

## DATA PRIVACY ROUND UP FOR 2022 SO FAR

### 1. OVERVIEW

This is another roundup of the interesting articles, events and guidance released by data protection regulators worldwide, which we have found interesting, informative and valuable as of September/October 2022.

Photo: Markus Winkler Unsplash



## 2. WHAT HAS BEEN HAPPENING AT HOME ...

*Things have been happening ...*



Photo: Unsplash

### 2.1. A POPIA COMPLAINT

In [news articles reported by City Press](#), [some interesting rulings](#) have reportedly been made by the Information Regulator concerning a POPIA complaint made by a former employer of a state-owned entity, Brand SA. In brief, it seems that Brand SA allegedly suffered a data breach in 2021 when an HR employee erroneously sent a staff salary list to employees at Brand SA. The former employee allegedly attempted to use the personal information in the breached employee salary list to point out salary discrepancies within the organisation. This salary discrepancy is currently the subject of an ongoing CCMA dispute. [According to City Press's reporting](#), the former Brand SA employee complained

to the Information Regulator, alleging that Brand SA had breached POPIA when HR erroneously sent a staff salary list to employees. In their investigation report into the complaint, the Information Regulator reportedly held that because the complaint pertained to a data breach occurring before POPIA came into effect, POPIA does not apply retrospectively.

### 2.2. POPIA LITIGATION

In August 2022, the Information Regulator issued their first summons against the South African Police Service (SAPS) regarding releasing personal information by the Krugersdorp SAPS of eight rape victims. You can read more about the litigation [here](#).



Photo: Unsplash

## 3. WHAT HAS BEEN HAPPENING ABROAD ...

### 3.1. PROCESSING OF CHILDREN'S PERSONAL INFORMATION IN THE SPOTLIGHT

In September 2022, the [Irish Data Protection Commissioner fined Meta EUR405 million](#) concerning processing personal information of children who are Instagram account holders. The two most significant concerns investigated were how Instagram had a default setting for all child Instagram account holders to have their accounts as public-facing and public disclosure of child Instagram account holders' email addresses and phone numbers. You can read the full binding decision [here](#).

Additionally, in September 2022, the UK Data Protection Regulator, [the ICO, issued a report](#) celebrating the one-year anniversary of releasing the [ICO 'Children's Code'](#). On 26 September 2022, the ICO also announced that [TikTok could face a GBP7 million fine regarding TikTok's failure to protect the privacy of children who use the platform](#).

### 3.2. COURT OF JUSTICE OF THE EUROPEAN UNION (CJEU) RULING ON SPECIAL PERSONAL INFORMATION BY INFERENCE

[In September 2022, the CJEU made a preliminary ruling](#) on whether public disclosure of the name of a person's spouse or partner (to file a declaration of interests for public persons and recipients of public funding) constituted the processing of 'special personal information' under the GDPR. The CJEU held that it did because by disclosing the name of a person's spouse or partner in this way, the sexual orientation of that person could be inferred. Therefore this disclosure constituted the processing of special personal information. You can read the full judgment [here](#).

## 4. WHAT NEXT?

**Our newsletters will keep providing you with data privacy updates from home and abroad. If you are interested in reading extra insights on the POPIA Portal about the topics raised in this article, you can read about:**

- Whether POPIA applies retrospectively (we agree with the Information Regulator—it does not) in [Section 3.5](#) of [Chapter 3](#).
- The Information Regulator's powers in relation to complaints and legal action for POPIA complaints in [Chapter 19](#).
- The processing of children's personal information and children's special personal information in [Chapter 7](#).
- The processing of special personal information (in general), also in [Chapter 7](#).

