

- ii. that subsequently, the controller published online press articles concerning the judicial protest issued on 27th October 2023, including *inter alia*, articles entitled [REDACTED]³ and [REDACTED]⁴.
- iii. that the complainant alleged that the publication of the aforementioned articles occurred without his express or tacit consent and that the articles remained publicly accessible online at the time the complaint was lodged;
- iv. that the complainant maintained that the continued availability of the articles caused and continued to cause disproportionate prejudice to his private and professional life, including reputational harm, employment-related difficulties and personal hardship;
- v. that the complainant argued that the information contained in the articles had become outdated, irrelevant and no longer necessary for the purposes for which it was published, and that the continued processing of such information was not in the legitimate interest of the public;
- vi. that the complainant further contended that the articles misrepresented the contents of the judicial protest and contained inaccurate information, including references to a banking institution, notwithstanding that, according to the complainant, no reference to that financial institution had been made in the judicial protest filed before the Court;
- vii. that on the 16th September 2025, the complainant exercised his right to erasure directly with the controller pursuant to article 17 of the Regulation, requesting the removal of personal data concerning him from the aforementioned online press articles;

³ [REDACTED], published on the 27th October 2023 and available at:

⁴ [REDACTED], published on the 27th October 2023 and available at:

- viii. that by means of an email dated the 29th September 2025, the controller rejected the complainant's request for erasure, stating that "*[w]e are in our right to report the very serious matter your client was complaining about in the judicial letter. This was not a simple civil case between two individuals or concerning a trivial matter. On the contrary, your client was making accusations against organs of the Maltese state – the Security Service and the police – and how they allegedly abused their power when allegedly tapping his phone without ministerial warrant. For this reason the matter is definitely one of public interest*";
- ix. that, being dissatisfied with the controller's reply, the complainant subsequently lodged the present complaint before the Commissioner requesting the erasure of personal data relating to him from the online press articles published by the controller.

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 provided the controller with the opportunity to make any submissions which it deemed relevant and necessary to defend itself against the allegation raised by the complainant.

Submissions made by the controller

4. On the 19th November 2025, the controller submitted the following salient arguments for the Commissioner to consider during the legal analysis of this case:
 - i. that the report being flagged by the complainant concerns a court-related procedure, namely a judicial letter. Court documents and court procedures are public by their very nature. This was not the first occasion on which the controller, in the exercise of its consistent court-reporting function, reproduced the contents of judicial letters;
 - ii. that on many occasions, the controller is alerted to such judicial letters by the clients' own lawyers. It is therefore highly likely that the complainant's judicial letter was brought to the controller's attention by his own legal representatives, who are now, ironically, fronting this request for the removal of the data;

- iii. that the controller was fully entitled to report the very serious matters raised by the complainant in the judicial letter. This was not a simple civil dispute between private individuals or a matter of a trivial nature, as suggested in the complaint. On the contrary, the complainant was making allegations against organs of the Maltese State, namely the Security Service and the Police, concerning the alleged abuse of their powers through the interception of his telephone communications without ministerial authorisation. For this reason, the matter was undoubtedly one of public interest;
- iv. that the complainant argues that the information contained in the article is expired and irrelevant. Whilst the data may no longer be relevant to the complainant personally, it remains important as a matter of public record given the serious allegations made and the institutions against which those allegations were directed;
- v. that journalism serves not only to inform society but also to hold institutions to account. One of the ways in which this function is fulfilled is by ensuring that information remains accessible over time. Within this context, the data remains relevant and continues to be a matter of public interest;
- vi. that the complainant further argues that the data should be removed because he is a private individual. Whilst the complainant is indeed a private person, the allegations made in 2023 related to a period during which he occupied a senior role within a Maltese bank. Furthermore, the issue arose following the appearance of transcripts of intercepted conversations in proceedings before a court in Catania. Although the complainant is a private person, the actions taken by him through the filing of a judicial letter occurred in a public forum, namely the Courts, and concerned alleged wrongdoing by public institutions, namely the Security Service and the Police;
- vii. that the complainant alleges that the data is inaccurate. The online article has remained available on the controller's website, as well as on the websites of other major Maltese news portals, for approximately two (2) years. To contend now, after the passage of two (2) years, that the data is inaccurate is difficult to reconcile with the circumstances. It is acknowledged that one detail relating to the date on which the complainant's relationship with the bank came to an end was inaccurate, and this was corrected as soon as the controller became aware of the issue;

- viii. that the complainant also alleges that the publication has caused him professional harm. No evidence has been provided in support of this allegation. In any event, the controller cannot be held responsible for any consequences that may have resulted from the contents of the judicial letter itself. It is presumed that the complainant sought legal advice before filing the judicial letter and that any possible consequences of such action would have been explained to him. A judicial letter is not a private communication or a confidential act, but an official legal warning that may precede judicial proceedings. The controller further notes that the complainant appeared content for the contents of the judicial letter to enter the public domain when it was filed;
- ix. that the complainant further objects to the fact that his authorisation was not sought prior to publication. The controller maintains that no such authorisation was required in order to report a news story of public interest. Consequently, this objection is considered irrelevant to the matter under consideration;
- x. that the complainant had originally raised the issue that the bank for which he worked was not specifically named in the judicial protest. The controller acknowledged that the judicial letter did not expressly mention such bank and, as a gesture of goodwill, removed this reference. This amendment was implemented when the controller replied to the complainant's initial request in September;
- xi. that the controller maintains that, in the circumstances, the public's right to know outweighs any competing consideration. Despite the passage of time since the filing of the judicial protest, and in light of the exemption afforded to journalism under both the Data Protection Act (Chapter 586 of the Laws of Malta) (the "Act") and the Regulation, the controller declines the complainant's request to amend or remove the article; and
- xii. that the controller respectfully urges the Commissioner, when considering this complaint, to safeguard freedom of expression and the important public function performed by journalism in keeping the public informed, in accordance with both the letter and the spirit of the Regulation, which was never intended to be used as a mechanism for the removal of important public records.

Complainant's Opportunity to Rebut

5. On the 1st December 2025, the Commissioner afforded the complainant the opportunity to rebut the arguments raised by the controller. On the 23rd January 2026, the complainant informed the Commissioner that no further submissions would be submitted.

LEGAL ANALYSIS AND DECISION

General Considerations

6. As a preliminary point, the Commissioner establishes that the publication of the article on the controller's news portal contains '*personal data*' within the meaning of article 4(1) of the Regulation, as the information relates directly to the complainant, identifies him by name and makes reference to matters concerning him. The Commissioner notes that the information is made available to indefinite number of people, and thus, this amounts to a processing activity in terms of article 4(2) of the Regulation.
7. The Commissioner further notes that the complaint concerns the continued online availability of two (2) articles published by the controller on the 27th October 2023 reporting on a judicial protest filed by the complainant. The complainant subsequently exercised his right to erasure pursuant to article 17 of the Regulation and requested the removal of such articles.
8. Consequently, the Commissioner considers that the central issue to be determined in this complaint is whether the continued processing of the complainant's personal data through the online availability of the articles remains proportionate, necessary and justified for reasons of substantial public interest, after reconciling the complainant's right to the protection of personal data with the controller's right to freedom of expression and information.
9. The Commissioner observes that the present complaint does not concern the right of the controller to have initially reported on the judicial protest filed by the complainant in October 2023. The Commissioner acknowledges that judicial protests are public judicial acts and that their filing may, at the time of filing, legitimately attract journalistic attention. In this respect, the Commissioner recognises that the controller exercised its right to freedom of expression and information when it published the articles on the 27th October 2023.

Article 17 of the Regulation

10. Article 17(1) of the Regulation provides that the "*data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay*

and the controller shall have the obligation to erase personal data without undue delay...”. In this regard, the data subject has the right to demand from the controller the erasure of personal data and in certain instances, the controller has the obligation to erase personal data.

11. The judgment ‘*GC and Others v Commission nationale de l’informatique et des libertés*’⁵ delivered by the CJEU examined the grounds listed in article 17(1) of the Regulation. In this regard, the Court explained that “[i]n accordance with Article 17(1) of the regulation, the data subject has the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller has the obligation to erase those data without undue delay where one of the grounds set out in that provision applies. As grounds, the provision mentions the cases in which the personal data are no longer necessary in relation to the purposes for which they were processed; the data subject withdraws consent on which the processing is based and there is no other legal ground for the processing; the data subject objects to the processing pursuant to Article 21(1) or (2) of the regulation, which replaces Article 14 of Directive 95/46; the data have been unlawfully processed; the data have to be erased for compliance with a legal obligation; or the data have been collected in relation to the offer of information society services to children.”.

12. In this regard, the Commissioner notes that article 17(1)(a) of the Regulation establishes that the right to erasure arises where the personal data is no longer necessary in relation to the purposes for which they were collected or otherwise processed. Furthermore, article 17(1)(c) of the Regulation provides that the right to erasure applies where the data subject objects to the processing pursuant to article 21(1) of the Regulation and there are no overriding legitimate grounds for the processing.

13. Therefore, the Commissioner emphasises that the issue under examination is not limited to the lawfulness of the initial publication. Rather, the present complaint concerns the continued processing of the complainant’s personal data through the continued online availability of the articles, following the passage of time and following the complainant’s request for erasure. The Commissioner therefore considers that the balancing exercise must be carried out in light of the circumstances existing at the time of the request and at the time of this decision.

The Reconciliation of the Right to Protection of Personal Data with the Right to Freedom of Expression and Information

⁵ Case C-136/17, ‘*GC and Others v Commission nationale de l’informatique et des libertés (CNIL)*’, decided on the 24th September 2019.

14. The Commissioner recognises that the right to data protection and the right to freedom of expression are both fundamental rights⁶, and further acknowledges that the rules governing the right to the protection of personal data should be reconciled with the freedom of expression and information. Notwithstanding this, these two rights are not absolute, and do not prevail over one another, as they are of equal importance.
15. Privacy and freedom of expression have equal weight in the case law of the ECHR, and hence, “[i]n cases which require the right to respect for private life to be balanced against the right to freedom of expression, [...] these rights deserve equal respect”⁷. Therefore, a fair balance needs to be found between the two rights, which has also been recognised by the European legislator. Indeed article 85 of the Regulation⁸ contemplates for exemptions or derogations when personal data are processed in the context of the right to the freedom of expression. The reconciliation of the right to freedom of expression with the right to the protection of personal data is a matter which has been left to be regulated by the respective Member State.
16. In this context, article 9 of the Act lays down an exhaustive list of exemptions or derogations, which enable processing of personal data for the purpose of exercising the right to freedom of expression and information, specifically where such processing **is proportionate, necessary and justified for reasons of substantial public interest** [emphasis has been added].
17. The Commissioner emphasises that this provision does not give an automatic blanket exemption in favour of media houses. Rather, the legislator expressly requires controllers to demonstrate that the continued processing satisfies the cumulative requirements of proportionality, necessity and substantial public interest. Consequently, journalistic processing cannot remain exempt indefinitely merely because the information was lawfully published at a particular point in time.
18. The Commissioner fully acknowledges the important role performed by journalists and media organisations in a democratic society. The publication of information concerning judicial proceedings and matters of public concern constitutes an essential manifestation of freedom of

⁶ Article 8(1) of the Charter of Fundamental Rights of the European Union states that “Everyone has the right to the protection of personal data concerning him or her.”, and Article 11 of the Charter provides that “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”

⁷ Application no. 40454/07, ‘*Couderc and Hachette Filipacchi Associés vs France*’, decided on the 10th November 2015.

⁸ Article 85(1) of the Regulation reads as follow: “Member States shall by law reconcile the right to the protection of personal data pursuant to this Regulation with the right to freedom of expression and information, including processing for journalistic purposes and the purpose of academic, artistic or literary expression.”.

expression and information. However, the Commissioner equally recognises that the right to freedom of expression is not unlimited and must be reconciled with the fundamental rights of the individuals concerned.

19. The Commissioner considers that the right to freedom of expression and information relied upon by the controller was effectively exercised when the articles were initially published in October 2023. The public was informed of the existence of the judicial protest, the allegations contained therein and the circumstances which the controller considered newsworthy at that time. Therefore, the journalistic purpose underlying the publication was achieved through the dissemination of the information to the public. While the Commissioner accepts that the initial publication of the articles may have been justified by reasons of public interest, the decisive question in the present proceedings is whether the continued online availability of the articles, approximately two (2) years after publication, remains necessary and justified for reasons of substantial public interest.
20. The Commissioner notes that a judicial protest is a procedural instrument which is often filed before the competent courts with the intention of formally asserting a legal position and, in certain circumstances, attracting attention to an alleged grievance. However, the mere fact that a judicial protest is filed before a court and constitutes a public judicial act does not automatically mean that the continued online dissemination of personal data contained in reports relating thereto remains necessary indefinitely.
21. The Commissioner further observes that the articles concern allegations raised by the complainant in a judicial protest filed in 2023. The articles do not relate to criminal convictions, findings of wrongdoing, ongoing public office, political activity or any continuing matter of public administration. Moreover, the controller has failed to demonstrate that the continued processing of the complainant's personal data remains proportionate, necessary and justified for reasons of substantial public interest as required by article 9 of the Act.
22. The Commissioner further notes that the complainant does not occupy a public office and is not a political figure. While the controller emphasised the complainant's previous position within a banking institution, the Commissioner does not consider that this factor alone is sufficient to justify the indefinite online availability of personal data relating to the complainant. The Commissioner recalls that, as a general principle, the rights to the protection of personal data outweigh the general curiosity of the public, unless there exists a genuine and continuing public interest which justifies the interference with those rights.

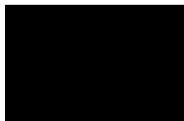
23. The Commissioner further considers that the continued availability of the articles results in the complainant's personal data remaining readily accessible through internet searches long after the information ceased to possess meaningful news value. In these circumstances, the continued processing has become excessive in relation to the original journalistic purpose for which the information was published.

On the basis of the foregoing considerations, the Commissioner therefore finds that the personal data contained in the articles are no longer necessary for the purposes for which they were originally processed within the meaning of article 17(1)(a) of the Regulation. Furthermore, the complainant has objected to the continued processing and the Commissioner is not satisfied that overriding legitimate grounds exist which justify the continued availability of the articles within the meaning of article 17(1)(c) of the Regulation. Accordingly, the Commissioner is hereby deciding that the controller has infringed article 17(1) of the Regulation.

In accordance with his corrective powers pursuant to article 58(2)(c) of the Regulation, the controller is hereby being ordered to erase the complainant's personal data from the online articles identified in this complaint and to take the necessary measures to ensure that the complainant can no longer be identified through those publications.

The controller shall comply with this order without undue delay and by no later than twenty (20) days from the date of service of this legally binding decision. The controller shall inform the Commissioner of the action taken immediately thereafter, and shall provide supporting evidence to demonstrate its compliance.

Failure by the controller to comply with the order of the Commissioner shall result in the imposition of an administrative fine pursuant to article 83(6) of the Regulation.



Dr Reno Borg

Information and Data Protection Commissioner

Today, the 22nd of June 2026.

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.

