

COMPLAINT

1. On the 23rd July 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 [REDACTED] (the “**controller**”) installed a CCTV camera mounted on a pole located in the controller’s field, capturing common passage and the complainant’s property entrance. The complainant alleged that the processing conducted by means of this CCTV camera infringes the provisions of the Regulation and his right to the protection of personal data.
2. The complainant submitted that “*A new neighbour who acquired a parcel of land in [REDACTED], which is adjacent to my private farmhouse property, has erected a camera pointing towards the entrance to my own property. His excuse is that he is monitoring a footpath over which we are in contention regarding ownership. In the meantime he is intruding on my privacy*”. As supporting evidence, the complainant submitted two photographs showing his farmhouse property and the adjacent land, the ownership of which is under dispute. A wooden pallet gate is visible, marking the alleged boundary between the complainant’s and the controller’s respective properties. One of the photographs also shows the wooden entrance gate to the farmhouse, with the wooden pallet gate positioned adjacent to it.
3. The complainant was requested to furnish additional information concerning the camera that was the subject of his complaint. The complainant submitted that the controller “*erected a pole on his property that supports a digital camera pointing at the passage where part of it belongs*

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 (General Data Protection Regulation).

to me, as it also includes the entry to my property. [REDACTED] can put his security camera to see any trespassers into his field as long as this is pointed upon his entrance and only his entrance."

As supporting evidence, the complainant submitted additional photographs depicting his farmhouse from different angles. One of the photographs shows a camera installed by the controller on a pole situated within the controller's field adjacent to the complainant's farmhouse. Furthermore, the complainant submitted a scanned copy of the first page of the contract of acquisition for the parcel of land on which the farmhouse was constructed, along with a scanned copy of the corresponding plan and survey sheet, both of which were annexed to the contract. Thereafter, the complainant submitted three (3) additional photographs as evidence. One of these photographs is an enlarged version of the survey sheet that was attached to the contract of acquisition, while the other two depict aerial views of the farmhouse and the adjacent field of the controller. The complainant explained that "[t]he pathway is mostly mine, and...it marks the start of my neighbour's property... I do not object to him securing his property with a camera, but this cannot be pointed at third parties. He can place his camera and ensure it is directed at his entrance, not mine. I have the right to privacy, including any guests I might invite to my house."

INVESTIGATION

Request for submissions

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 submit any information which he deemed relevant and necessary to defend himself against the allegation raised by the complainant. In addition, pursuant to article 58(1)(e) of the Regulation, the Commissioner ordered the controller to submit the following information:
 - a. a copy of the image grab taken from the footage of the CCTV camera installed at his property; and
 - b. the brand and model number of the CCTV camera installed at his property.

Submissions of the controller

5. By means of an email sent on the 5th September 2025, the controller submitted a copy of the image grab taken from the footage of the CCTV camera installed at his property, a photograph

depicting the brand and model number of the same camera, and a letter containing the following arguments for the Commissioner to consider during the legal analysis of the case:

- a. that the pole on which the CCTV camera was installed was erected on the agricultural land owned by his wife;
- b. that the controller's wooden pallet gate displays a CCTV sign as well as a Private Property sign, as evidenced by the photograph submitted by the controller;
- c. that the agricultural land adjacent to the complainant's farmhouse was purchased in [REDACTED] by the controller's wife's great-grandfather from third parties, and that the original plan attached to the purchase contract indicates that the controller's wife's land extends even in front of the complainant's farmhouse, as evidenced by the extract of this same plan submitted by the controller;
- d. that, according to the controller, the plan submitted by the complainant is fraudulent, as it is the same plan that was attached to a 1996 contract which explicitly states that no searches were conducted on the property concerned. When the complainant purchased his land from the original owner, a copy of this same plan, alleged to be fraudulent, was provided;
- e. that since 2021, when the controller and his wife applied for a Planning Authority permit, their land has been subjected to acts of vandalism, as evidenced by the photograph submitted;
- f. that the installation of the CCTV camera in question has deterred the aforementioned vandalism but has not stopped the complainant from trespassing onto the controller's land. The CCTV camera footage provides evidence of such trespassing, which the controller intends to rely upon in court proceedings that the complainant has threatened to initiate over the past years;
- g. that the wooden entrance gate of the complainant's farmhouse has been unlawfully and abusively opened onto the land belonging to the controller's wife, and should therefore be closed, and that a judicial letter to this effect was sent to the complainant in April 2025; and
- h. that the CCTV camera installed by the controller captures the land owned by the controller's wife and was installed for security and safety purposes.

Further submissions of the controller

6. By means of an email sent on 15th September 2025, the controller further submitted a full copy of his representation submitted to the Planning Authority, in which he objected to the complainant's planning application number PA/██████████. In particular, he objected to the sanctioning of the south-side gate of the complainant's farmhouse, as well as to the site plans submitted and marked in PA/██████████. The controller's representation to the Planning Authority contains arguments similar to those submitted to the Commissioner via the controller's email dated the 5th September 2025, but also includes the following arguments:
- a. that the complainant's farmhouse is served by a private road located on the north-side of his property;
 - b. that the planning applications relating to the complainant's site, namely PA/██████████, PA/██████████, PA/██████████, and PA/██████████, all rely on a site plan that is incorrectly marked, in that a portion of the land shown overlaps with land now owned by the controller's wife, as evidenced by extracts of plans and an aerial photograph submitted in the controller's representation to the Planning Authority; and
 - c. that the contested portion of the land is marked in red in Figure 6 which is included in the controller's representation submitted to the Planning Authority in relation to PA/██████████.

LEGAL ANALYSIS AND DECISION

7. In principle, the Commissioner recognises the need for the installation of a camera to ensure the security and safety of a private property, provided that appropriate and sufficient guarantees are effectively in place to ensure that such camera does not capture third-party properties.
8. Recalling Article 2(2)(c) of the Regulation which provides that the Regulation does not apply to the processing of personal data by a natural person in the course of a purely personal or household activity, the Commissioner noted that, for the processing activity to fall outside the material scope of the Regulation, the controller must effectively show that the camera captures only the boundaries of their private property. This is in accordance with the landmark ruling of

Rynes², which established that cameras positioned to capture areas beyond an individual's private property fall within the material scope of the Regulation.

9. The Commissioner proceeded to assess the subject-matter of the complaint, in which the complainant alleged that the controller installed a CCTV camera mounted on a pole located in the controller's field, capturing common passage adjacent to the complainant's farmhouse including his entrance, in breach of the Regulation.
10. During the course of the investigation, the Commissioner enabled the controller to submit any information which he deemed necessary to defend himself against the allegation raised by the complainant, and in terms of article 58(1)(c) of the Regulation, the Commissioner ordered the controller to submit information pertaining to the camera in question, namely a copy of the image grab taken from the footage of the camera, to be in a position to evaluate whether the processing activity falls within the scope of the Regulation.
11. In response to this request for submissions, the controller stated that the camera was installed for security purposes, including deterring vandalism to his property. Furthermore, based on the image grab of the controller's CCTV camera, which was submitted to the Commissioner, it was observed that the camera captures the controller's land and a portion of land adjacent to the complainant's farmhouse, which the controller claims is owned by his wife. As supporting evidence, the controller submitted extracts from plans annexed to contracts relating to the land in question, as well as a copy of his representation submitted to the Planning Authority, in which he objected to the complainant's planning application number PA/ [REDACTED], which covers the land in dispute.
12. After assessing the submissions provided by the complainant and the controller, the Commissioner noted that the portion of land adjacent to the complainant's farmhouse, captured by the camera in question, is land the ownership of which is disputed between the parties. This ownership dispute has been acknowledged by both the complainant and the controller in their respective submissions to the Commissioner. The Commissioner noted the following from the complainant's submissions: "*A new neighbour who acquired a parcel of land in [REDACTED], which is adjacent to my private farmhouse property, has erected a camera pointing towards the entrance to my own property. His excuse is that he is **monitoring a footpath over which we are in contention regarding ownership.***" (emphasis added). Moreover, this dispute is further evidenced by judicial letter [REDACTED] filed on [REDACTED] 2025 in the Registry of the Civil Court

² *Rynes v Urad pro ochranu osobních údajů* (Case C-212/13) EU:C:2014:2428, [2014].

by the controller against the complainant, wherein the controller and his wife called upon the complainant to close the wooden gate of his farmhouse, which they allege was illegally and abusively opened onto their land.

13. Since the ownership of the land adjacent to the complainant's farmhouse, which land is captured by the camera in question, is contested between the parties, the Commissioner concluded that it is not possible to ascertain whether the processing activity conducted by means of the camera in question falls within the scope of the Regulation. The Commissioner noted that it is not within his remit to determine the ownership of such land, as this is a civil matter to be resolved through the appropriate judicial process and falls within the competence of the Civil Court. Apart from this, after assessing the circumstances of the case, the Commissioner considered that the level of risk to the rights and freedoms of the complainant is not high since the footage of the camera in question is limited to the controller's field and a contested portion of non-residential land.

On the basis of the foregoing considerations, the Commissioner is hereby deciding that he is unable to verify whether the processing activity conducted by means of the CCTV camera installed by the controller falls within the material scope of the Regulation, and therefore, the complaint is being dismissed in its entirety.



Ian Deguara

Information and Data Protection Commissioner

Decided today, 9th October, 2025.

Right of Appeal

The parties are hereby being informed that in terms of article 26(l) 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 thereof³.

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 <https://idpc.org.mt/appeals-tribunal/>.