Deliberation No 60_RECL57_2025 of 26 June 2025 of the National Data Protection Commission, in a plenary session, on complaint file No 12.853 lodged against the company [redacted] via IMI Article 61 procedure 688168

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 Bavaria (Germany) submitted to the National Data Protection Commission (hereinafter: "the CNPD") a complaint (national reference of the concerned authority: LDA-1085.3-6893/24-I) via IMI in accordance with Article 61 procedure – 688168.

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 data subject submits that his request for information pursuant to Art. 15 GDPR is not fulfilled to the extent required by law.*"

4. In essence, the complainants ask the CNPD to request [redacted] to grant them access to their data.

5. The complaint is therefore based on Article 15 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 complainants and in particular to provide a detailed description of the issue relating to the processing of the complainants' data, and in particular with regard to their right of access.

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. 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.*"

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. Following the intervention of the Luxembourg supervisory authority, the controller confirmed that they have followed-up with further information in response to specific questions of the complainants. [redacted] also explained that as it was not clear from the data subjects access request that the account was suspended, which is the reason why the request was not handled correctly by [redacted]. In addition, on 16 September 2024, the complainants specified that they were not able to use the self-service tool and [redacted] has therefore provided them with a copy of personal data on a password-protected USB-stick, which they received on 7 October 2024.

3. Outcome of the case

15. 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 complainants' right of access request, in accordance with Article 15 of the GDPR.

16. 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.

17. The CNPD then consulted the supervisory authority of Bavaria (Germany), pursuant to Article 60(1), whether it agreed to close the case. The Supervisory Authority of Bavaria (Germany) has responded that they received no feedback from the complainant so that the case could be closed. 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 12.853 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.

Belvaux, dated 26 June 2025

The National Data Protection Commission

[redacted]	[redacted]	[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.