



Country or jurisdiction report

MALTA

Website: www.dataprotection.gov.mt

In anticipation of the forthcoming 29th International Data Protection Commissioners' Conference to be held in Montreal on 25-28 September 2007, the following is a summary of the main issues which were dealt with by this Office during 2006.

A junior Minister filed a complaint with the Office in relation to a case where a journalist, who identified herself as a normal citizen, called the Minister at his private office and requested an appointment for consultancy services. The investigation being carried out by the journalist was to entrap the Minister in an alleged case of the carrying out of private work against remuneration; this in contravention to the code of ethics for Ministers and Parliamentary Secretaries. The telephone call was transmitted on the opposition's party television station. The Commissioner put in the balance the right to privacy of the Minister against the freedom of expression exercisable by the journalist. Specific considerations were also made to the fact that the Minister is a public figure performing public duties and also to right of the public to be informed of such cases. Similar judgements delivered by the European Court for Human Rights were also factored in the examination of the case. The Commissioner concluded that freedom of expression exercised by the journalist to inform the general public prevailed over the right to privacy of the Minister. The decision was not appealed.

The office also received a request for prior checking by the mobile phone providers requesting guidance from the Commissioner in relation to a request for disclosure of subscribers' traffic and location data by the Police in the course of an investigation. This, subsequent to a spate of arson attacks carried out on members of the media namely a journalist and a columnist in a leading paper. In his decision, the Commissioner considered that such attacks constituted a threat to public security and therefore authorised the service providers to provide, under specific conditions, the Police with the requested data. This decision was appealed by the service providers before the Data Protection Appeals Tribunal. The Tribunal decided in favour of the Commissioner. The parties felt aggrieved by such a

decision and according to the provisions of the Data Protection Act appealed, on a point of law, before the Court of Appeal. The case is still for hearing before the Court.

During 2006, the Commissioner held regular meetings with representatives from the various sectors to discuss data protection issues and develop guidelines regulating the processing of data in the relative various sectors. These included financial institutions, journalism, insurance, social welfare, education and Police. Discussions were also initiated with representatives from two other sectors, the photographers and security service sectors, where specific matters required the intervention of the Commissioner to ascertain that privacy rights were being safeguarded. It is envisaged that guidelines in these sectors will be developed by the end of next year. In February the guidelines for the promotion of good practice in the insurance business sector, developed in conjunction with the Malta Insurance Association, the Association of Insurance Brokers and MFSA, were launched during an information session. These guidelines refer to the processing operations in the insurance business relating to the preparation and issue of insurance policies, premiums, settling of claims and reinsurance. The Office maintained close co-operation with other regulatory authorities, associations and federations.

On 25 January the Office's new portal was officially launched by the Minister for Investment, Industry and Information Technology during a press conference held at the Office. The new system was developed as part of the e-Government programme. This system provides the general public with online services and caters for back-office facilities to ease the administrative workload so that human resources could be better utilised on core technical data protection matters.

During this year, the Office continued with the implementation of the twinning light project which commenced in October 2005 with the German Federal Commissioner for Data Protection. The global objectives were to assist the Commissioner to strengthen the expertise to fulfil his duties and obligations in the administration of the Data Protection Act and also assist the Data Protection Unit within the Office of the Prime Minister to enhance data protection skills in the Public Service. The twinning agreement was concluded on 3 June. The programme rendered significant positive results both in terms of knowledge transfer and in the adoption of concrete recommendations delivered by the various experts in the areas of competence. During the period, experts were attached to the Office as part of the team; in that, they participated in meetings, advised the Commissioner on resolution of complaints and were also involved during inspection visits. Further to the twinning project, this Office has further strengthened the relationship with the German counterparts.

As part of Malta's preparations for accession to Schengen, the Office was subject to a peer review carried out by the Schengen Evaluation Data Protection Committee composed of 12 European evaluators. Experts called at the Office to evaluate the internal operations and procedures, in particular the exercise of the Commissioner's supervisory role. Presentations by the Commissioner, technical staff and the data protection officer within the Ministry of Foreign Affairs were made. The outcome of the evaluation was presented to the Schengen Working Party during the Council meeting where the Data Protection Authority was given high marks for being adequately geared to exercise the role of data protection regulator on all data controllers including the Police. The Office commenced the regular inspections of Police systems, where the first in a series were carried out with the assistance of German IT

experts. Such systems are inspected to ensure that the maximum level of security is in place to safeguard personal data against unauthorised access and to ascertain that these are compliant with other European obligations; in certain cases recommendations were made.

As part of the regulatory functions, the Commissioner is also expected to carry out inspections on data controllers. 14 inspections were carried out and these included the Maltese Embassies and Consular Offices in Tunis and Moscow.