

## Final decision

The Luxembourg supervisory authority (“CNPD”) refers to the complaint of ██████████ (hereinafter “██████████”) lodged with the supervisory authority of Spain.

The initial wording of the complaint on IMI stated that:

*“The complaint is about a telegram sent by a third party to the complainant in which his full name and address are included, as well as an ██████████ order number. In this telegram the third party claims that he knows that a parcel purchased from ██████████ by him has been wrongly received by the complainant, and wants to get it back, threatening the claimant to go to the police. The third party access to the complainant personal data seems to indicate that his personal data have not been properly protected, thus the complaint.*

*The complainant actually denies that the third party parcel was delivered to him, but after a first interaction with ██████████, ██████████ confirmed to him that according to his records, it was indeed delivered to his address. Further analysis made by the complainant with the courier seems to indicate that the courier messed up delivery references, as he received another parcel on that date, and they provided to ██████████ wrong delivery information which ██████████ linked to the order number of the third party.*

*██████████ may have provided the personal data of the claimant to the user who requested the order, producing a violation of his privacy.”*

Based on said complaint, the CNPD requested the controller (hereinafter ██████████) to provide a detailed description of the issue relating to the processing of the complainant’s data as per Article 58.1(a) GDPR, in particular as regards the complainant’s personal data having allegedly been transmitted to a third party.

The CNPD received the requested information within the set timeframe.

Following an enquiry by the CNPD, ██████████ has demonstrated that:

1. On 21 May 2018, ██████████ (a third party customer) purchased an item on ██████████ from ██████████, a ██████████ who delivers the products directly to its customers in Spain.
2. On 28 May 2018, ██████████ contacted ██████████ customer service indicating that he had previously contacted ██████████ – carrier in charge of delivery – to confirm the status of his order. In accordance with the facts reported by ██████████, when he provided the tracking number to ██████████, a ██████████ employee confirmed that this reference corresponded to a package that was going to be delivered to the complainant, and provided ██████████ with the full name and address of the complainant.

3. Given that ██████ did not receive the package, he filed an ██████” claim on 29 May 2018 and after ██████ investigated the case, it refunded the customer in full and suspended the selling privileges of the seller as a result of being in breach of ██████ policies. ██████ informed the CNPD that customers can request a refund via the ██████ if they encounter a problem with items sold and fulfilled by a third party seller on ██████
4. As part of the internal investigation of ██████, ██████ contacted ██████ on 17 October 2018 to check what delivery information they provide when someone calls and asks for delivery details via reference number. A ██████ employee confirmed that the package in question had been delivered to the complainant on 28 May 2018, in line with the information ██████ had previously provided to ██████.
5. With respect to the correspondence between the complainant and ██████, ██████ has not found any account on ██████ under the exact name or alleged address of the complainant, but only one under the name of XXX. Also, ██████ stated that the account details do not show any communications linked to this account, nor a shipping address, payment information or any connection whatsoever with ██████ order.
6. Therefore, it seems that in this instance, the company ██████ provided the complainant's details to ██████. There is no further evidence that this information was provided by ██████ to either ██████ or ██████ and it therefore seems that the data relating to the complainant must have already been stored by ██████ in their systems and somehow connected by them to the order made by the customer ██████.

The CNPD wants to point out that ██████ provided all the necessary elements related to the complaint.

Thus, based on the above-mentioned explanations, the CNPD did not identify any infringement of the obligations set out in Regulation (EU) 2016/679 (GDPR) by ██████.

As the complaint has only a limited personal impact, the CNPD has consulted the Spanish SA to determine whether the case could be dismissed. The CNPD and the Spanish SA agreed that, in view of the above, the data controller did not provide the seller with the complainant's address, that no further action is required and that the cross-border complaint (national reference ██████) should be closed.

A draft decision has been submitted by the CNPD on 3 April 2019 to the other supervisory authorities concerned as per Article 60.3 GDPR (IMI entry number ██████).

As none of the other concerned supervisory authorities has objected to this draft decision within a period of four weeks, the lead supervisory authority and the supervisory authorities shall be deemed to be in agreement with said draft decision and shall be bound by it.

For the National Data Protection Commission