

**Deliberation No 23/RECL11/2023 of 27 March 2023 of the National Data Protection Commission, in a plenary session, on complaint file No 6.264 lodged against the company [REDACTED] via IMI Article 61 procedure 171805**

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 (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 Regime (hereinafter referred to as the ‘**Law of 1 August 2018**’);

Having regard to the Rules of Procedure of the National Data Protection Commission adopted by Decision No 3AD/2020 of 22 January 2020 (hereinafter referred to as the ‘**ROP**’);

Having regard to the complaints procedure 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 (Germany) submitted to the National Data Protection Commission (hereinafter: “the CNPD”) the complaint of [REDACTED] (national reference of the concerned authority: LDA-1085.3-10294/20-I) via IMI in accordance with Article 61 procedure - 171805.
2. The complaint was lodged against the controller [REDACTED], 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 alleges that the company makes it difficult or virtually impossible for him to delete his private customer account with various demands.*

*In addition to the private customer account, he also had a seller account. While he finally succeeded in deleting the seller account, the deletion of the private customer account was prevented by various inaccurate arguments.*

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*For example, the termination of the private customer account is made dependent on a prior termination of the seller account, an allegedly existing outstanding debt that does not exist is cited, or it is said that the account has been hacked.*

*The complainant wishes assistance in enforcing his request for cancellation of his customer account.”*

4. In essence, the complainant was stating that he encounters difficulties to obtain the closure of his [REDACTED] customer account and the deletion of his personal data linked with this account, as [REDACTED] informed him that there was an outstanding amount on his Amazon customer account preventing him to close the account, while – according to the claimant – there was no such outstanding amount. The complainant contacted [REDACTED] at several occasions to solve the issue, without any success at the date of the complaint. Thus, he asks the CNPD to request [REDACTED] to delete his [REDACTED] customer account and his personal data linked with this account.
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 in particular to provide a detailed description of the issue relating to the processing of the complainant's data, and in particular with regard to his 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 17 GDPR, the 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. 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*”;
11. 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*”;
12. 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

13. Following the intervention of the Luxembourg supervisory authority, [REDACTED] confirmed that:
  - The complainant had indeed a seller account and a customer account with [REDACTED].
  - For both accounts, [REDACTED] had already completed the complainant’s request for account closure and data deletion of the personal information related to the accounts.
  - Regarding the complainant’s seller account, the request for account closure and data deletion was processed the day that followed the request and the complainant was informed about it.
  - Regarding the complainant’s customer account, the complainant experienced an issue to obtain the closure of the account, as an outstanding amount was existing in [REDACTED]’s systems.

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- [REDACTED] confirmed that there was indeed an open amount for an older transaction regarding the complainant. However, [REDACTED] already completed the customer's request for account closure and data deletion at the date of the CNPD enquiry.
- The outstanding amount has thus been cleared and the complainant's request for account closure and data deletion has been completed. [REDACTED] also informed the complainant about this.

### 3. Outcome of the case

14. 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.
15. 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.
16. The CNPD then consulted the supervisory authority of Bavaria (Germany), pursuant to Article 60(1), whether it agreed to close the case. The Supervisory Authority of Bavaria (Germany) has responded affirmatively, so that the CNPD has 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:**

- To close the complaint file 6.264 upon completion of its investigation, in accordance with the Complaints Procedure before the CNPD and after obtaining the agreement of the concerned supervisory authority.

Belvaux, dated 27 March 2023

The National Data Protection Commission

Tine A. Larsen  
Chair

Thierry Lallemand  
Commissioner

Alain Herrmann  
Commissioner

Marc Lemmer  
Commissioner



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### **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.