



**Data Protection Authority of
Bavaria for the Private Sector
(BayLDA)**

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Case transferred via IMI Reference	838621
IMI Draft Decision Reference	DD 909887
Respondent	[REDACTED]
Date of Complaint	26.05.2025
Adopted on	23.06.2026

On the basis of the draft decision of the Personal Data Protection Office, PL, No. DD 909887, the Data Protection Authority of Bavaria for the Private Sector (BayLDA) pursuant to Article 60(8) of the GDPR issues the following

Final Decision:

The complaint is rejected.

Justification

On 10 November 2025, a complaint was lodged with the Personal Data Protection Office by Mr [REDACTED] (residing at [REDACTED]) (hereinafter: "the Complainant") within the framework of the one-stop-shop (OSS) cooperation mechanism established under Article 60 of the GDPR. The complaint concerned the failure by [REDACTED] (trading under the brand name [REDACTED] (registered office: [REDACTED]) (hereinafter: "the Company") to fulfil the obligation to erase the Complainant's personal data and the alleged violation of the data minimisation principle.

In the content of his complaint, the Complainant stated that the Company had prevented the exercise of the right to erasure under Article 17 of the GDPR by refusing to delete his user account and the personal data associated therewith, notwithstanding an explicit request submitted for the first time on 9 May 2025.

The Complainant further indicated that the Company had been disregarding the deadlines set by him and the follow-up correspondence addressed to the Data Protection Officer ([REDACTED]), while maintaining the account in an active status despite the Complainant's cessation of use of its services.

The Complainant submitted that the Company had justified its refusal to erase the data by invoking purported retention obligations, without citing any specific legal basis therefor, while simultaneously disclaiming its responsibility for the treatment process. In the Complainant's assessment, such argumentation was inconsistent and impermissible under data protection law. Furthermore, the maintenance of a fully active user account solely for archival purposes was, in the Complainant's view, devoid of any legal basis and constituted a violation of the principles of data minimisation and storage limitation.

On 20 January 2026 (date of receipt by the Office), the German supervisory authority for the federal state of Bavaria transmitted to the President of the Personal Data Protection Office, via the Internal Market Information System (IMI), correspondence from the Complainant dated 18 January 2026, which read as follows: "I am writing to inform you that on 18 January I managed to persuade [REDACTED] to delete my user account. I am also due to receive a data protection declaration in the coming days. I therefore consider

this matter to be closed. The decision as to the further course of the correspondence procedure already under way rests with you."

In view of the foregoing, the President of the Personal Data Protection Office considered the following. Pursuant to Article 105 § 1 of the k.p.a., where proceedings become devoid of subject matter for any reason, in whole or in part, the public administration body shall issue a decision discontinuing the proceedings in whole or in part, as applicable. As emphasised in the case-law, "the absence of subject matter of administrative proceedings means the absence of the object of the proceedings. That object is a specific case in which the state administrative authority has the power, and simultaneously the obligation, to adjudicate on the rights or obligations of an individual entity on the basis of substantive law provisions" (judgment of the Regional Administrative Court in Warsaw of 5 October 2017, case ref. VI SA/Wa 1093/17). Among the constitutive elements of the subject matter of an administrative case is the will of the entitled party, insofar as the legislature links the existence of the proceedings thereto. The Office concurs with the position expressed by the Supreme Administrative Court in its judgment of 9 March 2012 in case ref. I OSK 394/11, according to which "the withdrawal of a request to initiate administrative proceedings is equivalent to the absence of a demand by the entitled party for the determination of a specific administrative matter, which means that the subject matter of the proceedings, as defined in the request, ceases to exist. In other words, upon withdrawal of the request, one of the necessary elements of the administrative case (its subject matter) falls away, which obligates the authority to discontinue the proceedings (so-called objective necessity to discontinue the proceedings) pursuant to Article 105 § 1 of the k.p.a. The reasons for the withdrawal are immaterial in this regard." The view expressed in the legal literature that "the absence of subject matter of administrative proceedings, as referred to in Article 105 § 1 of the k.p.a., means that one of the elements of the substantive legal relationship is lacking, and therefore it is not possible to issue a decision resolving the case on its merits" (B. Adamiak, J. Borkowski, *Kodeks postępowania administracyjnego. Komentarz*, C.H. Beck, Warsaw 2006, p. 489) should also be endorsed. Once a public authority establishes that the precondition referred to in Article 105 § 1 of the k.p.a. has been met, it is obligated — as emphasised in legal doctrine — to discontinue the proceedings, since in such circumstances there is no basis for determining the case on its merits, and the continuation of proceedings would constitute a procedural defect materially affecting the outcome of the case.

In the present case, endorsing the positions expressed in the aforementioned judgments, it must be held that the precondition for the proceedings to be devoid of subject matter and for discontinuance pursuant to Article 105 § 1 of the k.p.a. has been fulfilled, as by his communication of 18 January 2026 the Complainant withdrew his complaint, as evidenced by the formulation "I therefore consider this matter closed." Pursuant to Article 60(3) of the GDPR, the lead supervisory authority shall immediately 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 duly take into account their views.

Pursuant to Article 60(8) of the GDPR, by way of derogation from paragraph 7, where a complaint is dismissed or rejected, the supervisory authority with which the complaint was lodged shall adopt the decision and communicate it to the complainant and shall inform the controller thereof.

The Complainant addressed to the supervisory authority a statement whose content must be construed as a withdrawal of the complaint lodged. As a consequence thereof, the proceedings initiated by the filing of that complaint became devoid of subject matter within the meaning of Article 105 § 1 of the k.p.a., pursuant to which, where proceedings become devoid of subject matter for any reason, in whole or in part, the public administration body shall issue a decision discontinuing the proceedings in whole or in part, as applicable.

In the assessment of the President of the Personal Data Protection Office, the discontinuance of proceedings in the circumstances of the present case falls within the scope of the concept of "dismissal or rejection" of a complaint within the meaning of Article 60(8) of the GDPR. This position finds support in

Guidelines 02/2022 of the European Data Protection Board on the application of Article 60 of the GDPR, adopted on 14 March 2022, version 1.1 (hereinafter: "the Guidelines"), in which the EDPB explicitly clarified the meaning of "dismissal/rejection" of a complaint in the context of Article 60(8) of the GDPR. In paragraph 223 of the Guidelines, the EDPB stated that Article 60(9) read jointly with Article 60(8) can be interpreted in the sense that dismissal/rejection of a complaint as the outcome of an Article 60 procedure entails that the (part of the) final decision to be adopted does not contain any action to be taken in relation to the controller. Further clarifying this position, the EDPB stated in paragraph 225 of the Guidelines that a decision dismissing or rejecting a complaint (or part of it) should be understood as a situation where the lead supervisory authority, when handling a complaint, found that the complainant's claim is without merit and that no action should be taken against the controller. As a result of the withdrawal of the complaint, the Complainant's claim has become devoid of merit, and no measures are being taken against the Company; in particular, no infringement of the GDPR is found, nor are any of the corrective powers provided for in Article 58(2) of the GDPR applied in respect of the Company. The conditions referred to in the Guidelines cited above are therefore satisfied.

It must also be borne in mind that the present case is of a cross-border nature and is being handled within the framework of the one-stop-shop cooperation mechanism established under Article 60 of the GDPR. In paragraph 99 of the Guidelines, the EDPB unequivocally stated that "the LSA is required to submit a draft decision to the other CSAs in all cases, also when complaints are withdrawn by the complainant after the Article 60 procedure has been initiated or where no material (final) decision is issued according to national law." The EDPB further emphasised in paragraph 100 of the Guidelines that "in complaint-based cases, the draft decision also provides the ground for the CSAs decisions pursuant to Article 60(8) and (9)." The President of the Personal Data Protection Office, acting as the lead supervisory authority in the present proceedings, does not, in accordance with Article 60(3) of the GDPR, adopt a final decision at this stage, but submits solely a draft decision, which is subject to the further consultation procedure with the supervisory authorities concerned.

In this state of affairs, it would be inappropriate to invoke Article 105 § 1 of the k.p.a. directly as the legal basis for the ruling and to adopt on that basis an administrative decision discontinuing the proceedings. In accordance with Article 60(8) of the GDPR and the Guidelines referred to above, the final decision in respect of a dismissed or rejected complaint is to be adopted by the supervisory authority with which the complaint was lodged, which in the present case is the German supervisory authority for the federal state of Bavaria. Consequently, the present complaint having been withdrawn by the Complainant is subject to dismissal within the meaning of Article 60(8) of the GDPR, and the appropriate legal basis for this draft decision is Article 60(3) in conjunction with Article 60(8) of the GDPR. The final decision in the present matter shall be adopted by the German supervisory authority for the federal state of Bavaria, as the supervisory authority with which the complaint was lodged, in accordance with Article 60(8) of the GDPR.

As the concerned supervisory authorities (including BayLDA) did not object to this draft decision, the BayLDA hereby adopts this draft decision as final decision in accordance with Article 60(8) of the GDPR.

Ansbach, 23.06.2026

