

Information and Data Protection Commissioner

CDP/COMP/829/2024

[REDACTED]

vs

[REDACTED]

COMPLAINT

1. On the 2nd December 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 Regulation¹ (the "Regulation"), alleging that [REDACTED] (the "controller") installed six (6) CCTV cameras in his fields² and on an adjacent property³ *"positioned in such a way that they capture [him] whenever he leaves his residence or passes through a private alley to access his fields at the back of his property"* and which *"also capture him working in his fields"*, and consequently, the processing activity conducted by means of the cameras is infringing the provisions of the Regulation.

INVESTIGATION

2. By means of a letter dated the 5th February 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 he deemed necessary and relevant to defend himself against the allegation raised by the complainant. In terms of article 58(1)(e) of the Regulation, the Commissioner ordered the controller to submit a copy of the image grabs taken from the footage of the

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 cameras in question are installed on fields situated in the area known as [REDACTED] opposite the tenement on that same street named [REDACTED], with registered number 109.

³ Situated at [REDACTED]



cameras, including information in relation to the brand(s) and model numbers of the cameras or system installed by the controller.

3. A second letter was issued by the Commissioner, dated the 28th February 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 systems installed by the controller.
4. By means of an email dated the 22th March 2025, the controller made his submissions for the Commissioner to consider in the legal analysis of the case. The Commissioner notes the following salient submissions of the controller:
 - a. that the controller categorically denies the allegations put forth by the complainant and that the complainant has given false information, in the context of the complaint;
 - b. that the land which the complainant is referring to as “common area” in the photographs provided with the complaint, is private, and in no way held common with such;
 - c. that the CCTV cameras are only capturing areas of the controller’s land/fields, bee-hives and machinery presently on the land;
 - d. that the complainant “*is a contravener in multiple cases with the Planning Authority and has issues with many land owners at [REDACTED] with pending court cases and other proceedings about to be initiated against him*”;
 - e. that the complainant “*only passes from a passage which he created himself and is still to be determined judicially whether he has any right so to do, notwithstanding the [sic] he is neither owner nor a co-owner of the land through which such passage crosses*”;
 - f. that the need for installing CCTV cameras on the land arose from the fact that the complainant “*has not only been trespassing onto [his] land as he likes and pleases, but also stealing crops, vegetables and other goods on the land*” which is to be “*challenged by the apposite proceedings for theft and ragon fattasi before the Court of Magistrates*”;
 - g. that the only way the foregoing can be curbed is with the help of CCTV cameras; and

d. that “[s]uch will have to be determined by a court of law and till that moment that [the complainant] has a right to access his fields through the said alley...”.

10. By means of an email dated the 16th January 2026, the Commissioner requested the controller confirmation that he has no access or control over either of two (2) CCTV cameras installed on the façade of the residence.

11. By means of an email dated the 19th January 2026, the controller confirmed that neither of the cameras affixed to the façade of the residence in question belong to or are controlled by him.

DECISION

12. In the course of the investigation, the Commissioner examined the two (2) CCTV cameras affixed on the façade of the residence⁴ overlooking the fields of the controller in question, and found no concrete evidence to suggest that the cameras are operated by the controller⁵. Therefore, the Commissioner dismissed this part of the complaint on the basis that [REDACTED] is not the controller responsible for the processing activity by means of these two (2) cameras.

13. The Commissioner proceeded to examine the four (4) CCTV cameras installed within the fields in question. From the submissions brought before the Commissioner, it was noted that the cameras are indeed devices with video recording capabilities in terms of the scope of the Regulation.

14. The Commissioner then proceeded to examine whether the processing activity by virtue of the cameras within the fields, may be considered as relevant in terms of article 2(1) of the Regulation vis-à-vis the complainant as an affected data subject, when passing through the controller’s land via a passage therein.

15. In the circumstances at hand, the Commissioner notes that the contended right of use, or otherwise, by the complainant over the passage in question – through the controller’s field – is paramount in the course of evaluating the processing activity in question within the context of the Regulation’s legal framework.

⁴ [REDACTED]

⁵ Vide controller’s submissions, Paragraphs 4(h) and 11 hereof.

16. In this respect, the Commissioner notes the ongoing dispute between the complainant and the controller as to whether the complainant enjoys a right of use over the passage in question – or whether the controller solely enjoys exclusive right over such land – and notes the differing views between the parties on the matter, with insufficient demonstration of right of passage or otherwise by the complainant, over the fields.

On the basis of the forgoing considerations, until the legal status of the right of passage can be legally or judicially determined, the Commissioner is not in a position to investigate the complaint further and assess the lawfulness or otherwise of the controller’s processing activity in the context of the complainant’s contentions, and is consequently hereby dismissing the complaint.



Ian Deguara
Information and Data Protection Commissioner

Decided today, the 5th day of February, 2026



Right of Appeal

The parties are hereby being informed that 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 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.⁶

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"*.

⁶ Further information on the appeals procedure is available on <https://idpc.org.mt/appeals-tribunal/>.