

Deliberation No 22_RECLEU17_2026 of 10 February 2026 of the National Data Protection Commission, in a plenary session, on complaint file No 11.360 lodged against the company [REDACTED] via IMI Article 61 procedure 576926

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;

Having regard to the Rules of Procedure of the National Data Protection Commission adopted by Decision No 07AD/2024 of 23 February 2024;

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 Bavaria for the Private Sector in Germany submitted to the National Data Protection Commission (hereinafter: “the CNPD”) a complaint (national reference of the concerned authority: LDA-1085.3-8052/23-I) via IMI in accordance with Article 61 procedure - 576926.
2. The complaint was lodged against the controller [REDACTED] (hereinafter [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:
“The complainant states that he has a customer account with [REDACTED] that is linked to his e-mail address. This customer account was last used in 2005. The deletion of this customer account within the customer account is not possible for him, as he no longer knows the password and the security questions stored during registration. Verification of his identity as the owner of the customer account has so far failed due to the company's requirements. As a result, he recognizes a violation of data protection regulations by the company insofar as he is denied a request for information about the customer account in accordance with Art. 15

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GDPR and a subsequent deletion of this customer account in accordance with Art. 17 GDPR is also rejected.”

4. In essence, the complainant asks the CNPD to request [REDACTED] to grant the complainant’s right of access as well as his or her right to erasure.
5. The complaint is therefore based on articles 15 and 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 the right of access and the right to erasure.
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(3) GDPR, *“The controller shall provide a copy of the personal data undergoing processing. For any further copies requested by the data subject, the controller may charge a reasonable fee based on administrative costs. Where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, the information shall be provided in a commonly used electronic form.”*

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11. 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.”*
12. In the cases referred to in Article 11 (2) GDPR, where *“the controller is able to demonstrate that it is not in a position to identify the data subject, the controller shall inform the data subject accordingly, if possible. In such cases, Articles 15 to 20 shall not apply except where the data subject, for the purpose of exercising his or her rights under those articles, provides additional information enabling his or her identification”*.
13. Recital 57 of the GDPR indicates that *“If the personal data processed by a controller do not permit the controller to identify a natural person, the data controller should not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation. However, the controller should not refuse to take additional information provided by the data subject in order to support the exercise of his or her rights. Identification should include the digital identification of a data subject, for example through authentication mechanism such as the same credentials, used by the data subject to log-in to the on-line service offered by the data controller”*.
14. 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.
15. 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.”*
16. Article 12(4) GDPR provides that *“If the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy.”*

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17. 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*”;
18. 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*”;
19. 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

20. Following the intervention of the Luxembourg supervisory authority, the controller confirmed that they have been in contact with the complainant in September and October 2023 regarding his account closure and, at a later stage, concerning his access requests. These requests were not processed because [REDACTED] could not verify the identity of the complainant.

According to the documentation provided by the supervisory authority of Bavaria, the complainant had requested the controller to close his [REDACTED] account linked to the email address [Email 1] on 25 September 2023. However, he sent his request from another email address [Email 2]. [REDACTED] customer service employee has referred the complainant to the self-service tool and mentioned the phone verification as an alternative. Once the complainant clarified that he was unable to log into his or her account and requested the phone verification, because of the limited information available in the complainant’s account, the controller was unable to verify the complainant’s identity via phone. In particular, for the phone verification to take place, there must be enough information in the account, which [REDACTED] can utilize to ask the customer some questions about the account, which only the account owner will be able to respond to. This was not possible in the case at hand. The controller’s customer service associate therefore requested the complainant to provide a notarized document as a verification mean of last resort

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on 4 October 2023. As he refused this option, [REDACTED] was unable to proceed with the account closure for security reasons.

On 4 October 2023, the complainant seemed to have confirmed his account closure request with the correct email address. However, the complainant simultaneously made an access request, which required him to confirm his identity via one of the three described means of verification, which the complainant previously refused. [REDACTED] customer service associate hence informed the complainant of the inability to process the requests.

After some time, [REDACTED] could confirm that the complainant provided his passport. However, according to the controller, passports generally do not allow them to confirm that a data subject is indeed an account owner and do not substitute the verification means offered to customers.

Following the receipt of the CNPD's letter, [REDACTED] reviewed the matter again and as a gesture of goodwill, assisted the complainant to regain access to his [REDACTED] account, provided that he still could use the email address linked to the account. [REDACTED] would then manually submit a data subject access request on his behalf. Once the personal data is ready for download, they will inform the complainant how to access his personal information via his account. After the complainant downloads his personal data, he will also be able to request the account's closure via [REDACTED] self-service tool.

The CNPD therefore concludes that the controller has taken all appropriate measures to resolve the matter.

3. Outcome of the case

21. 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 and right of erasure, in accordance with Articles 15 and 17 GDPR.



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In light of the above developments, the National Data Protection Commission, in a plenary session, after having deliberated, decides:

- To close the complaint file 11.360 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 10 February 2026

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.