

This is a summary of the decision of the Commissioner.

The Data Protection Office received a complaint from Complainant against Respondent (a company) regarding 'Illegal Appropriation of fingerprints'. In his statement, Complainant declared that: “
(...)

Following a disagreement over the terms of the lease agreement and under instructions of Respondent, the security officer of the business park has unlawfully prevented us from accessing to the premises (declaration made to Police Station of Bambous).

Since then, we have never been able to recover our belongings including the biometric lock in which were recorded our fingerprints, access codes, etc. (...)”

This office opened an enquiry and wrote to Complainant to inform him that the Data Protection Office investigates complaints which are ultimately referred to the police if there is an offence and that two parallel criminal investigations cannot be run at the same time. Complainant was also requested to provide the outcomes of the current legal proceedings of the police enquiry before this office proceeds with the enquiry.

This office also wrote to the Commissioner of Police to request an update on the outcome of the enquiry at their end. A copy of the letter was also sent to Superintendent Police, Police of Bambous.

The Divisional Commander- Western Division replied to the above letter to inform this office that:

- i. Complainant made a declaration at Bambous Police Station to the effect that he was renting an Office for a period of 5 years for his company.
- ii. On the 24th of May 2014 when Complainant proceeded to the above-mentioned office he was denied access by a Security Officer. Latter stated that he has received orders from Management of the Premise. He gave the above declaration as a measure of precaution and stated that he will contact his legal advisor
- iii. Complainant was looked for at the given address and contacted on his mobile and according to a memo from Passport and Immigration Office (PIO), Complainant has left for France and his probable date of return is unknown.

The Data Protection Office wrote to the Director of Respondent to inform him on the complaint and to provide clarifications on the allegation made by Complainant.

By way of a letter, Respondent declared that:

“i. A lease agreement was entered between Complainant’s Company and Respondent whereby Respondent was leasing to Complainant office premises for a period of five years starting from 1st February 2013.

ii. The complainant was granted beneficial occupation for the aforesaid premises for a period of two (2) months prior to the lease commencement date, for the purpose of fitting out the premises. Despite the terms of Lease Agreement, Complainant failed to complete the fitting out during the beneficial occupation period and had left same vacant and unattended.

- iii. ***Several notices 'Mise en Demeure' were served to Complainant to attend a 'constat de lieux' in order to remit the keys of the said premises to Respondent and to identify and remove any of Complainant's belongings which Complainant failed to attend. Thus Respondent resumed possessions of its premises.***

- iv. ***Since Complainant failed to attend the 'constat de lieux' the biometric device which was fixed to the main door of the premises was removed so that Respondent could enter the premises. Respondent confirmed that the aforesaid device is inert, has been in safe storage in their premises and has remained untouched. "***

Following Respondent's reply, this office emailed Complainant to inform him that an enquiry was conducted with Respondent. A summary of the declaration made by Respondent was also provided to him. Complainant was requested to fetch the biometric device at Respondent as soon as possible and to submit his further views if any to conclude any potential breach. Complainant was also informed that this complaint will be closed by 20th June 2016 as the investigation up to now has not revealed any breach of the Data Protection Act.

The email sent to Complainant was bounced and hence failed to deliver to him. This Office made several attempts to send the above email to Complainant, however, all emails bounced and thus not delivered to Complainant.

This office used an online tool to test the domain name of the Complainant's email address and has found out that the domain name has expired since 17th July 2016. Consequently, all emails that will be sent to Complainant won't be delivered. It is to be noted that Complainant is thus unreachable.

In view of the above evidence provided by Respondent and in the absence of further cooperation from Complainant to successfully conclude this enquiry, the latter is closed since no breach of the Data Protection Act could be established.