

## COMPLAINT

1. On the 13<sup>th</sup> August 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 Regulation<sup>1</sup>, alleging that the [REDACTED] [REDACTED] (the “**controller**” or [REDACTED]) infringed her right to the protection of personal data.
2. The complainant presented the following information to the Commissioner:
  - a. that the complainant was subject to an out-of-competition doping control test that was carried out by the controller on the 3<sup>rd</sup> February 2025 as the competent body in Malta for doping tests in Maltese sports<sup>2</sup>;
  - b. that the doping control test was carried out at the private workplace of the complainant, [REDACTED] during a training session that the complainant was carrying out with a client of hers;
  - c. that the complainant was not a part of a testing pool, however, even if she had to be part of a testing pool, there is no requirement under the World Anti-Doping Agency for an athlete to provide a private work address to any authority;

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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).

<sup>2</sup> The complainant submitted a copy of “*Notification of Adverse Analytical Finding*” (AAF), dated the 11<sup>th</sup> March 2025 sent by [REDACTED] to the complainant.

- d. that the complainant never disclosed her private work address to the controller or to the [REDACTED], under whose jurisdiction the complainant forms part of via her membership with the [REDACTED] and
- e. that, consequently, the complainant firmly believes that the controller obtained her private work address through unauthorised means, and therefore, requested an investigation into this alleged infringement.

## INVESTIGATION

### Request for submissions

3. 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 provide any information that it deemed relevant and necessary to defend itself against the allegation raised by the complainant. Pursuant to article 58(1)(e) of the Regulation, the Commissioner requested the controller to submit the following information:
  - a. to explain the context within which the doping tests may be carried out by the controller pursuant to the applicable law;
  - b. to indicate which provision(s) of the law empowers the controller to carry out an out-of-competition doping control test;
  - c. to specify the legal basis in terms of article 6(1) of the Regulation upon which the controller processed the personal data of the complainant; and
  - d. to indicate the source from where the work address of the complainant was obtained by the controller.

### Submissions of the controller

4. On the 20<sup>th</sup> September 2025, the controller submitted the following salient arguments for the Commissioner to consider during the legal analysis of the case:

*Context of Doping Tests under Applicable Law*

- a. that, at the time of the test on the 3<sup>rd</sup> February 2025, the complainant was a registered athlete with the [REDACTED];
- b. that, pursuant to regulation 5(2)(b) of the Schedule to the Legal Notice 104 of 2021, the Anti-Doping Commission (ADC), operating through [REDACTED] may require any athlete under its testing authority to provide a sample “*at any time and at any place*”;
- c. that this provision, which transposes the World Anti-Doping Code expressly empowers the conduct of both in-competition and out-of-competition testing to protect the integrity of sport;

*Out-of-Competition Testing*

- d. that the specific provision of Maltese law empowering [REDACTED] to conduct out-of-competition testing is regulation 5(2) of the Schedule to Legal Notice 104 of 2021;
- e. that this authority is consistent with Malta’s obligations under the UNESCO International Convention against Doping in Sport and the WADA Code, both of which emphasise the necessity of unannounced testing outside competition;

*Legal Basis for Processing*

- f. that the processing of the complainant’s personal data was carried out on the following legal bases:
  - (i) article 6(1)(c) of the Regulation: processing is necessary for compliance with a legal obligation, namely, the obligations imposed on [REDACTED] in terms of Legal Notice 104 of 2021;
  - (ii) article 6(1)(e) of the Regulation: processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in [REDACTED];
  - (iii) article 9(2)(g) of the Regulation: processing of a special category of personal data (the urine sample, as health data) is necessary for reasons of substantial public interest, based on Maltese law and Malta’s international anti-doping obligations;

*Source of work address information*

- g. that the controller categorically rejected the allegation that the complainant's work address was obtained through unauthorised or unlawful means;
- h. that the complainant's role as a coach at the [REDACTED] was publicly available on the gym's official website;
- i. that intelligence routinely gathered within the sporting community also confirmed [REDACTED] as a recognised training venue and past competition site;
- j. that the decision to conduct the test at this location was based exclusively on its status as a training venue in line with the WADA's emphasis on unannounced out-of-competition testing, and not on the complainant's employment status;

*Procedural Note*

- k. that the complainant had already raised this matter during the results management process, however, no agreement was reached at that stage, and the case has since been referred to the independent National Anti-Doping Disciplinary Panel, where it remains pending adjudication;

*Conclusion*

- l. that the controller submits that the test was conducted lawfully under regulation 5(2) of Legal Notice 104 of 2021, the processing of the personal data of the complainant was conducted in terms of articles 6(1)(c), 6(1)(e) and 9(2)(g) of the Regulation; and
- m. that the source of the work address was publicly available and obtained through legitimate sporting intelligence, and therefore, not obtained through unauthorised access.

**Submissions of the complainant**

- 5. By means of a letter dated the 10<sup>th</sup> October 2025, the complainant submitted the following arguments for the Commissioner to consider during the legal analysis of the case:

- a. that whilst it is true that the complainant is a registered athlete with the [REDACTED], however, the complainant at no point in time consented to her private work address to be disclosed to any public authority, including the controller and the [REDACTED];
- b. that the complainant is not a professional athlete and was neither part of the “*Registered Testing Pool*” at the time that the doping test was conducted by the controller;
- c. that an athlete who forms part of the “*Registered Testing Pool*” is obliged to provide their whereabouts information, in accordance with regulation 5(5)(j) of Legal Notice 104 of 2021;
- d. that the following information is to be provided when it comes to whereabouts information: an overnight address, competition/event schedule; and regular training activities. Thus, there is no legal obligation to provide a private work address, further substantiating the complainant’s argument that one’s private work address is a fundamental human right which cannot be infringed upon without any legal justification;
- e. that the doping test in question was: (i) carried out on the complainant who is not part of the “*Registered Testing Pool*” and as a result of which is not bound to the disclosure of her whereabouts information; (ii) carried out out-of-competition; and (iii) carried out at a private work address, at a time, when the complainant was not training but was conducting a private training session with her client in view of her profession being a personal fitness coach, all of which makes a key difference to the facts being presented;
- f. that with respect to the notion that a doping test can be carried out “*anytime, anywhere*”, this notion must at the same time be respectful of an individual’s human rights, including the right to privacy and property, which supersede anything else, including laws and regulations;
- g. that the notion of testing “*anytime, anywhere*” applies primarily to athletes who are included in a testing pool, and therefore, have whereabouts obligations;
- h. that with reference to articles 6(1)(c) and (e) of the Regulation, whilst the controller is the authority in Malta to conduct doping tests in sports, at the same time the obligation of the controller must be in accordance with the applicable domestic legislation, including being respectful of an individual’s fundamental human rights;

- i. that Legal Notice 104 of 2021 is completely silent when it comes to the allowance to use one's private work address to carry out a doping test at the private work address, hence, the legislation does not give the controller the legitimate right to carry out a doping test at a private work address;
- j. that the complainant is of the firm opinion that should the controller have wished to carry out the doping test at a private work address for an out-of-competition doping test, then the controller should have obtained the explicit consent of the athlete or, be duly authorised under the applicable legislation to carry out an out-of-competition doping test at a private work address;
- k. that, with respect to article 9(2)(g) of the Regulation, the processing in relation to the doping test was not "*necessary for reasons of substantial public interest*" since the doping test was carried out in an out-of-competition scenario, and thus, there was no "*aim pursued*";
- l. that the complainant pointed out that "*reasons of substantial public interest*" are not stipulated under the Maltese applicable legislation and the controller has not demonstrated any "*suitable and specific measures*" that were adopted by the controller to "*safeguard the fundamental rights and the interests of the data subject*";
- m. that, as a matter of fact, the authorised officials of the controller who went to carry out the doping test, entered a restrictive area of the premises forcibly and unlawfully, without obtaining any prior authorisation from the Maltese courts or consent from the owner of the premises or the complainant;
- n. that with respect to the "*Source of Work Address information*" concerning the fact that the complainant's work address was publicly disclosed on the gym's website, the controller has not substantiated this point by providing documentary evidence of this;
- o. that, furthermore, this does not grant automatically a right to the controller to enter the private premises to carry out a doping test, especially an out-of-competition doping test;
- p. that the right to enter a private work premises can only be granted by specific mention in legislation or a court of law, with such right being granted to a select few, amongst which is the Malta Police Force;

- q. that, in accordance with the European Convention on Human Rights (ECHR), specifically articles 7 and 8 of the ECHR, one's right to respect for private and family life is protected;
- r. that the controller is not a law enforcement authority and neither does it have a power equivalent to a judicial warrant under the applicable Maltese legislation, and thus, entering into a private premises without explicit consent or authorisation infringes basic fundamental human rights; and
- s. that the processing of the personal data which ultimately led to the unlawful entry into the private work address of the complainant, was done without first obtaining any court authorisation or landlord consent or consent of the complainant.

#### **Final Submissions of the controller**

- 6. Pursuant to the internal investigative procedure, the Commissioner provided the controller with the final opportunity to rebut the submissions of the complainant. On the 7<sup>th</sup> November 2025, the controller submitted the following arguments:
  - a. that the [REDACTED] was established under articles 3 and 4 of the Sports Governance and Integrity Act (Cap. 626 of the Laws of Malta), which designates [REDACTED] as the competent national authority for the regulation, prevention, investigation, and enforcement of anti-doping measures;
  - b. that these obligations are implemented through Legal Notice 104 of 2021 (Anti-Doping Regulations), which transposes the World-Anti Doping and the UNESCO International Convention against Doping in Sport into Maltese law;
  - c. that regulation 5(2)(b) of the Schedule to Legal Notice 104 of 2021 empowers the controller to require an athlete to provide a sample "*at any time and at any place*";
  - d. that the doping control conducted on the 3<sup>rd</sup> February 2025 took place at [REDACTED], a public fitness facility and a recognised training venue;
  - e. that the complainant, present in her professional capacity as a fitness coach, was engaged in activity inherently connected to sport and the location was therefore part of the athletic environment, not a private dwelling;

- f. that entry into the premises was affected lawfully and in the ordinary manner, no judicial authorisation was required;
- g. that the athlete was formally notified of the test in accordance with the WADA International Standard for Testing and Investigations (ISTI), which forms part of the Maltese law;
- h. that the [REDACTED] officials acted strictly within the procedures mandated by Legal Notice 104 of 2021 and the WADA Code;
- i. that the testing venue was identified from publicly available information, including the athlete's professional advertising as a personal trainer and the controller did not obtain the information through intrusive or covert means; and
- j. that the address was used solely to perform a lawful statutory authority, and therefore, the processing satisfied the principles of lawfulness, fairness, purpose limitation and data minimisation under article 5(1) of the Regulation.

**Further clarifications sought by the Commissioner**

- 7. The Commissioner, pursuant to article 58(1)(e) of the Regulation, requested the controller to indicate the procedure that the controller follows to identify and locate athletes for testing purposes when the athletes do not form part of the testing pool.

**Clarifications submitted by the controller**

- 8. On the 8<sup>th</sup> January 2026, the controller submitted the following clarifications in response to the request of the Commissioner:
  - a. that the complainant does not form part of the testing pool referred to in regulation 5(5) of Legal Notice 104 of 2021 and that athletes in the testing pool are subject to enhanced obligations, including the provision of whereabouts information under regulation 5(5)(j) and these obligations do not apply to athletes outside the testing pool;
  - b. that although the whereabouts obligations apply only to athletes formally included in the testing pool, the controller nevertheless retains both the authority and the mandatory

responsibility to conduct in-competition and out-of-competition testing on any athlete under the Maltese jurisdiction, irrespective of the testing pool status;

- c. that the controller has the authority to conduct these tests in terms of article 5.2 of the World Anti-Doping Code, which grants National Anti-Doping Organisations competence to test all athletes under their authority and articles 3 and 4 of the Sports Governance and Integrity Act and the Anti-Doping Regulations, which transpose the Code and its international standards into Maltese law;
- d. that, accordingly, the absence of the testing pool membership does not limit the mandate of the controller to conduct testing, nor does it restrict the lawfulness of the processing of personal data which is necessary to carry out such testing under articles 6(1)(c), 6(1)(e) and 9(2)(g) of the Regulation;
- e. that for athletes who are not required to submit whereabouts information, the controller follows a proportionate and targeted method to identify and locate individuals for legitimate anti-doping purposes and this approach is explicitly required in order to maintain an effective, risk-based and unannounced testing regime consistent with the WADA Code;
- f. that the controller may rely on the following sources, all of which are lawfully available to the controller: (i) official competition schedules, entry lists, and accreditation information provided by event organisers and recognised sporting bodies; (ii) databases maintained by national or international sports federations, including lists of licensed, registered, or competing athletes; (iii) contact information of teams, clubs, or athletes representatives shared within the ordinary context of event registration or sporting administration; and (iv) publicly available information, including, club websites, federation publications, coaching advertisements, competition results, and similar sources that identify an athlete's sporting activities or training environment;
- g. that the limited forms of personal data are processed solely for the purpose of arranging doping control, and only to the extent necessary to fulfill the controller's statutory obligations; and
- h. that the controller submitted that its approach to locating and testing athletes who are not members of the testing pool is fully aligned with the WADA Code, Cap. 586, Legal Notice 104 of 2021, and the Regulation.

## LEGAL ANALYSIS AND DECISION

9. The Commissioner examined the contents of the complaint, in which the complainant alleged that the controller conducted a doping control test at her private workplace, [REDACTED] [REDACTED] on the 3<sup>rd</sup> February 2025, during a training session she was conducting with a client. The complainant contended that she is not included in any registered testing pool and accordingly, there is no obligation under any law for her to provide her whereabouts to the controller. The complainant further maintained that she had never disclosed her private workplace address to either the controller or the [REDACTED]. On this basis, the complainant requested the Commissioner to investigate the manner in which the controller obtained her private workplace address, which she claims was acquired through unauthorised means.
10. For the purpose of this legal assessment, the Commissioner notes that the complainant specifically challenged the manner in which the controller obtained and processed the work address in connection with out-of-competition testing. Accordingly, the scope of this legal analysis is strictly limited in determining whether the controller had a valid legal basis under article 6(1) of the Regulation to process the complainant's work address for the purpose of its anti-doping activities. Any other allegations raised by the complainant in her rebuttal to the controller's submissions fall outside this legal analysis and will not be considered by the Commissioner.
11. Accordingly, after assessing the contents of the complaint, in terms of article 58(1)(e) of the Regulation, the Commissioner requested the controller to specify how the complainant's work address was obtained and further processed in terms of the Regulation for the purposes of its anti-doping activities. In response, the controller explained that, at the time the doping test was conducted on the 3<sup>rd</sup> February 2025, the complainant was a registered athlete with the [REDACTED] [REDACTED]. The controller stated that the test was carried out pursuant to regulation 5(2) of the Schedule to the Anti-Doping Regulations, Subsidiary Legislation 455.13, which empowers the controller to require any athlete under its testing authority to provide a sample "at any time and at any place". The controller further submitted that the complainant's role as a fitness coach at [REDACTED] was publicly available on the gym's official website. In addition, intelligence routinely gathered within the sporting community identified [REDACTED] as a recognised training venue and a former competition site.
12. The Commissioner considered regulation 5(2) of the Schedule to the Anti-Doping Regulations, Subsidiary Legislation 455.13, which the controller relied upon in its submissions to

demonstrate that it is empowered to require any athlete, regardless of whether the athlete forms part of the testing pool, to provide a sample at any time and at any place. Regulation 5(2) reads as follows:

*“The ADC may require any Athlete over whom it has Testing authority (including any Athlete serving a period of Ineligibility) to provide a Sample at any time and at any place”* [emphasis has been added].

13. The complainant challenged the interpretation of the controller by stating that “[w]ith respect to the notion that a doping test can be carried out “anytime, anywhere”, this notion must at the same time be respectful of an individual’s fundamental human rights, including the right to privacy and property, which supersede anything else, including laws and regulations. Furthermore, this notion applies primarily to athletes who are included in a testing pool and therefore have whereabouts obligations. It cannot be interpreted as granted unlimiting powers to test any athlete outside of such pools at any location without prior justification and authorisation”.
14. The Commissioner finds that regulation 5(2) of the Schedule to the Anti-Doping Regulations, Subsidiary Legislation 455.13 confers a clear and unqualified basis to empower the controller to require any athlete over whom it has testing authority to provide a sample at any time and at any place, irrespective of whether the athlete is included in the testing pool. The express inclusion of “any Athlete serving a period of Ineligibility” further confirms that the testing pool status of an athlete is not a limiting criterion. The Commissioner notes that pursuant to the maxim “ubi lex voluit dixit”, had the legislator intended to confine this power to the controller in relation to athletes subject to whereabouts obligations, it could have done so expressly.
15. The Commissioner therefore does not accept the complainant’s submissions that the notion of doping being carried out ““anytime, anywhere” applies primarily to athletes who are included in a testing pool”. While whereabouts requirements apply only to certain categories of athletes, regulation 5(2) of the Schedule to the Anti-Doping Regulations, Subsidiary Legislation 455.13 delineates the scope of the controller’s testing authority more generally. The imposition of enhanced obligations on testing pool athletes does not render athletes outside the testing pool ineligible for out-of-competition testing, nor does it require any prior justification and authorisation.
16. The complainant further argued that the “LN 104 is completely silent when it comes to the allowance to use one’s private work address to carry out a doping test at the private work

*address. Hence, the legislation does not give the data controller the legitimate right to carry out a doping test at a private work address. We are of firm opinion that should the data controller have wished to carry out the doping test at a private work address for an out-of competition doping test, then the data controller should have obtained the explicit consent of the athlete or, be duly authorised under the applicable legislation to carry out an out-of-competition doping test”.*

17. The Commissioner notes the submissions dated the 20<sup>th</sup> September 2025, wherein the controller held that it routinely gathers information within the sporting community which “*confirmed [that] [REDACTED] as a recognised training venue and past competition site*”. The controller further explained in its submission that the “*decision to conduct the test at this location [REDACTED] was based exclusively on its status as a training venue in line with WADA’s emphasis on unannounced out-of-competition testing, and not on [REDACTED] employment status*”.
18. The Commissioner refers to the definition of “*Anti-Doping Activities*” as set forth in regulation 2 of the Anti-Doping Regulations, Subsidiary Legislation 455.13, which expressly encompasses, *inter alia*, the “*gathering of intelligence and conduct of investigations*” and “*conducting testing*”. To this effect, regulation 14(6)(a) of the Schedule to the Anti-Doping Regulations, Subsidiary Legislation 455.13 provides that “[REDACTED] *may collect, store, process or disclose personal information relating to Athletes and other Persons where necessary and appropriate to conduct its anti-doping activities*”. This effectively means that the controller is enabled to process personal data about athletes to the extent necessary to conduct its anti-doping activities, which include collecting intelligence and conducting tests and investigations.
19. The Commissioner notes that the doping test took place on the 3<sup>rd</sup> February 2025 at [REDACTED]. The gym maintains a public website, [REDACTED], from which it is evident that the venue operates as a commercial fitness facility. In fact, the gym’s own website describes it as a gym offering personal fitness training, a gym space, and related services to the members of the public.
20. The Commissioner further notes that the complainant’s professional profile is publicly accessible on the gym’s website [REDACTED]<sup>4</sup>, which includes a description of her sporting achievements as a powerlifting athlete and advertises her services as a strength trainer. The publicly accessible information on the website of the gym

<sup>3</sup> This website was last accessed by this Office on the 19<sup>th</sup> February 2026.

<sup>4</sup> This website was last accessed by this Office on the 19<sup>th</sup> February 2026.

effectively demonstrates that the complainant presents herself in a public, professional capacity within the sporting and fitness community.

21. Therefore, in contrast to a private residence or a workplace that has absolutely no connection to fitness or sporting activities and which would objectively attract a higher expectation of privacy, the processing of the complainant's personal data by the controller in connection with the address of a gym that openly advertises as a venue for professional sporting and fitness activity was both foreseeable and reasonable. Moreover, as previously mentioned, the complainant has chosen to make accessible to the public her information via the website of the gym, and this further diminishes any reasonable expectation of privacy in this context.
  
22. In addition, the Commissioner further clarifies that, contrary to the complainant's argument, consent could never serve as a valid legal basis to process the complainant's personal data for the purpose of conducting anti-doping activities. In terms of article 4(11) of the Regulation, consent must be freely given, specific, informed and unambiguous indication of the data subject's wishes. In the context of anti-doping testing, there is an inherent imbalance of power between the authority and the athlete, making it impossible for consent to be considered as freely given. In such circumstances, consent is not a valid legal basis, as the athlete has no realistic ability to withdraw consent when the processing occurs within the exercise of the controller's functions at law. The legal basis for the controller's processing is article 6(1)(e) of the Regulation, which permits the processing of personal data that is necessary and proportionate for the performance of its tasks, namely, fulfilling the controller's obligations under the anti-doping legislation.

**On the basis of the foregoing considerations, the Commissioner is hereby deciding that the controller lawfully processed the personal data of the complainant for the purpose of conducting its anti-doping activities pursuant to the Anti-Doping Regulations, Subsidiary Legislation 455.13, and therefore, the processing is lawful in accordance with article 6(1)(e) of the Regulation. For this reason, the complaint is being dismissed in its entirety.**

Ian  
DEGUARA  
(Signature)

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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 Appeal Tribunal, 158, Merchants Street, Valletta<sup>5</sup>”*.

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<sup>5</sup> More details on the appeals procedure are available at this link: <https://idpc.org.mt/appeals-tribunal>