

FREEDOM OF INFORMATION REQUEST

1. On the 27th November 2023, Ms Martina Urso (the **“applicant”**) made a freedom of information request pursuant to the requirements set forth in article 6(1) of the Freedom of Information Act (the **“Act”**), Chapter 496 of the Laws of Malta, requesting the Malta Tourism Authority (the **“Public Authority”**) to provide the following information in electronic format:

“1) all agreements between Malta Tourism Authority and other parties in relation to the event held on 22 and 23 November 2023 titled ‘The 8th Mediterranean Tourism Forum: MEDITERRANEAN LIFE LOW-IMPACT INVESTMENTS FAVOUR EVERYONE’ and for which Malta Tourism Authority is named as a sponsor;

2) all invoices received by Malta Tourism Authority for venue hire/services or accommodation, in relation to the same event”.

2. On the 22nd January 2024, the applicant addressed a complaint to the Public Authority through the Internal Complaints Procedure and noted that *“[t]he 20-working-day time limit expired at the end of December”*. A follow-up reminder was sent on the 28th February 2024.

ISSUANCE OF AN ENFORCEMENT NOTICE

3. On the 9th April 2024, the applicant submitted her initial application to the Information and Data Protection Commissioner (the **“Commissioner”**) to investigate the case¹. Within this context, the Commissioner noted that the Public Authority has failed to provide her with a reply within twenty (20) working days after the day on which the request was received pursuant to

¹ registered internally with file number CDP/FOI/16/2024.

the requirement set forth in article 10 of the Act. Therefore, in terms of article 25(1) of the Act, the Commissioner issued an enforcement notice dated the 24th April 2024 and requested the Public Authority to inform the applicant with the decision taken with respect to her freedom of information request, and in the event that the Public Authority decides that the request is not to be accepted, the Public Authority shall clearly explain the reason(s) thereof, more specifically, by citing the appropriate provision(s) of the Act. A copy of the enforcement notice is being marked and annexed as **IDPC DN 1**.

4. On the 18th June 2024, the Public Authority abided by the instructions of the Commissioner given in the enforcement notice and informed the applicant that her request is being refused on the basis that:

“Fir-rigward tat-talba numru (2), l-Awtorità ma rċeviet ebda fattura. Dwar talba numru (1), issir riferenza għall-Artikolu 32(1)(ċ)(i) tal-Kap. 496 tal-Liġijiet ta' Malta.

For ease of reference, Article 32 (1)(c)(i) of Chapter 496 of the Laws of Malta provides for an exemption (to disclosure) in the following scenario:

“the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs;”.

A copy of the Public Authority's reply is being marked and annexed as **IDPC DN 2**.

FREEDOM OF INFORMATION APPLICATION

5. On the 21st June 2024, the applicant applied for a decision notice pursuant to article 23(1)(a) of the Act, requesting the Commissioner to decide whether the Public Authority had handled the freedom of information request of the applicant pursuant to the requirements of the Act. The applicant contended:
 - a. that the applicant emphasised that the event in question was a large-scale, high-profile event widely reported by media outlets²;

² [https://agenciamundialdeprensa.com/2023/12/02/mediterranean-tourism-forum-celebrated-in -malta-the-8th-edition-mediterranean-life-low-impact-investments-favour-everyone-malta-hilton-nov-21-23-2023/](https://agenciamundialdeprensa.com/2023/12/02/mediterranean-tourism-forum-celebrated-in-malta-the-8th-edition-mediterranean-life-low-impact-investments-favour-everyone-malta-hilton-nov-21-23-2023/),

- b. that, in relation to the second part of the freedom of information request, the applicant expressed surprise that no invoices were received by the Public Authority for venue hire, services or accommodation related to this three-day event held at the Hilton Hotel, which included coffee mornings, lunches and receptions;
- c. that, with regard to the first part of the freedom of information request (concerning all agreements between the Public Authority and other parties in relation to the event), the Public Authority contended that these agreements constitute '*exempt documents*' under the Act. The Public Authority argued that disclosure of such agreements would, or could reasonably be expected to, unreasonably affect the Public Authority in terms of its lawful business, commercial or financial affairs;
- d. that the Malta Tourism Authority is a public authority established by law with the following statutory objectives: to promote and advance Malta as a tourism destination; advise Government on tourism operations and to issue licences under the Act; contribute toward the improvement of the level of human resources in the tourism industry; advise government on the planning and development of the tourism industry as well as on the infrastructure supporting the industry; assist and advise on any tourism-related issues and to undertake activities, events and projects to fulfil its role;
- e. that given these functions are undeniably carried out in the public interest, it is difficult to comprehend how the disclosure of agreements entered into by the Public Authority, in the execution of its public mandate during a past event, could adversely affect its lawful business, commercial or financial affairs; and
- f. that the applicant made reference to article 13(1) of the Act and noted the request relates specifically to agreements between the Public Authority and other parties concerning the aforementioned event. The applicant maintained that it is both possible and reasonably practical for the Public Authority to provide redacted copies of these agreements, omitting only those sections whose disclosure would or could adversely impact its lawful business, commercial or financial affairs.

<https://www.pinterest.com/pin/mediterranean-tourism-forum-celebrated-in-malta-the-8th-edition-mediterranean-life-low-impact-investments-favour-everyone-malta--23573598044893073/>,
<https://cyprustravelwriters.com/main-achievements-and-future-plans-of-the-mediterranean-tourism-foundation/>

Admissibility of the Freedom of Information Application

6. After having considered that the applicant is an eligible person in terms of article 2 of the Act and the nature and background of the freedom of information application, together with the procedural steps involved between the applicant and the Public Authority in the request for documents, the Commissioner deemed the FOI application made by the applicant as admissible for the purpose of article 23(2) of the Act.

INVESTIGATION

The Issuance of the Information Notice

7. As part of the investigation procedure, by means of an information notice dated the 26th June 2024, issued in terms of article 24(1)(a) of the Act, the Commissioner requested the Public Authority to furnish information in relation to the application made by the applicant. In particular, the Commissioner requested the Public Authority:
 - a. to make submissions in relation to the decision taken to refuse access to the requested documentation on the basis of article 32(1)(c)(i) of the Act;
 - b. to clearly explain the prejudice that the disclosure would, or could reasonably be expected to, unreasonably cause in terms of article 32(1)(c)(i) of the Act; and
 - c. to provide a true copy of the documentations requested by the applicant be submitted, either enclosed with the Public Authority's reply or delivered by hand under confidential cover, for the purpose of investigating the freedom of information request.

Submissions of the Public Authority

8. In response to the information notice and following various reminders, on the 6th November 2024, the Public Authority submitted the following salient arguments for the Commissioner to consider during the legal analysis of the case:
 - a. that the Public Authority makes an annual financial contribution to the Mediterranean Tourism Foundation to support it in undertaking its pre-set objectives;
 - b. that this annual financial contribution is administered by the Mediterranean Tourism Foundation at its discretion and in whichever manner it deems best;

- c. that amongst its commitments, the Mediterranean Tourism Foundation has undertaken to annually organise the Mediterranean Tourism Forum. Notwithstanding, the Public Authority has no involvement, direct or otherwise, in the organisation of this annual event;
 - d. that no payments are made by the Public Authority over and above the aforementioned annual financial contribution and no payments are made by the Public Authority on behalf of the Mediterranean Tourism Foundation;
 - e. that this freedom of information request specifically refers to the eighth edition of the Mediterranean Tourism Forum. It is imperative to note that no specific agreement exists in relation to this event. The only agreement which exists is strategic in nature, generic and all-encompassing, merely underscoring the Mediterranean Tourism Foundation's commitment to organise this annual event; and
 - f. that the Public Authority maintains that, given the specificity of the freedom of information request, divulging a generic and all-encompassing strategic agreement which, essentially, is not the merit of this request, will have an adverse effect on the business and professional affairs of the Mediterranean Tourism Foundation, including its relations with the United Nations World Tourism Organisation and other similar institutions. It is thus the Public Authority's reasoned opinion that the benefits of non-disclosure outweigh those of disclosure.
9. The Public Authority also provided a copy of the agreement dated the 12th January 2022, entered into between the Mediterranean Tourism Foundation, the Ministry for Tourism and Consumer Protection and the Malta Tourism Authority, as referenced in its submissions.

Submissions of the Applicant

10. Pursuant to the internal investigative procedure of this Office, the Commissioner provided the applicant with a copy of the submissions presented by the Public Authority, in order to enable the applicant to rebut the arguments raised by the Public Authority. By means of an email dated the 14th November 2024, the applicant referred *“to the content of our original complaint to the IDPC which we believe adequately rebuts the public authority's arguments below”*.

Sworn Declaration

11. The Commissioner considered the submissions of the Public Authority and requested confirmation as to whether any invoices were received for venue hire, services or accommodation related to the event in question. Accordingly, the Public Authority was requested to provide a sworn declaration confirming that no such records are held.
12. On the 10th July 2025, the Public Authority submitted to the Commissioner a sworn declaration, wherein the Public Authority declared that:

“B’żieda ma dak ġja sottomess mill-Awtorità Maltija għat-Turiżmu lill-imsemmi Uffiċċju fis-6 ta’ Novembru 2024, nikkonferma illi l-istess Awtorità Maltija għat-Turiżmu mhijiex f’qagħda li ttipprova kopja tal-invoices mitluba mill-applikanti u dan billi hija (l-Awtorità Maltija għat-Turiżmu) ma rċeviet ebda invoice/s għal “venue hire/services or accommodation” riferibbli għall-organizzazzjoni tat-tmien edizzjoni tal-Mediterranean Tourism Forum”.

A copy of the sworn declaration is being marked and annexed as **IDPC DN 3**.

LEGAL ANALYSIS AND DECISION

The Handling of the Freedom of Information Request

14. The Commissioner examined the freedom of information request submitted by the applicant to the Public Authority on the 27th November 2023. The request, made pursuant to article 6(1) of the Act, sought access to the following documentation in electronic format:

“1) all agreements between Malta Tourism Authority and other parties in relation to the event held on 22 and 23 November 2023 titled ‘The 8th Mediterranean Tourism Forum: MEDITERRANEAN LIFE LOW-IMPACT INVESTMENTS FAVOUR EVERYONE’ and for which Malta Tourism Authority is named as a sponsor; (Request I)

2) all invoices received by Malta Tourism Authority for venue hire/services or accommodation, in relation to the same event” (Request II).

15. As a preliminary step of the investigation, the Commissioner sought to establish, to the extent appropriate, whether the Public Authority has complied with the requirements of the Act. In this regard, the Commissioner examined the reply provided by the Public Authority on the 18th

June 2024, wherein the applicant was informed that her freedom of information request could not be met because “[f]ir-rigward tat-talba numru (2), l-Awtorità ma rċeviet ebda fattura. Dwar talba numru (1), issir riferenza għall-Artikolu 32(1)(ċ)(i) tal-Kap. 496 tal-Liġijiet ta' Malta”.

16. After the Commissioner examined the freedom of information application lodged by the applicant pursuant to article 23(1)(a) of the Act, it has been established that the reply provided are not compliant with the requirements of article 15(1)(a) of the Act, and this is because the applicant has not been provided with adequate and clear reasons for refusal. Therefore, before entering into the merits of the case, the Commissioner emphasises that the Public Authority must provide, in a clear and unequivocal manner, the reasoning which it followed to reach its decision to refuse the freedom of information request in terms of the exemptions set forth in Part V and, or Part VI of the Act³. This is necessary to enable the applicant to seek the review of the decision of the Public Authority and to exercise her right to review and appeal in the most effective manner.

17. Accordingly, the Commissioner noted that article 15(1)(a) should also be interpreted in line with the settled-case law of the Court of Justice of the European Union in its interpretation of article 7(1) of Regulation 1049/2001⁴:

“That obligation on the part of EU institutions to state the reasons on which a decision is based is not merely taking formal considerations into account, but is intended to enable the EU judicature to exercise its power to review the lawfulness of the decision and the persons concerned to know the reasons for the measure adopted so that they can defend their rights and ascertain whether or not the decision is well founded. Thus, the parties concerned can make genuine use of their right to a judicial remedy only if they have precise knowledge of the content of and the reasons for the act in question”⁵, and “[t]he purpose of the obligation to state the reasons for an individual decision is to provide the person concerned with sufficient information to make it possible to determine whether the decision is well founded or whether it is vitiated by an error which may permit its validity to be contested”⁶.

³ Article 15(1)(a) of the Act provides that: “[w]here a request made in accordance with this Act is refused, the public authority shall - (a) subject to article 34, give the applicant the reasons for the refusal”.

⁴ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

⁵ Case T-185/19, ‘Public.Resource.Org.Inc, Right to Know CLG vs European Commissioner’, decided on the 14th July 2021, para. 82.

⁶ Ibid 3.

Request I & Request II

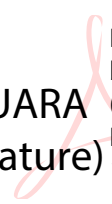
14. In relation to **Request I**, which concerned all agreements between the Public Authority and other parties in relation to the ‘8th Mediterranean Forum’ held between the 22nd and 23rd November 2023, the Public Authority initially refused the request by citing article 32(1)(c)(i) of the Act, without providing any reasoning to justify the refusal or to explain the prejudice that third parties would, or could reasonably suffer as a result of such disclosure.
15. The Commissioner reviewed the Public Authority’s submissions dated 6th November 2024, wherein it was stated that no specific agreement exists in relation to the ‘8th Mediterranean Forum: Mediterranean Life Low – Impact Investments Favour Everyone’. The Public Authority explained that the only existing agreement is a generic, strategic document dated 12th January 2022, entered into between the Mediterranean Tourism Foundation, the Ministry for Tourism and Consumer Protection and the Malta Tourism Authority. Upon reviewing the agreement, the Commissioner concluded that this agreement is not specific to the ‘8th Mediterranean Forum: Mediterranean Life Low – Impact Investments Favour Everyone’ and therefore does not fall within the scope of the applicant’s original request, which specifically sought documentation directly related to the organisation and sponsorship of such event.
16. The Commissioner noted that in relation to **Request II**, concerning invoices for venue hire, services or accommodation linked to the ‘8th Mediterranean Forum’, the Public Authority stated that it had not received any such invoices. Accordingly, the Commissioner proceeded to examine the sworn declaration provided by the Public Authority on the 10th July 2025, which confirmed that “*l-istess Awtorità Maltija għat-Turiżmu mhijiex f’qagħda li tipprovdi kopja tal-invoices mitluba mill-applikanti u dan billi hija (l-Awtorità Maltija għat-Turiżmu) ma rċeviet ebda invoice/s għal “venue hire/services or accomodation” riferibbli għall-organizzazzjoni tat-tmien edizzjoni tal-Mediterranean Tourism Forum*”.
17. The Commissioner noted that Part II of the Act ‘*Submission and Handling of Requests for Information*’ obliges the public authorities to handle the requests for information in a transparent manner to ensure compliance with the Act. During the course of the investigation, the Commissioner identified **a number of shortcomings** in the manner how the Public Authority handled the applicant’s request, including:
 - a. that the Public Authority failed to provide a response within the statutory time frame, necessitating the Commissioner’s intervention through the issuance of an enforcement notice;

- b. that, in relation to **Request I**, when the Public Authority eventually replied, it invoked article 32(1)(c)(i) of the Act, thus giving the impression that it was refusing access to an existing agreement. However, it was later confirmed through its own submissions that the specific agreement requested by the applicant, in fact, does not exist. As a result, the Public Authority failed to provide the applicant with a reason for its refusal pursuant to the requirements set out under article 14(a) to (h) and article 15(1)(a) of the Act; and
- c. that the Public Authority was aware that no such specific agreement existed, and therefore, in line with its obligation under article 7 of the Act, it was incumbent upon the Public Authority to assist the applicant in reformulating her request or clarifying the scope thereof.

On the basis of the foregoing considerations, in terms of article 23(3)(b) of the Act, the Commissioner hereby decides that from the outcome of his investigation, particularly following the declaration made by the Public Authority, the Commissioner establishes that the Public Authority does not hold the requested documentation.

Moreover, pursuant to article 23(4)(b) of the Act, the Public Authority failed to comply with the requirements of Part II, in particular, with article 15(1)(a) thereof, as it did not provide the applicant with a sufficient reason to enable the applicant to understand the refusal of her request in terms of article 14(a) to (h). The Commissioner rebukes the Public Authority on the manner how the applicant's request was handled and emphasises on the requirements incumbent of public authorities to provide applicants with clear and correct reasons when refusing requests for information.

Ian
DEGUARA
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by Ian DEGUARA
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Ian Deguara
Information and Data Protection Commissioner

Right of Appeal

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 in writing to the Tribunal within twenty days from the service of the said decision as provided in article 23*”.

An appeal to the Information and Data Protection Appeals Tribunal shall be made in writing and addressed to:

The Secretary
Information and Data Protection Appeals Tribunal
158, Merchants Street
Valletta.