

Having regard to 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 (the 'GDPR');

Having regard to the Act of 1 August 2018 on the organisation of the National Data Protection Commission and the General Data Protection Regime (hereinafter referred to as the 'Law of 1 August 2018');

Having regard to the Rules of Procedure of the National Data Protection Commission adopted by Decision No 07AD/2024 of 23 February 2024 (hereinafter: the 'ROP');

Having regard to the complaints procedure before the National Data Protection Commission adopted on 16 October 2020 (hereinafter referred to as the 'Complaint Procedure before the CNPD');

Having regard to the following:

I. Facts and procedure

1. In the framework of the European cooperation, as provided for in Chapter VII of Regulation (EU) 2016/679 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 (General Data Protection Regulation or GDPR), the Supervisory Authority of Brandenburg (Germany) submitted to the National Data Protection Commission (hereinafter: "the CNPD") a complaint (national reference of the concerned authority: 136/24/1322) via IMI in accordance with Article 61 procedure - 672842.
2. The complaint was lodged against the controller [REDACTED] (hereafter [REDACTED]), who has its main establishment in Luxembourg. Under Article 56 GDPR, the CNPD is therefore competent to act as the lead supervisory authority.
3. The original IMI claim stated the following:
"The main issue is that the complainant did not receive a reply to his request for access to his personal data."
4. In essence, the complainant asks the CNPD to request [REDACTED] to grant his right of access as well as his right to erasure.
5. The complaint is therefore based on Article 15 and 17 of the GDPR.

6. On the basis of this complaint and in accordance with Article 57(1)(f) GDPR, the CNPD requested the controller to take a position on the facts reported by the complainant and in particular to provide a detailed description of the issue relating to the processing of the complainant's data, and in particular with regard to the right of access and the right to erasure.
7. The CNPD received the requested information within the deadlines set.

II. In law

1. Applicable legal provisions

8. Article 77 GDPR provides that "*without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority, (...) if the data subject considers that the processing of personal data relating to him or her infringes this Regulation.*"
9. In accordance with Article 15 of the GDPR "*The data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the following information (...)*";
10. Pursuant to Article 17 GDPR, a data subject may request the erasure of his or her personal data and the controller must erase the data subject's personal data without undue delay if one of the grounds provided for in Article 17 (1) GDPR applies unless the controller can demonstrate that the processing falls within the scope of one of the exceptions set out in Article 17 (3) GDPR.
11. Furthermore, in application of Article 12.2 of the GDPR "*the controller shall facilitate the exercise of data subject rights under Articles 15 to 22*". Recital 59 of the GDPR emphasises that "*Modalities should be provided for facilitating the exercise of the data subject's rights under this Regulation, including mechanisms to request and, if applicable, obtain, free of charge, in particular, access to and rectification or erasure of personal data and the exercise of the right to object. The controller should also provide means for requests to be made electronically, especially where personal data are processed by electronic means.*"

12. Article 12(4) GDPR provides that "*If the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy.*"
13. Article 56(1) GDPR provides that "*(...) the supervisory authority of the main establishment or of the single establishment of the controller or processor shall be competent to act as lead supervisory authority for the cross-border processing carried out by that controller or processor in accordance with the procedure provided in Article 60*".
14. According to Article 60(1) GDPR, "*The lead supervisory authority shall cooperate with the other supervisory authorities concerned in accordance with this Article in an endeavour to reach consensus. The lead supervisory authority and the supervisory authorities concerned shall exchange all relevant information with each other*".
15. According to Article 60(3) GDPR, "*The lead supervisory authority shall, without delay, communicate the relevant information on the matter to the other supervisory authorities concerned. It shall without delay submit a draft decision to the other supervisory authorities concerned for their opinion and take due account of their views*".

2. In the present case

16. [REDACTED] is authorised as a Bank in Luxembourg pursuant to the Luxembourg Act of 5 April 1993 on the financial sector, as amended. It is subject to the regulatory framework applicable to banks and supervised by the competent national supervisory authority Commission de Surveillance du Secteur Financier (CSSF). [REDACTED] is also subject to the obligation of professional secrecy set out in Article 41 of the aforementioned Act and shall keep secret all information entrusted to it in the context of its professional activity. The disclosure of such information is punishable, under Article 458 of the Luxembourg Penal Code.
17. Following the intervention of the Luxembourg supervisory authority, the controller confirmed that:
 - [REDACTED] has established that the functionality of the complainant's account was temporarily restricted in May 2024 while [REDACTED] conducted a security review, and the complainant was asked to provide information to facilitate

**Deliberation No 60_RECL53_2025 of 26 June 2025 of the
National Data Protection Commission, in a plenary session, on
complaint file No 12.633 lodged against the company [REDACTED]
[REDACTED] via IMI Article 61 procedure 672842**

the review process. [REDACTED] understood that the complainant provided photo identification, but his account remained restricted as this did not resolve the security concerns.

- The complainant contacted [REDACTED] via email in June and July 2024 asking for access to his personal data, specifically for more information about the limitation on his account, however, he did not log-in to his account to contact [REDACTED], but rather sent a message from an unknown email address that was not linked to his account. The complainant emailed [REDACTED] from the correct email address in August 2024, but his data access request was not handled appropriately due to a misunderstanding by the employee who dealt with his query at the time and as a result his request was not escalated to the department responsible for sending data access requests. Where these types of gaps occur, [REDACTED] provides remedial training to the employee involved and has also brought this to the attention of the senior leadership team.
- Following a review of the underlying circumstances of this case, [REDACTED] has unrestricted the functionality of the complainant's account, and he may continue to use the account or close it. [REDACTED] also fulfilled the complainant's data access request on the 31 October 2024.
- A copy of the communication was sent to the CNPD.

3. Outcome of the case

18. The CNPD, in a plenary session, therefore considers that, at the end of the investigation of the present complaint, the controller has taken appropriate measures to grant the complainant's right of access and right of erasure, in accordance with Articles 15 and 17 of the GDPR.
19. Thus, in the light of the foregoing, and the residual nature of the gravity of the alleged facts and the degree of impact on fundamental rights and freedoms, it does not appear necessary to continue to deal with that complaint.
20. The CNPD then consulted the supervisory authority of Brandenburg (Germany), pursuant to Article 60(1), whether it agreed to close the case. The Supervisory Authority of Brandenburg (Germany) has responded that after informing the complainant of the controller's reply transmitted by the CNPD, they have not received

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any further feedback from him. They therefore assumed that there was no further need for additional action in this procedure and welcome the closure of the case. The CNPD has therefore concluded that no further action was necessary and that the cross-border complaint could be closed.

In light of the above developments, the National Data Protection Commission, in a plenary session, after having deliberated, decides:

- To close the complaint file 12.633 upon completion of its investigation, in accordance with the Complaints Procedure before the CNPD and after obtaining the agreement of the concerned supervisory authority. As per Article 60(7) GDPR, the lead supervisory authority shall adopt and notify the decision to the main establishment or single establishment of the controller.

Belvaux, dated 26 June 2025

The National Data Protection Commission

[REDACTED]
Chair

Commissioner

Deputy Member

Indication of remedies

This Administrative Decision may be the subject of an appeal for amendment within three months of its notification. Such an action must be brought by the interested party before the administrative court and must be brought by a lawyer at the Court of one of the Bar Associations.