

Information and Data Protection Commissioner

VS

COMPLAINT

1. On the 2nd December 2022, [REDACTED] (the “**complainant**”) lodged a data protection complaint with the Thuringian State Commissioner for Data Protection and Freedom of Information (the “**Thuringian SA**”) against [REDACTED] (the “**controller**”) pursuant to article 77(1) of the General Data Protection Regulation² (the “**Regulation**”), alleging that the controller failed to respond to a subject access request that was delivered to the controller on the 25th October 2022.
2. By virtue of article 56 of the Regulation, the Thuringian SA identified the Information and Data Protection Commissioner (the “**Commissioner**”) as the lead supervisory authority competent for handling this data protection complaint. Subsequently, the Commissioner confirmed its role as the lead supervisory authority and initiated an investigation of the allegation raised by the complainant in accordance with the procedure set forth in article 60 of the Regulation.
3. On the 7th February 2023, the Thuringian SA transferred to the Commissioner, among other documents, a translated copy of the right of access request submitted by the complainant in terms of article 15 of the Regulation. This request was filed with the controller on the 10th October 2022 by means of a letter sent to the controller’s registered address, along with proof of delivery of such request.

¹ [REDACTED] is a private limited company registered under the laws of Malta with number [REDACTED] with its registered address at [REDACTED]

² 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.

INVESTIGATION

4. Pursuant to the internal investigative procedure of this Office, the Commissioner sent a copy of the complaint, including the supporting documentation, to the controller. On the 21st December 2023, the controller submitted the following reply:
 - a. that the complainant is a former player who was associated with one of the controller's former brand entities;
 - b. that the complainant subsequently initiated legal proceedings in Germany, contesting his losses and claiming that he did not receive personal data from the controller;
 - c. that the controller provided correspondence exchanged between the company and the German law firm handling the case that demonstrates that there has been no prior request from the complainant to access his personal data; and
 - d. that the controller has a well-established policy that ensures that the controller responds to data protection requests within a maximum of thirty (30) days, however, typically, the controller provides responses within three (3) to four (4) days.
5. On the 5th January 2024, the controller notified the Commissioner that it had fulfilled the right of access request on that same date. As evidence, the controller provided a copy of the communication sent to the complainant, along with a screenshot from the email system's back-office.
6. On the 19th March 2024, the Thuringian SA informed the Commissioner that the complainant had "*no objection on the information*" provided by the controller. However, on the 9th April 2024, the Commissioner received new communication indicating that, given that the request of the complainant was submitted on the 10th October 2022, and the controller responded on the 5th January 2024, the complainant intended to uphold the complaint. Therefore, the Commissioner proceeded with issuance of a legally binding decision.

LEGAL ANALYSIS AND DECISION

7. The Commissioner sought to investigate, to the extent appropriate, the subject-matter of the complaint, in terms of article 57(1)(f) of the Regulation, which relates to the allegation that the

controller failed to respond to the request of the complainant dated the 10th October 2022 within the timeframe set forth in article 12(3) of the Regulation. The complainant submitted a request to exercise his right to access his personal data pursuant to article 15 of the Regulation, which encompasses the right to receive confirmation as to whether the controller is processing personal data, and if the answer is affirmative, to receive access to a copy of all the personal data undergoing processing and information in relation to the processing activity pertaining to the data subject.

8. The complainant alleged that the controller did not respond in a timely manner to his request made in terms of article 15 of the Regulation. According to the complainant, his request, dated the 10th October 2022, was delivered to the controller's registered address on the 25th October 2022. During the course of the investigation, the complainant submitted the following evidence to effectively demonstrate that his request to exercise his right reached the offices of the controller. The request was delivered to [REDACTED] on the 25th October 2022:



Date: 25/10/2022

Status: The shipment has been delivered

9. During the course of the investigation, the controller submitted a copy of the correspondence exchanged between the lawyer representing the complainant and the controller. The Commissioner observed that the email sent by the lawyer to the controller on the 29th August 2023 reads as follows:

"The opposing lawyer stated in his claim that a DSAR-request re the player's account was made on 10th October 2022 but never replied from your end."

- *Is this correct?*
 - *Could you please provide any communication with the opposing lawyer and/or the player in this regards" [emphasis has been added].*
10. This correspondence dated the 29th August 2023 suggests that the controller was aware that the complainant had submitted a subject access request dated the 10th October 2022, which remained unanswered. However, the controller did not take any steps to further investigate this

matter internally or take any appropriate action to comply with the request. This therefore contravenes the assertion made by the controller that it only became aware of the complainant's request upon receiving the complaint from this Office on the 21st December 2023.

11. Based on the findings of the investigation, the Commissioner established that the controller was made aware of the request on the 29th August 2023. Notwithstanding this, the controller failed to take any action and it was not until 5th January 2024, following the receipt of a complaint from this Office, that the controller responded to the request of the complainant.
12. The Commissioner emphasises that the law imposes stringent requirements on the manner how the controller handles data protection requests submitted by the data subjects pursuant to Chapter III of the Regulation. The law obliges the controller to reply within a time limit of one (1) month from the date of receipt of the request. Article 12(3) of the Regulation states that:

*“The controller shall 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.** That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay”* [emphasis has been added].

13. In the judgment ‘*Rebecca Bonello vs National School Support Services (NSSS)*’³, the Court of Appeal upheld a finding of infringement of Article 12(3) of the Regulation. The Court held that, since the data subject's request had been validly submitted on the 24th May 2022 and the requested information was only provided on the 30th June 2022, the response had been furnished outside the time-limit prescribed by the Regulation.
14. The European Data Protection Board in its ‘Guidelines 01/2022 on data subject rights – Right of access’ elucidates that the timeframe set forth in article 12(3) of the Regulation is triggered upon receipt of the request:

³ Appell Inferjuri Numru 36/2024 LM, delivered on the 6th November 2024. The Court held as follows: “*Il-Qorti tqis li ladarba qiegħed jiġi deċiż li t-talba tal-ilmentatriċi saret korrettament fl-24 ta’ Mejju, 2022, għandu jsegwi li ladarba ngħatat l-informazzjoni mitluba fit-30 ta’ Ġunju, 2022, din l-informazzjoni ngħatat tardivament, u għalhekk dan it-tieni aggravju qiegħed jiġi milqugh ukoll*”.

“The time limit starts when the controller has received an Art. 15 request, meaning when the request reaches the controller through one of its official channels. It is not necessary that the controller is in fact aware of the request”⁴ [emphasis has been added].

Based on the foregoing considerations, the Commissioner hereby decides that the controller infringed article 12(3) of the Regulation for failing to provide information on the action taken on the request made in terms of article 15 of the Regulation to the data subject within one (1) month of receipt of the request.

In terms of article 58(2)(b) of the Regulation, the Commissioner is hereby serving the controller with a reprimand and warned that in the event of a repetitive infringement, the Commissioner shall take the appropriate corrective action.



Data Protection Commissioner

Decided today, the 6th July 2026

⁴ Paragraph 159 of the EDPB Guidelines.

Right of Appeal⁵

The parties are hereby being informed that in terms of article 26(1) of the Data Protection Act (Chapter 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.

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*”.

⁵ Further information is available on the IDPC’s portal at the following hyperlink: <https://idpc.org.mt/appeals-tribunal/>