Deliberation No 60_RECL58_2025 of 26 June 2025 of the National Data Protection Commission, in a plenary session, on complaint file No 13.343 lodged against the company [redacted] via IMI Article 61 procedure 724503

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 Brandenburg (Germany) submitted to the National Data Protection Commission (hereinafter: "the CNPD") a complaint (national reference of the concerned authority: 136/24/1970) via IMI in accordance with Article 61 procedure - 724503.

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 complainant states that he received a message from the controller stating that his account would be permanently restricted and closed due to alleged "security risks" because it had been deemed too risky. When the complainant asked for the reasons, he received no reply. He therefore submitted a formal complaint to the controller. He was then contacted by the controller by telephone. He refused the phone call and asked for a written statement regarding the reasons for the account closure. He then received a message via the [redacted] App that his*

account had been reactivated and that only potential risks in connection with his account had been identified, which led to it being blocked. He again requested that specific reasons be given in his case. The controller did not respond to the complaint within 30 days."

4. In essence, the complainant asks the CNPD to order the controller to comply with the complainant's access request.

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 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.
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 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 15(4) GDPR, "*The right to obtain a copy referred to in paragraph 3 shall not adversely affect the rights and freedoms of others.*"

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

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. [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.

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

- The complainant opened his account on 22.07.2018 with the email address [EMAIL1].

- During the lifetime of the account, the complainant added a total of four email addresses, including the email address referenced in the CNPD's letter, and the current active email address on the account is [EMAIL2].

- On 15th July 2023 an automated permanent limitation was placed on the complainant's account which initiated a parting ways message intended to bring the business relationship to an end. However, the account was not technically closed, which allows for the possibility of the decision to be challenged, reviewed, and over-turned. In this case the complainant contacted [redacted] about the limitation and he was told that his account was permanently limited as it was believed that his account presented a high risk to [redacted].

- Subsequently, on 29 March 2024 the complainant emailed [redacted] and complained that he was yet to receive information about the limitation on his account, and that he was denied information about the exact reasons for doing so. There followed a full manual review of the decision to place a limitation on the account and it was established that the functionality of the account should be reinstated. Whereas the fraud risk management processes could not be disclosed as this would impact the effectiveness of [redacted]s fraud detection processes, the factors relevant to satisfying ourselves that the limitation should be lifted can be disclosed, and these are now reflected in [redacted]'s response to the complainant's data access request.

- Considering that [redacted] could not fully answer the complainant's question about the decision to permanently limit his account, the controller will remediate this gap by contacting the customer and explaining the reason why we could not give him the fullness of information he wanted to receive and apologizing for not being clear about this when he previously contacted them and made a request for access. In addition to servicing him with a copy of his information, the controller has also satisfied the obligation in Article 12(4) GDPR by informing him that he has the possibility of complaining to a supervising authority and seeking a judicial remedy.

- A copy of the communication was sent to the CNPD.

3. Outcome of the case

17. 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 GDPR.

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 Brandenburg (Germany), pursuant to Article 60(1), whether it agreed to close the case. The Supervisory Authority of Brandenburg (Germany) has responded that the complainant received a satisfactory access information. 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 13.343 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 | [redacted] Commissioner | [redacted] 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.