed the report in connection with the arrest of the complainant.

On the basis of the foregoing considerations, the Commissioner is hereby deciding that he found no evidence which effectively demonstrates that the controller disclosed information pertaining to the complainant to an unauthorised third party. Therefore, the complainant is being rejected in its entirety.

Ian
DEGUARA
(Signature) Digitally signed
by Ian DEGUARA
(Signature)
Date: 2025.07.11
13:58:20 +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.³

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*".

³ Further information is available on the IDPC's portal at the following hyperlink: <https://idpc.org.mt/appeals-tribunal/>