

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: 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 Poland submitted to the National Data Protection Commission (hereinafter: “the CNPD”) a complaint (national reference of the concerned authority: DS.523.1437.2022) via IMI in accordance with Article 56 procedure - 375203.
2. The complaint was lodged against the controller [REDACTED] (hereafter [REDACTED] or “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:  
*“According to the complainant, [REDACTED] does not acknowledge the withdrawal of consent to the processing of personal data and refuses to delete personal data, shielding themselves with the internal rules (account restrictions). Nor does it take note of the request for termination of the contract. The request for the deletion of data was presented in electronic correspondence with the service provider on 22.02.2022 (attached), and such a request was made during a telephone conversation with the consultant of the company.”*

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 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*

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*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 [REDACTED] ‘parted ways’ with the complainant’s account on the 5 September 2018, ending the business relationship with the complainant and permanently limiting the functionality of his account. This action was taken as it was determined that the complainant was not 18 years old when he opened a [REDACTED] account, which is a violation of [REDACTED] terms of use.
  - Following the decision to permanently restrict the use of his account, the complainant revoked his consent to processing and requested data erasure, however, the responses he received only addressed the issue of the limitation placed on his account. This was indeed a manual handling

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error and the controller provided remedial training to the employee involved.

- Regarding the action taken on the 5th of September 2018 to limit the functionality of the complainant's account, while the account is not technically closed, a permanent restriction has the same material effect as account closure for the purposes of triggering the data retention period, and at the expiry of which his information will automatically be erased. Placing a limitation on the account, as opposed to closing it, also prevents the user from circumventing [REDACTED] fraud and risk detection models. The information is therefore retained pursuant to [REDACTED] legitimate interests in accordance with article 6.1 (f) GDPR.
- [REDACTED] has informed the complainant of [REDACTED] data retention policy and confirmed to him that his account will remain restricted, and his data will be erased following the data retention period. A copy of this correspondence 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.
18. The CNPD then consulted the supervisory authority of Poland, pursuant to Article 60(1), whether it agreed to close the case. The Supervisory Authority of Poland has responded that the complainant is satisfied with the outcome of the proceedings, 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:**



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- To close the complaint file 8.363 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 September 2025

The National Data Protection Commission

[REDACTED]  
Chair

[REDACTED]  
Commissioner

[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.