Deliberation No 14_RECLEU9_2026 of 10 February 2026 of the National Data Protection Commission, in a plenary session, on complaint file No 7.383 lodged against the company [redacted] via IMI Article 61 procedure 188223

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-1085.3-7664/20-I) via IMI in accordance with Article 61 procedure - 188223.

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 submits that he never registered with the controller, i.e. he has no customer account there and has never been a customer there. Nevertheless, in January 2020, he received a delivery of three headphones that he had not ordered and the controller sent him a reminder to pay for these products because a direct debit could not be honored.*

   In an e-mail dated 26.06.2020, he made an access request from the controller in accordance with Art. 15 GDPR and was sent another reminder on 29.06.2020, as

the customer service department only ever referred him to log into his customer account. However, he does not have such an account.

The controller has thus failed to comply with its obligation to provide information under Art. 15 GDPR."

4. In essence, the complainant asks the CNPD to request [redacted] to grant the complainant access to his or her personal data. In particular, the complainant wants to verify the source of his personal data with the controller.

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. In accordance with Article 15(1) 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: (…) (g) where the personal data are not collected from the data subject, any available information as to their source*";

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. 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.*"

14. 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*";

15. 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*";

16. 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

17. Following the intervention of the Luxembourg supervisory authority, the controller confirmed that it has provided the complainant with the information to which he was entitled as a potential fraud victim in accordance with Article 15(4) GDPR.

    Indeed, the controller also confirmed that a third party has placed and shipped three orders in one delivery, using the complainant's name, address and bank details. After the complainant contacted the controller's customer service, the controller closed the account and cleared any outstanding debt.

    Although it was specifically asked by the complainant, the controller, in accordance with Article 15(4) of the GDPR, has not disclosed the identity or address of the ordering person to the complainant or his legal representative. The controller clearly stated that it remains prepared to disclose this information to appropriate law enforcement authorities upon receipt of a valid legal request. The controller also informed the complainant's lawyer of this.

    The absence of disclosure of personal information about the third-party to the complainant appears legitimate to the CNPD, based on N.107 of the EDPB Guidelines 01/2022 on data subject rights – Right of access, which points out that "*in case of identity theft, a person fraudulently acts in the name of another person. In this context it is important to recall that the victim should be provided with information on all personal data the controller stores in connection with their identity, including those that have been collected on the basis of the fraudster's actions*". N.104 of these same guidelines make it also clear that "*The data subject is however, only entitled to personal data relating to themselves excluding data which exclusively concern someone else*".

3. Outcome of the case

18. 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.

19. 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.

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

- To close the complaint file 7.383 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]	[redacted]	[redacted]	[redacted]
Chair	Commissioner	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.