



Final decision

Complaint by Mr [REDACTED] against [REDACTED] ([REDACTED]) of 18 February 2020 (IMI Notification No: 5.914; Reference of the Bavarian State Office for Data Protection Supervision: LDA-1085.3-4347/20-I)

In the above matter, pursuant to Article 60(8) of the GDPR, the Bavarian State Office for Data Protection Supervision (BayLDA) adopts the following decision on the basis of the draft decision of the Luxembourg supervisory authority (National Commission for Data Protection Grand Duchy of Luxembourg (CNPD) of 13.7.2023):

The proceedings concerning Mr [REDACTED]'s complaint against [REDACTED] of 18.2.2020 29.06.2018 are closed.

Explanatory memorandum:

I. Facts

After Mr. [REDACTED]'s complaint was received by the Bavarian State Office for Data Protection Supervision (BayLDA), it was prepared for forwarding via IMI to the lead supervisory authority, the CNPD, and forwarded there.

In his complaint, the complainant argued that, during his absence, [REDACTED]'s delivery service had placed a package outside his door. However, this package was not addressed to him. In the case of a subsequent telephone call, the complainant was asked to indicate his date of birth. He did not do this because it was not his query. [REDACTED]'s employee then noticed that the complainant had a customer account with [REDACTED] and he knew when he was born. Upon asking the complainant how the employee knows this, the employee informed him of his phone number.

The main concern was that the competent data protection supervisory authority should investigate whether the data processing with regard to the complainant's personal data has been lawfully carried out (deposit and access to the date of birth) and, if necessary, to take appropriate measures to prevent such business practice in future cases.

The CNPD concluded that the complaint is based on infringements in the scope of Article 5(1)(a), Article 5(1)(b), Article 5(1)(f) of the GDPR.

In accordance with Article 57(1)(f) of the GDPR, the CNPD has contacted [REDACTED] and requested the company to comment on the facts described by the complainant, in particular to the processing of the complainant's personal data in the facts described in the complaint.

The Company complied with the request to send an opinion in due time, stating that there were no records of the interaction between the complainant and customer service, as a result of the limited retention period for customer service contacts. However, it may also be because the verification process was not completed and the contact was therefore not linked to the complainant's account. In any event, the conduct of the

customer service representative described by the complainant is not customary by default to identify customers who contact customer service by telephone. There were also no records of the date of birth of the complainant. The verification process does not include the date of birth of a customer.

In order to identify the misguided delivery and provide further information, it was necessary that the person responsible (██████) receives the order number specified on the package, as a delivery error could also be an explanation of the incident.

After consulting the complainant in this regard, the complainant said that the case could now be left to rest and that no further investigation should be carried out.

II. Legal assessment

After resolving the facts, the CNPD had to find out that without the order number on the package, the facts could no longer be clarified.

The CNPD, as the lead supervisory authority, in accordance with the complainant's statement to let the matter rest and not to investigate further, came to the conclusion that the complaint was considered withdrawn.

The procedure had to be closed.

This decision was to be adopted by the BayLDA in accordance with Article 60(8) of the GDPR.

The BayLDA asks the colleagues of the lead authority on their behalf to inform the controller of this decision.

Bavarian State Office for Data Protection Supervision
25.08.2023