

Information and Data Protection Commissioner

CDP/COMP/464/2025

VS

COMPLAINT

1. On the 25th August 2025, [REDACTED] (the “**complainant**”), lodged a complaint with the Information and Data Protection Commissioner (the “**Commissioner**”) pursuant to article 77(1) of the General Data Protection Regulation¹ (the “**Regulation**”), alleging that [REDACTED] the “**controller**”) failed to comply with the complainant’s request for erasure of his personal data pursuant to article 17 of the Regulation, by retaining his personal data in its membership records and continuing to process such data for the purpose of sending communications relating to the affairs of the [REDACTED]

FACTS OF THE CASE

2. For the purpose of this complaint, the Commissioner assessed the relevant facts as follows:
 - i. that by means of a letter dated the 4th November 2020 addressed to the Assistant Secretary General of the controller, the complainant requested that he be removed from the controller’s list of members and that all personal details relating to his, together with any documents connected thereto, be deleted with immediate effect;
 - ii. that according to the complainant, notwithstanding the aforesaid request, the controller failed to erase his personal data and continued to retain his details within its membership records;

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.

- iii. 
- iv. that the correspondence addressed to the complainant included his name, surname, residential address, 

- v. that following receipt of the aforementioned correspondence, the complainant concluded that his personal data continued to be processed by the controller despite his previous request for erasure;
- vi. that the complainant alleged that the controller's failure to comply with his request constitutes a breach of article 17 of the Regulation, which provides data subjects with the right to obtain the erasure of personal data concerning them and imposes an obligation on controllers to comply with such requests where the conditions established under the Regulation are satisfied; and
- vii. that by means of the present complaint, the complainant requested the Commissioner to investigate the controller's failure to comply with his request for erasure, to direct the controller to erase his personal data from its membership records and communication lists.

INVESTIGATION

3. Pursuant to the internal investigative procedure of this Office, by means of a letter dated the 2nd September 2025, the Commissioner informed the controller that the complaint concerned the alleged failure to comply with the complainant's request for erasure dated the 4th November 2020, submitted pursuant to article 17 of the Regulation. In the same communication, the Commissioner reminded the controller that, in accordance with article 12(3) of the Regulation, where a request is made pursuant to article 17 of the Regulation, the controller is required to provide information to the data subject regarding the action taken on such request without undue delay and, in any event, within one month from receipt thereof. Accordingly, pursuant to article 58(2)(c) of the Regulation, the Commissioner

instructed the controller to reply to the complainant's request within ten (10) days from receipt of the Commissioner's communication, and further requested the controller either:

- i. to provide concrete evidence demonstrating that the complainant's request for erasure had been complied with; or
 - ii. to provide a copy of any communication previously addressed to the complainant concerning his request for erasure.
4. The Commissioner further reminded the controller that the rights of data subjects constitute one of the fundamental pillars of the Regulation and that infringements relating to articles 12 to 22 of the Regulation are subject to the higher tier of administrative fines contemplated under article 83(5) of the Regulation.
 5. Since no reply was received within the period established by the Commissioner, reminder communications were subsequently issued to the controller on the 30th September 2025, the 14th October 2025, the 12th February 2026 and the 16th March 2026, requesting the controller once again to provide its submissions and the documentation requested by this Office.
 6. Notwithstanding the repeated opportunities afforded by the Commissioner throughout the investigation, the controller failed to provide any submissions, documentation or evidence in reply to the complaint, and likewise failed to reply to any of the communications issued by this Office.
 7. Consequently, the Commissioner proceeded to determine the present complaint on the basis of the documentation submitted by the complainant, together with the information otherwise available to this Office.

LEGAL ANALYSIS AND DECISION

General Considerations

8. As a preliminary point, the Commissioner recalls that the protection of natural persons in relation to the processing of personal data constitutes a fundamental right recognised under article 8(1) of the Charter of Fundamental Rights of the European Union. Within this context, the rights afforded to data subjects under articles 12 to 22 of the Regulation constitute one of the cornerstones of the European data protection framework and are

intended to ensure that natural persons retain effective control over the processing of their personal data. The effective exercise of these rights is therefore dependent upon controllers acting diligently, transparently and within the timeframes prescribed by the Regulation.

9. The Commissioner further recalls that the principle of accountability, as enshrined under article 5(2) of the Regulation, places the responsibility on controllers not only to comply with the provisions of the Regulation but also to demonstrate such compliance. Consequently, where a data subject exercises one of the rights conferred under Chapter III of the Regulation, the controller is under a positive obligation to assess the request, take an informed decision thereon and communicate that decision to the data subject in accordance with the procedural safeguards established by article 12 of the Regulation.

The Right to Erasure

10. The Commissioner examined the request submitted by the complainant on the 4th November 2020, whereby she expressly requested the controller to remove her personal data from its records, to strike her name off the controller's list of lifetime paid-up members and to erase all personal data relating to his together with any documents connected thereto.
11. Article 17(1) of the Regulation establishes that a data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay where one of the grounds listed under that provision applies. The right to erasure constitutes one of the principal mechanisms through which data subjects may regain control over the continued processing of their personal data where such processing is no longer justified under the Regulation.
12. In this regard, recital 65 of the Regulation provides that a data subject should have the right to have personal data concerning him or her erased where the retention of such personal data infringes the Regulation, particularly where the personal data are no longer necessary for the purposes for which they were collected or otherwise processed, or where the data subject objects to the processing. Likewise, recital 39 provides that personal data should not be kept for longer than is necessary for the purposes for which they are processed and that appropriate measures should be taken to ensure that inaccurate or unnecessary personal data are erased or rectified without delay.

13. The Commissioner notes that the present complaint requires an examination not only of whether the controller complied with the procedural obligations imposed upon it by the Regulation following the complainant's request for erasure, but also whether, on the basis of the evidence available during these proceedings, the complainant was entitled to the erasure of his personal data pursuant to article 17 of the Regulation. Whilst controllers enjoy an initial responsibility to assess requests submitted under article 17, the Commissioner, in the exercise of the corrective powers conferred under article 58 of the Regulation, is likewise required to determine whether the continued retention and processing of the personal data is compatible with the requirements of the Regulation.

The Controller's Obligations under Article 12 of the Regulation

14. The effective exercise of the right to erasure is intrinsically linked to the procedural obligations imposed upon controllers by article 12 of the Regulation. Indeed, article 12(3) expressly requires controllers *"provide information on action taken on a request under Articles 15 to 22 to the data subject **without undue delay and in any event within one month of receipt of the request.**"* [emphasis has been added]. Whilst that period may exceptionally be extended by a further two (2) months where necessary, having regard to the complexity or number of requests, the controller remains under an obligation to inform the data subject of such extension and the reasons therefor within the initial one-month period.
15. The Commissioner considers that article 12(3) serves an essential function within the system of data subject rights established by the Regulation. The provision ensures that requests submitted by data subjects are not left unanswered and that controllers remain accountable for the manner in which they deal with the exercise of those rights. Compliance with article 12(3) is therefore indispensable in ensuring that the rights guaranteed under Chapter III of the Regulation are practical and effective rather than merely theoretical.
16. In the present case, the complainant submitted documentary evidence demonstrating that a request for erasure was addressed to the controller on the 4th November 2020. The controller has failed to produce any evidence demonstrating that it acknowledged, assessed or replied to that request within the period prescribed by article 12(3) of the Regulation or indeed at any stage during the investigation conducted by this Office.
17. In the present case, the complainant submitted documentary evidence demonstrating that a request for erasure was addressed to the controller on the 4th November 2020. The controller

- has failed to produce any evidence demonstrating that it acknowledged, assessed or replied to that request within the period prescribed by article 12(3) of the Regulation or, indeed, at any stage during the investigation conducted by this Office.
18. The Commissioner further notes that, notwithstanding the complainant's request for erasure, the controller continued to retain and process the complainant's personal data, as evidenced by the [REDACTED] and accompanying correspondence sent to the complainant in August 2025 [REDACTED]. Such processing demonstrates that the complainant's personal data remained within the controller's membership records almost five (5) years after the request for erasure had been submitted.
19. Throughout the present investigation, the controller was afforded several opportunities to explain the legal basis upon which it continued to retain and process the complainant's personal data or to demonstrate that any of the exceptions provided under article 17(3) of the Regulation were applicable. Notwithstanding repeated requests from the Commissioner, the controller failed to submit any observations or documentary evidence whatsoever.
20. The Commissioner recalls that, pursuant to article 5(2) of the Regulation, the controller bears responsibility for and must be able to demonstrate, compliance with the principles relating to the processing of personal data. In the complete absence of any justification from the controller for the continued retention and processing of the complainant's personal data, and having regard to the evidence submitted by the complainant, the Commissioner is satisfied that the conditions established under article 17(1)(a) of the Regulation are fulfilled. Consequently, the complainant is entitled to obtain the erasure of his personal data without undue delay.

On the basis of the foregoing considerations, the Commissioner hereby decides that:

- a. the controller infringed article 12(3) of the Regulation, when it failed to provide the complainant with information on the action taken on his request submitted in accordance with article 17 of the Regulation within one (1) month of receipt of the request; and**
- b. the controller infringed article 17(1)(a) of the Regulation by continuing to retain and process the complainant's personal data notwithstanding his request for erasure submitted on the 4th November 2020.**

As a result, the controller is hereby being served with a reprimand pursuant to article 58(2)(b) of the Regulation. Furthermore, in terms of article 58(2)(c) of the Regulation, the controller is hereby ordered to erase all personal data relating to the complainant contained within its membership records, communication lists and any other systems under its control.

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 and shall inform the Commissioner of the action taken immediately thereafter, together with documentary evidence demonstrating 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 Börg

Information and Data Protection Commissioner

Today, the 20th July 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.