

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 Spain submitted to the National Data Protection Commission (hereinafter: "the **CNPD**") a complaint (national reference of the concerned authority: E/09822/2020) via IMI in accordance with Article 61 procedure - 170280.
2. The complaint was lodged against the controller [REDACTED] (hereafter "the controller"), 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:

"In this case, the claimant's personal data have been registered into a Spanish insolvency file, ASNEF, regarding a debt that has not been notified to him, and he has not been given any kind of explanation about the way it has been generated.

The claimant has sent a registered letter to the Luxembourg postal address of the data controller, in which he asked for information about the origin of the debt and copy of the corresponding payment requirements he was missing. He recalled

that, for the inscription to be legal, the registered data must be accurate and reflect truthfully the data subject's current situation. He also claimed that his personal data must not be processed in the ASNEF file, if the requested information was not supplied to him. Although the letter appears as delivered in the mail provider's website, he has received no answer from the data controller."

4. In essence, the complainant asks the CNPD to order the controller to comply with the complainant's access request. He also wants to know whether the controller's data processing complies with the accuracy principle.
5. The complaint is therefore based on Articles 5(1)(d) and 15 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 to provide a detailed description of the issue relating to the processing of the complainant's personal data, in particular with regard to his right of access and the accuracy of his personal data.
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 5(1)(d) GDPR stipulates that personal data shall be "accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy')";
12. 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*";
13. 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*";
14. 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

15. Following the intervention of the Luxembourg supervisory authority, the controller confirmed that:
 - Due to an administrative error, the first letter requesting for documentation was not sent to the Spanish office, which explained the lack of response to the complainant's request.
 - The request was answered after the notification of the CNPD.
 - A copy of the answer was sent to the CNPD.
 - The answer of the complainant contains all information regarding the complainant's financial situation.
 - The merits of the debt obligations are not reviewed by the CNPD. These are subject to common civil or commercial courts.

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 of access request, in accordance with Article 15 of the GDPR. Furthermore, there was no comment or objection as to the complainant's financial situation, so that the data seems accurate.
17. The CNPD, in a plenary session, therefore considers that, at the end of the investigation of the present complaint, the controller has provided all necessary documentation, including general explanations on the management and administration of credits owned by third parties as well as specific explanations related to the complainant's personal situation.
18. 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.
19. The CNPD then consulted the supervisory authority of Spain, pursuant to Article 60(1), whether it agreed to close the case. The Supervisory Authority of Spain has responded affirmatively, so that 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 6.237 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 23 April 2025

The National Data Protection Commission



**Deliberation No 48_RECL39_2025 of 23 April 2025 of the
National Data Protection Commission, in a plenary session, on
complaint file No 6.237 lodged against the company [REDACTED]
[REDACTED] via IMI Article 61 procedure 170280**

[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.