

Information and Data Protection Commissioner

CDP/FOI/11/2026

Ivan Camilleri

vs

Office of the President

FREEDOM OF INFORMATION REQUEST

1. On the 11th December 2025, Mr Ivan Camilleri (the **“applicant”**) made a freedom of information request pursuant to the requirements set forth in article 6(1) of the Freedom of Information Act (the **“Act”**), Chapter 496 of the Laws of Malta, requesting the Office of the President (the **“Public Authority”**) to provide *“a copy of the engagement contract related to the appointment of Dr Toni Abela as Standards Commissioner for the Judiciary, according to the FOI Act”*, in electronic format.
2. On the 9th January 2026, the Public Authority informed the applicant that his request could not be met on the basis that *“[t]his Office does not hold the requested document”*.
3. On the 10th January 2026, the applicant addressed a complaint to the Public Authority through the Internal Complaints Procedure and noted that *“[s]ince the Commission for the Administration of Justice, which made the appointment, falls under the OPR, we assumed that the contract was issued by your office. If not, the FOI law obliges your office to pass the request to the office/PA concerned and inform us”*. On the 23rd January 2026, the Public Authority reiterated its refusal.

FREEDOM OF INFORMATION APPLICATION

4. On the 15th February 2026, the applicant applied for a decision notice pursuant to article 23(1)(a) of the Act, requesting the Information and Data Protection Commissioner (the **“Commissioner”**) to decide whether the Public Authority had handled the freedom of information request of the applicant pursuant to the requirements of the Act.

INVESTIGATION

Admissibility of the Freedom of Information Application

5. After having considered that the applicant is an eligible person in terms of article 2 of the Act and that the application was lodged by the applicant within the time-limit established within the Timeframes for lodging complaints and requests for investigation and review regulations, Subsidiary Legislation 496.02, and the nature and background of the application, the Commissioner deemed the application as admissible for the purpose of article 23(2) of the Act.

The Issuance of an Information Notice

6. As part of the investigation procedure, by means of an information notice dated the 24th March 2026, issued in terms of article 24(1)(a) of the Act, the Commissioner requested the Public Authority to furnish information in relation to the application made by the applicant. In particular, the Commissioner is requesting the Public Authority to make submissions regarding its replies, especially in light of the applicant's contention that the Commission falls directly within the Public Authority's remit.

Submissions of the Public Authority

7. In response to the information notice, the Public Authority submitted the following salient arguments for the Commissioner to consider during the legal analysis of the case:
 - a. that in terms of the Public Administration Act (Cap. 595 of the Laws of Malta), the Public Authority is a department not subject to ministerial control. As outlined in Part II of the Second Schedule to the Public Administration Act, the function of the Public Authority is to support the President in the fulfilment of his constitutional duties;
 - b. that the Commission for the Administration of Justice is *sui generis* in nature. Notwithstanding that it is chaired by the President of Malta, the Commission exercises its functions independently from the Public Authority;
 - c. that article 101A(1) of the Constitution of Malta (Cap. 1 of the Laws of Malta) establishes the Commission for the Administration of Justice, chaired by the President of Malta and composed of the members specified therein;
 - d. that the Commission has the authority to appoint its own Secretary in terms of article 101A(9) of Cap. 1 of the Laws of Malta;

- e. that furthermore, article 101A(7) of Cap. 1 of the Laws of Malta expressly provides that, in the exercise of their functions, the members of the Commission and its committees shall act on their individual judgment and shall not be subject to the direction or control of any person or authority;
- f. that in this respect, the argument advanced by the applicant that the Commission for the Administration of Justice falls directly within the remit of the Public Authority is strongly refuted;
- g. that it is reiterated that the *sui generis* nature of the Commission for the Administration of Justice is such that, in the exercise of its functions, the Commission operates independently from the Public Authority. Notwithstanding that the President of Malta is *ex lege* the Chairman of the Commission, the Public Authority *per se* is neither privy to the work of the Commission, which is conducted in camera, nor does the Commission report to the Public Authority. This remains the case notwithstanding that the Budget Vote for the Public Authority includes an apportionment for the Commission for the Administration of Justice;
- h. that one of the functions of the Commission for the Administration of Justice is the appointment of a Commissioner for Standards of the Judiciary, as introduced by Act XVI of 2025, which came into force on the 27th June 2025;
- i. that article 101AA(2) of Cap. 1 of the Laws of Malta provides that the Commissioner for Standards of the Judiciary shall be appointed by the Commission for the Administration of Justice for a term of three (3) years, which may be renewed;
- j. that article 101AA(6) of Cap. 1 of the Laws of Malta further provides that the Commissioner for Standards of the Judiciary shall receive such remuneration as the Commission for the Administration of Justice may determine, which remuneration shall be paid from the Consolidated Fund;
- k. that it is submitted that the Commission for the Administration of Justice is not scheduled under Cap. 595 of the Laws of Malta. Consequently, the Commission does not fall within the scope of that Act;
- l. that article 2 of the Act defines a 'public authority' as: "(a) the Government, including any ministry or department thereof; (b) a Government agency established in terms of the Public Administration Act or any other law; and (c) any body established under any

law, or any partnership or other body in which the Government of Malta, a Government agency or any such body as aforesaid has a controlling interest or over which it has effective control”; and

- m. that from the foregoing, it follows that the Commission for the Administration of Justice does not fall within the definition of a ‘*public authority*’ for the purposes of the Act. Accordingly, the applicant’s request could not be transferred to another public authority in terms of Article 8 of the Freedom of Information Act, since the Commission for the Administration of Justice does not fall within the definition of a ‘*public authority*’ under that Act.

LEGAL ANALYSIS AND DECISION

8. The Commissioner examined the freedom of information request submitted by the applicant to the Public Authority on the 11th December 2025. The request, made pursuant to article 6(1) of the Act, sought access, in electronic format, to “*a copy of the engagement contract related to the appointment of Dr Toni Abela as Standards Commissioner for the Judiciary*”.
9. As a preliminary step of the investigation, the Commissioner sought to establish, to the extent appropriate, whether the Public Authority has complied with the requirements of the Act. In this regard, the Commissioner examined the replies provided by the Public Authority on the 9th January 2026 and the 23rd January 2026, whereby the applicant was informed that the Public Authority does not hold the requested document.
10. During the course of the investigation, the Public Authority reiterated that the requested engagement contract is not held by the Public Authority. In support of its position, the Public Authority explained that the Commission for the Administration of Justice is established by article 101A of Cap. 1 of the Laws of Malta and exercises its functions independently from the Public Authority. The Public Authority further submitted that, although it chairs the Commission *ex lege*, the Public Authority is neither involved in the exercise of the Commission’s functions nor in possession of documents generated in the course of the Commission’s proceedings. Accordingly, the Public Authority maintained that it does not hold the requested engagement contract.
11. The Commissioner examined the reason relied upon by the Public Authority to refuse the applicant’s request pursuant to article 14(g) of the Act, which provides that a request for information may be refused where:

“the document requested is not held by the public authority and the person dealing with the request has no grounds for believing that the document is held by, or connected more closely with the functions of, another public authority”.

12. The Commissioner carefully considered the submissions made by the Public Authority during the investigation. In particular, the Commissioner notes that the Public Authority has consistently maintained that it does not hold the requested engagement contract and has explained the institutional arrangements governing the Commission for the Administration of Justice and the Public Authority. The Commissioner has not been presented with any evidence demonstrating that the requested engagement contract is held by the Public Authority.

On the basis of the foregoing, in terms of article 23(3)(b) of the Act, the Commissioner hereby decides that insofar as the facts that could be established by the Commissioner in terms of his powers under the Act, and particularly following the submissions made by the Public Authority, more specifically, that it does not hold the requested document, the cited exemption to refuse the applicant’s request for information in terms of article 14(g) of the Act, is justified.



Dr Reno Borg

Information and Data Protection Commissioner

Today, the 13th of 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 Appeals Tribunal
158, Merchants Street
Valletta.