

Deliberation No 45_RECL36_2025 of 23 April 2025 of the National Data Protection Commission, in a plenary session, on complaint file No 3.624 lodged against the company [REDACTED] via IMI Article 56 procedure 71926

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/06706/2019) via IMI in accordance with Article 56 procedure - 71926.
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:
"The complainant's account was charged twice for 89,88 EUR without her authorization, and the company responsible for the charges appeared as [REDACTED]. The complainant says that she didn't hire their services nor opened any account in their dating websites. She suspects that a third-party must have entered her e-mail address and credit card data when opening an account. The data controller is demanding the payment of the two bills (which must have been returned by the bank). She has filed two police reports and sent them to the

data controller, to no avail. She requests the erasure of her data, but the data controller refuses, as well.”

4. In essence, the complainant asked the CNPD to request the controller to delete the complainant's 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 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 her request for erasure. Moreover, the CNPD required the controller 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) 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*

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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:
 - The deletion of the profile saved under the email address [XXX]
 - That, in view of tax and commercial legislation, certain specific data (such as payment information) must be kept for 10 years.
 - that all other information, e.g.: profile, personal messages, photos, have been deleted.
15. The complainant pretended that a third person could have used her email address and credit card number. Thus, after a second intervention by the CNPD in order to check the identification of users and to avoid bad actors, the controller further informed the CNPD that:
 - Users must confirm their email ("double opt-in"). When a user registers, the controller sends him/her an email and asks the user to click the link to confirm it was them who created the account – only then the registration and account creation is completed. This is only possible if the creator of

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the account also has access to the email account mentioned during the registration process.

- Users have a chance to report profiles through a “report profile” button in every profile. This means, if a user has the feeling or evidence, there is a bad actor the user will report this to the controller, and it will manually follow-up and block the respective user.
- Next to that the controller actively screens new registrations for unusual behavior and acts, if the controller sports anything suspicious.

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 demonstrated that the complainant's data has been erased, except from the transactional data, which must be kept ten years according to Article 16 of the Luxembourg commercial code.
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 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 that it would accept 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 3.624 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.



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Belvaux, dated 23 April 2025

The National Data Protection Commission

[REDACTED]
Chair

[REDACTED]
Commissioner

[REDACTED]
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.