

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 (hereinafter: 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 framework (hereinafter: 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 Procedure for complaints 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 Lower Saxony (Germany) submitted to the National Data Protection Commission (hereinafter: "the CNPD") a complaint (national reference of the concerned authority: 4.2 05475-02-0096/23) via IMI in accordance with Article 56 procedure - 505500. The procedure was later resumed by the Supervisory Authority of Brandenburg (Germany).
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:

*"When making an online purchase on the [REDACTED] platform on 8 March 2023, the complainant chose to pay via [REDACTED]. During the payment process, he was then redirected to the [REDACTED] website, where he opened a customer account with the payment provider. As part of the account registration process, he provided his bank details in a truthful manner as requested, but he was subsequently notified that the bank he had specified could not be found and that the customer account he had*

*just opened had been restricted. He requested his data to be deleted. Instead of responding to his request to close his account and delete his data, the company continues to collect further personal data."*

4. In essence, the complainant asked the CNPD to request [REDACTED] to close his or her [REDACTED] account and delete any related personal data.
5. The complaint is therefore based on Article 17 GDPR.
6. On the basis of this complaint and in accordance with Article 57(1)(f) GDPR, the CNPD requested [REDACTED] to take a position on the facts reported by the complainant and to provide a detailed description of the issue relating to the processing of the complainant's personal data, in particular with regard to his request for erasure. Moreover, the CNPD required [REDACTED] to proceed to the deletion of the complainant's personal data as soon as possible, unless legal reasons prevent the former from doing so.
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. 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.
10. Furthermore, in application of Article 12(2) GDPR "*the controller shall facilitate the exercise of data subject rights under Articles 15 to 22*". Recital 59 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*

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complaint file No 10.203 lodged against the company [REDACTED]  
[REDACTED] via IMI Article 56 procedure 505500**

*should also provide means for requests to be made electronically, especially where personal data are processed by electronic means."*

11. 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*";
12. 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*";
13. 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**

14. [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.

15. Following the intervention of the Luxembourg supervisory authority, the controller confirmed that:

- It had established that the functionality of the complainant's account was temporarily restricted on the 8th of March 2023 while [REDACTED] conducted a security review, and the complainant was asked to provide proof of identity to facilitate the review process. The complainant did not wish to provide the requested identity documentation to resolve his account issues and expressed his right to data erasure.

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- The complainant attempted to exercise this right for himself by using the self-service option to close his account and request erasure of his information. However, due to the unaddressed limitation on his account requiring him to provide proof of identity, these attempts were unsuccessful. Consequently, [REDACTED] manually serviced the complainant's request for erasure by permanently deactivating the functionality of his account. This action ended the business relationship, triggering the beginning of the required data retention period, following the expiry of which the complainant's information will automatically be deleted.
- The controller has emailed the complainant directly to inform him of the end of the business relationship and the start of the data retention period. It has also clarified that the data retention period for any transactions that were made as one-time payments outside of a registered account begins from the date of the transaction, and no further action is needed to trigger data erasure for such payments. A copy of this communication to the complainant, along with evidence was sent to the CNPD.

### **3. Outcome of the case**

16. 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 to erasure, in accordance with Article 17 GDPR.
17. 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. Moreover, the CNPD is of the view that the issue has been resolved in a satisfactory manner.
18. 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 10.203 upon completion of its investigation, in accordance with the Complaints Procedure before the CNPD. 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.



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Belvaux, dated 23 April 2025

The National Data Protection Commission

[REDACTED]  
Chair

Commissioner

Commissioner

#### **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.