

## COMPLAINT

1. On the 11<sup>th</sup> July 2024, [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 Regulation<sup>1</sup> (the "**Regulation**"), alleging that [REDACTED] (the "**controller**") unlawfully disclosed the personal data of the complainant to third parties, being investigative journalists (the "**third-parties**"), which personal data had been provided by the complainant to the controller in 2016 in a professional and confidential context.

## INVESTIGATION

2. On the 30<sup>th</sup> July 2024, and pursuant to the internal investigative procedure of this Office, the Commissioner requested the controller to complete the *Main Establishment Checklist* form and the *Main Establishment Questionnaire for Cross-Border cases* form, as well as requested the controller to provide the group's structure chart. Accordingly, on the 8<sup>th</sup> August 2024, the controller provided the Commissioner with all the requested information.
3. The Commissioner assessed the information submitted by the controller, particularly the completed forms dated the 7<sup>th</sup> August 2024, and considered that the main establishment of the controller's group is located within Malta. Accordingly, the Commissioner determined that his Office is indeed the responsible supervisory authority for the purpose of investigating the complaint.

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<sup>1</sup> 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).

**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 gave him the opportunity to submit any information that it deemed necessary and relevant to defend itself against the allegation raised by the complainant.

**Submissions of the controller**

5. By means of a letter dated the 17<sup>th</sup> October 2024, the controller made its submissions for the Commissioner to consider during the legal analysis of the case. The controller submitted the following salient arguments:

*Background Information*

- a. that, in 2015, the complainant initiated contact with the controller to explore potential onboarding as a client, and following the standard due procedure proceedings prior to onboarding, the controller decided not to onboard the complainant due to adverse findings that were ascertained from their background checks;
- b. that the personal data relating to the complainant were stored in the records of the controller in accordance with its Records of Processing Activities (RoPA), following the decision not to onboard the complainant as a client, which serves its legitimate interest in protecting against potential legal claims and ensuring compliance with regulatory obligations;
- c. that, in March 2024, the controller received an inquiry from a media outlet requesting confirmation and comments on information they had already obtained regarding the complainant, and the journalist presented specific details about the complainant and sought the response of the controller;
- d. that the controller responded through its spokesperson by confirming limited information that was already provided by the journalists themselves; specifically, the controller confirmed that the complainant did not become a client of the controller due to a sanctions association;
- e. that, additionally, as part of the response, the controller acknowledged the complainant's previous occupation and clarified its decision not to onboard her in 2015;

- f. that no sensitive personal data or additional identifying information was disclosed beyond what was necessary to address the inquiry;

#### *Legal Basis*

- g. that the disclosure was lawful under article 6(1)(f) of the Regulation, which permits processing of personal data when it is necessary for the purposes of the legitimate interests pursued by the controller, except where such interests are overridden by the data subject's (complainant's) rights and freedoms.

#### **Further clarifications sought from the controller**

6. During the course of the investigation, the Commissioner deemed it pertinent to request further clarifications from the controller in relation to its submissions. The controller was requested to confirm, that the email communicated by the controller to the investigative journalists during the period in question in 2024 – for the purposes of simply confirming limited information concerning the complainant – was the only such disclosure made by the controller to the journalists.
7. By means of an email dated 19<sup>th</sup> December 2024, the controller confirmed that the email in question from the controller to the journalists during such period of time in 2024, “*was the only communication regarding the data subject*”.

#### **Submissions of the complainant**

8. As part of this Office's internal investigative procedure, the Commissioner provided the complainant with a copy of the submissions provided by the controller and enabled the complainant to submit its counterarguments.
9. By means of an email dated the 25<sup>th</sup> March 2025, the complainant replied by upholding its suspicion of “*significant breaches of data protection law by the part concerned, [REDACTED] controller*”.

#### **Forensic Audit**

10. Due to the lack of substantial evidence to support the allegation of the complainant, the Commissioner decided to to engage an external, independent technical expert to conduct a forensic audit on the controller's systems to determine, *inter alia*, whether a disclosure of the

complainant's personal data with third parties may have been made by the controller. By means of an email dated the 27<sup>th</sup> May 2025, the controller was informed about this step of the investigation and committed full cooperation with the auditor.

11. The expert conducted the audit in accordance with the terms of reference provided by the Commissioner and finalised his report on the 5<sup>th</sup> August 2025. The findings of the report were inconclusive given that the expert did not manage to find or establish any evidence from the controller's systems to substantiate the complainant's allegation concerning the unlawful disclosure of her personal data to third parties.

## DECISION

**In view of the foregoing considerations, the Commissioner hereby decides to dismiss the complaint in its entirety on the basis of the conclusion that the information gathered during the course of the investigation, including the forensic audit carried out by the external and independent technical expert, did not yield conclusive evidence that the controller unlawfully disclosed the personal data of the complainant to third parties.**

Ian  
DEGUARA  
(Signature)

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by Ian DEGUARA  
(Signature)  
Date: 2025.11.13  
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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(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 thereof.<sup>2</sup>

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"*.

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<sup>2</sup> Further information on the appeals procedure is available on <https://idpc.org.mt/appeals-tribunal/>.