

[REDACTED]

vs

[REDACTED]

COMPLAINT

1. On the 13th April 2025, [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**”). The complainant alleged that his neighbours, namely [REDACTED] [REDACTED] (the “**controller**”), had installed three (3) CCTV cameras on the exterior of their property² directed towards the complainant’s property³ in violation of the provisions of the Regulation.

INVESTIGATION

Request for submissions

2. By means of a letter dated the 30th April 2025, and 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 they deemed necessary and relevant to defend themselves against the allegation raised by the complainant. In terms of article 58(1)(e) of the Regulation, the Commissioner ordered the controller to submit copies of the image grabs taken from the footage of the CCTV cameras in question, including information in relation to the brand and model number of the CCTV cameras or system installed by the controller.

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).

² The property in question is located at [REDACTED]

³ The property in question is located at [REDACTED]

3. A second letter was issued by the Commissioner, dated the 3rd June 2025, as no response had been forthcoming from the controller. The Commissioner provided a copy of the complaint and ordered the controller, as a final opportunity, pursuant to article 58(1)(e) of the Regulation, to submit copies of the image grabs taken from the footage of the CCTV cameras, including information in relation to the brand and model number of the CCTV cameras or system installed by the controller.

Submissions of the controller

4. On the 16th June 2025, the controller provided the following submissions for the Commissioner to consider during the legal analysis of this case:
 - a. that, the controller found damage and vandalism on their vehicles;
 - b. that, unidentified individuals clandestinely entered the premises of the complainant in recent years;
 - c. that, there is in fact more than one camera, which have been installed for their own security and safety, and of which only two (2) are in operation; and
 - d. that, the controller and the complainant are in a court dispute due to nuisance, unhygienic circumstances, harassment, and other ongoing civil disputes.
5. The controller submitted the image grabs taken from the footage of the CCTV cameras as supporting documentation.
6. On the 17th June 2025, the controller provided further supporting documentation, namely:
 - a. a photograph of their vehicle parked in front of their property, allegedly indicating an act of vandalism;
 - b. photographs of animal refuse and food, and truck oil on the road and pavement adjacent to the controller's property;
 - c. photographs of 'parking obstructions' experienced by the controller in front of their property;

- d. photographs of alleged ‘*animal mistreatment*’ and ‘*lack of hygiene*’ within the neighbouring property, belonging to the complainant;
- e. photographs of apparent littering outside of the complainant’s property;
- f. a photograph of an alleged ‘*dangerous structure*’ on the roof of the complainant;
- g. an excerpt of the police report by the controller against the complainant dated the 27th January 2025;
- h. an excerpt of the police report by the controller against the complainant dated the 11th February 2025;
- i. an excerpt of the police report by the controller against the complainant dated the 1st April 2025;
- j. an excerpt of the police report by the controller against the complainant dated the 4th July 2025; and
- k. excerpts in relation to the court proceedings *il-Pulizija vs* [REDACTED]

LEGAL ANALYSIS AND DECISION

- 7. The Commissioner recognises the need for the installation of video surveillance to ensure the security and safety of private property. However, this should in principle capture the confines of one’s property, to which, only in exceptional cases, such as in cases of a compelling legitimate interest, *inter alia*, should such surveillance occur beyond one’s personal or household scope.
- 8. The Commissioner proceeded to examine the complaint lodged by the complainant, wherein he alleged that the controller had installed a camera on the exterior of their property, which is capturing his property, and therefore, infringing his right to the protection of personal data. As part of the internal investigative procedure of this Office, in terms of article 58(1)(e) of the Regulation, the Commissioner ordered the controller to submit copies of the image grabs taken from the footage of the CCTV cameras and information in relation to the brand and model number of the cameras. The controller complied with the request of the Commissioner and

submitted the requested information, including image grabs from both of their functioning CCTVs, and further submissions and supporting documentation to defend themselves against the allegation raised by the complainant.

9. The Commissioner examined the image grabs taken from the footage of the two (2) functioning cameras, which demonstrate that the cameras are capturing a public space. Pursuant to the judgment delivered by the Court of Justice of the European Union (the “CJEU”), if a camera involves the constant recording and storage of personal data and covers “*even partially, a public space and is accordingly directed outwards from the private setting of the person processing the data in that manner, it cannot be regarded as an activity which is a purely ‘personal or household’ activity for the purposes of the second indent of Article 3(2) of Directive 95/46*”.⁴ Therefore, in the present case, it is abundantly clear that the processing conducted by means of the cameras installed by the controller falls within the material scope of the Regulation, which means that the controller must fully comply with the requirements of the Regulation.
10. For the purpose of this legal analysis, the Commissioner proceeded to assess whether the controller has a valid legal basis in terms of article 6(1) of the Regulation to process the personal data of all those data subjects who enter the monitored areas captured by the cameras.
11. Pursuant to the Guidelines 3/2019⁵, the European Data Protection Board (the “EDPB”) held that “[i]n principle, every legal ground under Article 6(1) can provide a legal basis for processing video surveillance data. For example, Article 6(1)(c) applies where national law stipulates an obligation to carry out video surveillance. However, in practice, the provisions most likely to be used are article 6(1)(f) (legitimate interest) [and] article 6(1)(e) (necessity to perform a task carried out in the public interest or in the exercise of official authority”.
12. After examining the submissions of the controller, particularly the supporting documentation, the Commissioner established that the controller is basing their processing operation on article 6(1)(f) of the Regulation. One of the lawful grounds established by article 6(1) is legitimate interest, which enables the controller to process personal data if it “*is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such*

⁴ C-212/13, František Ryneš v Úřad pro ochranu osobních údajů, delivered on the 11th December 2014, paragraph 33.

⁵ Guidelines 3/2019 on processing of personal data through video devices, version 2.0, adopted on the 29th January 2020, paragraph 16.

interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data”.

13. Recital 47, which corresponds to article 6(1)(f) of the Regulation, stipulates that the “*legitimate interests of a controller, including those of a controller to which the personal data may be disclosed, or of a third party, may provide a legal basis for processing, provided that the interests or the fundamental rights and freedoms of the data subject are not overriding, taking into consideration the reasonable expectations of data subjects based on their relationship with the controller”.*

14. The EDPB states in its Guidelines 3/2019 that:

“Video surveillance is lawful if it is necessary in order to meet the purpose of a legitimate interest pursued by a controller or a third party, unless such interests are overridden by the data subject’s interests or fundamental rights and freedoms (Article 6 (1) (f)). Legitimate interests pursued by a controller or a third party can be legal , economic or non-material interests. However, the controller should consider that if the data subject objects to the surveillance in accordance with Article 21 the controller can only proceed with the video surveillance of that data subject if it is a compelling legitimate interest which overrides the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims”⁶.

15. The settled case-law of the CJEU emphasises that legitimate interest needs to fulfill a three-part test, which is outlined hereunder:

“As the Court has previously held, that provision lays down three cumulative conditions so that the processing of personal data is lawful, namely, first, the pursuit of a legitimate interest by the data controller or by a third party; second, the need to process personal data for the purposes of the legitimate interests pursued; and, third, that the interests or fundamental freedoms and rights of the person concerned by the data protection do not take precedence over the legitimate interest of the

⁶ *ibid.* 4, paragraph 18.

controller or of a third party (judgment of 4 July 2023, Meta Platforms and Others (General terms of use of a social network), C-252/21, EU:C:2023:537, paragraph 106 and the case-law cited)”⁷.

16. In this respect, the Commissioner examined the present case based on the three cumulative conditions established by article 6(1)(f) of the Regulation. These conditions are: (i) the existence of a legitimate interest justifying processing; (ii) the necessity of processing for the realisation of the legitimate interest; and (iii) the prevalence of that interest over the rights and interests of the data subject, which calls for balancing of interests.
17. First, the processing is conditional upon the existence of a legitimate interest of the controller or a third party. The Regulation does not define legitimate interest, and thus, it is for the controller to determine whether there is a legitimate aim that could justify an interference with the right to the protection of personal data. The Commissioner interprets “*interest*” to be the broader stake that a controller may have in the processing, or the benefit that the controller or third parties may derive from such processing. This interpretation is substantiated by the recitals of the Regulation, which provide some non-exhaustive examples of situations in which legitimate interest could exist and this could be processing of data for the purpose of preventing fraud, processing of data for direct marketing purpose, the transmission of certain data within a group of companies and the processing of data for the purpose of ensuring network and information security. Furthermore, the case-law of the CJEU held that transparency or the protection of the property, health and family life, are legitimate interests.⁸
18. The EDPB has confirmed that the processing of personal data for safety and security purposes could constitute a legitimate interest. The EDPB provides that:

“Given a real and hazardous situation, the purpose to protect property against burglary, theft or vandalism can constitute a legitimate interest for video surveillance. The legitimate interest needs to be of real existence and has to be a present issue (i.e. it must not be fictional or speculative). A real-life situation of distress needs to be at hand – such as damages or serious incidents in the past -before starting the surveillance. In light of the principle of accountability, controller would be well advised to document

⁷ C-621/22, Koninklijke Nederlandse Lawn Tennisbond vs Autoriteit Persoonsgegevens, decided on the 4th October 2024, paragraph 37.

⁸ C-92/09 and C-93/09, Volker and Markus Scheke and Eifert, paragraph 77 and C-212/13, Rynes, paragraph 34.

relevant incidents (date, manner, financial loss) and related criminal charges. Those documented incidents can be a strong evidence for the existence of a legitimate interest.”⁹.

19. In the present case, the controller has provided the Commissioner with substantial evidence, in accordance with the principle of accountability as set forth in article 5(2) of the Regulation, to demonstrate that the cameras are installed for safety and security purposes, on account of numerous incidents experienced in, and around the area of their property. This compelling evidence shows that the controller and their family are indeed encountering real-life situations of distress. The submissions presented by the controller include various police reports on different matters vis-à-vis the complainant, criminal court proceedings initiated against the complainant, all of which depict the reality of the circumstances where the controller resides. This led the Commissioner to conclude that the objective which the controller essentially seeks to achieve through the installation of the cameras constitutes a legitimate interest.
20. In relation to the second condition, the Commissioner assessed if the processing goes beyond what is necessary, and therefore, assessed if the processing is necessary for the purpose of the attainment of the legitimate interest at issue. The Commissioner noted that the principle of data minimisation as laid down in article 5(1)(c) of the Regulation requires that the processing must be adequate, relevant and limited to what is necessary in relation to the purpose of the processing. It therefore follows that the processing of personal data must be limited to what is plausibly necessary to pursue a legitimate interest and there must be a nexus between the processing and the interest pursued.
21. Within this context, the Commissioner examined the EDPB Guidelines, which provide that:

“In general, the necessity to use video surveillance to protect the controllers’ premises ends at the property boundaries. However, there are cases where the surveillance of the property is not sufficient for an effective protection. In some individual cases it might be necessary to exceed the video surveillance to the immediate surroundings of the premises. In this context, the controller should consider physical and technical means, for example blocking out or pixelating not relevant areas.”¹⁰.

⁹ *ibid.* 4, paragraphs 19 and 20.

¹⁰ *ibid.* 4, paragraph 27.

22. After taking into consideration the circumstances of the case in question, the Commissioner concluded that the purpose of the processing could not be reasonably and effectively fulfilled by other means which are less intrusive to the rights and freedoms of the data subjects. For this reason, the Commissioner established that the processing conducted by the controller is necessary, proportionate and adequately targeted to meet the legitimate interest of the controller.
23. Finally, article 6(1)(f) of the Regulation calls for a balancing test, which requires that the controller assesses whether the legitimate interest of the controller is overridden by the interests or fundamental rights and freedoms of the complainant. The EDPB Guidelines state that:

“Presuming that video surveillance is necessary to protect the legitimate interests of a controller, a video surveillance system may only be put in operation, if the legitimate interests of the controller or those of a third party (e.g. protection of property or physical integrity) are not overridden by the interests or fundamental rights and freedoms of the data subject.”¹¹

24. In this regard, the Commissioner considered the nature of the legitimate interest being pursued, the nature of the personal data at issue, the reasonable expectations of the complainant and the impact of the processing on the complainant. In relation to the latter point, the Article 29 Working Party (the predecessor of the EDPB) clarifies that the purpose of article 6(1)(f) of the Regulation is not to prevent any negative impact on the affected data subject, but to prevent any disproportionate impact.¹² In the present case, the Commissioner evaluated the various factors contributing to the controller’s ongoing situation of real distress, including the persistent sense of fear they experience, due to the incidents documented in their submissions.
25. Furthermore, the Commissioner considered the recent decision delivered by the Information and Data Protection Appeals Tribunal on the 3rd October 2024, wherein the Tribunal held that the owner of the CCTV camera had a compelling legitimate interest in processing the personal data of the appellate on the basis of the foregoing considerations:

¹¹ *ibid.*, 4, paragraph 30.

¹² Opinion 6/2014 on the notion of legitimate interests of the data controller under Article 7 of Directive 95/46/EC.

“Illi mil-provi jirrizulta li bejn il-partijiet hemm diversi inkviet bejniethom fuq dan il-Passaġġ tant li l-appellanti ppreżenta kawża ta’ spoll wara li mil-filmati rrizulta li l-appellati neħhew xi ġebel li huwa poġġa bħala għatba u li l-appellati neħhew stante li qed jikkontendu li dan sar sabiex huma ma jghadduh bl-inġenji tagħhom ġewwa l-għalqa; li hemm l-kwistjoni bejniethom li l-passaġġ huwa Passaġġ tar-raġel u mhux bl-inġenji.

Illi dan it-Tribunal meta wizen il-provi kollha prodotti jasal għal konkluzjoni li : (i) l-appellanti għandu interess legittimu li jipproteġi l-proprjeta tiegħu; li l-camera li tagħti għal passaġġ biss qegħda biss biex tipproteġi l-interess legittimu tiegħu; li tali interess jiżboq dak tal-appellati anke għaliex mingħajr din il-camera fil-passaġġ hemm riskju ta’ xi traġedja bejn il-partijiet u li għalhekk qed jilqa’ dan l-agravju tal-appellanti in kwantu għandu interess legittimu a fini biss tal-camera li tagħti għal fuq il-passaġġ iżda mhux għal camera li tagħti għal proprjeta tal-appellati.”¹³

26. Based on the substantial evidence produced by the controller during the course of the investigation and the exceptional nature of the circumstances of the present case, the Commissioner concludes that the legitimate interest of the controller overrides the interests and rights of the complainant, and therefore, the controller managed to effectively demonstrate a compelling legitimate interest.

On the basis of the foregoing considerations, the Commissioner is hereby deciding that the processing activity conducted by means of the cameras installed by the controller is necessary for the purpose of the legitimate interest pursued by the controller, and therefore, the processing activity is lawful pursuant to article 6(1)(f) of the Regulation. Therefore, the Commissioner is dismissing the complaint in its entirety.


Ian Deguara
Information and Data Protection Commissioner

Decided today, the 24th day of November, 2025

¹³ CDP/COMP/94/2022, Lawrence Micallef, Michelle Cassar, Rose Ann Micallef, Mary Micallef u Jessica Refalo vs Carmel Formosa.

Right of Appeal

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 in writing to the Tribunal within twenty days from the service of the said decision as provided in article 23*”¹⁴.

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

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

¹⁴ Further information on the appeals procedure may be accessed here: <https://idpc.org.mt/appeals-tribunal/>