



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

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| BayLDA Reference                   | LDA-1085.3-9459/22-I |
| LSA Reference                      | 9.906                |
| Case transferred via IMI Reference | 487116               |
| IMI Draft Decision Reference       | DD 927686            |
| Respondent                         | [REDACTED]           |
| Date of Complaint                  | 05.12.2022           |
| Adopted on                         | 31.07.2026           |

On the basis of the draft decision of the Commission Nationale Pour La Protection Des Donnees (CNPD) No. DD 927686, 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.

#### **I. Facts and procedure**

1. In the framework of the European cooperation, as provided for in Chapter VII of the GDPR, the supervisory authority of Bavaria for the private sector (Germany) submitted to the National Data Protection Commission (hereinafter the "**CNPD**") a complaint (national reference of the concerned authority: LDA-1085.3-9459/22-I) via IMI in accordance with Article 61 procedure - 487116.

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 addressed a request for information pursuant to Article 15 of the GDPR to the controller on 16.02.2020, after a third party had opened an account with the controller using the complainant's e-mail address and ordered goods. The information was denied to the complainant by e-mail dated 25.02.2020.*

*On 01.03.2020, the complainant therefore filed a complaint with the Data Protection Authority of Baden-Württemberg. On 05.12.2022, this complaint was forwarded to the Data Protection Authority of Bavaria for the Private Sector for reasons of competence."*

4. In essence, the complainant asks the CNPD to request [REDACTED] to grant the complainant access to his personal data. The aim of the exercised right of access is here for the complainant 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 (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: (...) (c) the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations; (...)."*

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. Furthermore, in application of Article 12 (1) GDPR *"The controller shall take appropriate measures to provide any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means."*

13. 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 (...)."*

14. 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."*

15. 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**

16. Following the intervention of the CNPD, 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 confirmed that it identified two fraudulent customer accounts. The first account used the complainant's e-mail address, and the second account used his first and last name as well as his address.

The two customer accounts were created on 21 and 22 January 2020 and used to place a total of 15 orders between 21 and 23 January 2020, using the payment option Monthly Invoice before being classified as fraudulent by the controller's systems and subsequently blocked. The controller confirmed that these customer accounts have remained in a blocked state ever since. As all orders were either cancelled or refunded, the complainant did not suffer any financial damage.

The controller then reached out to the complainant to provide him with the information used in the fraudulent accounts, as far as they related to him.

After a second intervention of the CNPD, the controller sent an email to the complainant on 31 May 2023, asking him to confirm his email address before sending the information related to the orders made with his card, since the controller had several email addresses related to him. Unfortunately, the complainant did not respond. The controller therefore sent him the information via postal mail. A copy was provided to the CNPD.

The controller finally stated that he was unable to confirm where the bad actor obtained the complainant's personal data. Such information may have been obtained from several publicly available sources or data breaches on other websites. It is also possible that the third party knew the complainant personally and used his personal data. These events are beyond the controller's control, although it does take multiple measures to reduce the impact of these events. As a precaution, the controller advised the complainant on steps to protect his personal data.

Although it was specifically asked, the controller, in accordance with Article 15 (4) GDPR, has not disclosed the identity or address of the third-party to the complainant. 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 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"*.

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

### **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, within the limits of 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.

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, 31.07.2026