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1140 Vienna  
Austria

**National Commission for Data Protection**  
Complaints Department  
15, Boulevard du Jazz  
L-4379 Belvaux, Luxembourg

Vienna, 22.12.2021

*Noyb* reference : C-053

## COMPLAINT

For : ██████████, born ██████████, resident at ██████████, ██████████,  
Germany (hereafter, the Complainant)

represented, within the *Noyb* - European Center for Digital Rights  
meaning of Goldschlagstr. 172/4/3/2, 1140 Vienna, Austria  
Article 80 (1) GDPR, by :

Vs: **Amazon Mechanical Turk, Inc.**, headquartered at 10 Terry Ave N  
Seattle, WA, 98109-5210, USA, [www.mturk.com](http://www.mturk.com), hereinafter " **AMT** " ;  
**Amazon Web Services, Inc.**, headquartered at 410 Terry Avenue North,  
Seattle, WA 98109-5210, United States, <https://aws.amazon.com/en/>,  
hereinafter also referred to as " **AWS** " ;  
**Amazon.com, Inc.**, headquartered at 410 Terry Avenue North Seattle,  
WA 98109, USA, [www.amazon.com](http://www.amazon.com)

## COMPLAINT WITH THE NATIONAL DATA PROTECTION COMMISSION (CNPD) BASED ON ARTICLE 77 (1) and 80 (1) GDPR

### 1. REPRESENTATION

1. *Noyb -European Center for Digital Rights* is a non-profit organization with its registered office at Goldschlagstraße 172/4/2, 1140 Vienna, Austria, and registered under number ZVR : 1354838270 (hereinafter " **Noyb** ") ( **Exhibit 1** ).
2. In accordance with Article 80 (1) of the GDPR, the Complainant is represented by **noyb** ( **Exhibit 2** ).

### 2. FACTUAL BACKGROUND

3. Amazon Mechanical Turk, Inc. (hereinafter, " **AMT** ") is a subsidiary of Amazon.com, Inc., and is part of the Amazon group (hereinafter, the " **Amazon group** ").
4. AMT offers and manages a crowdsourcing platform via the website [www.mturk.com](http://www.mturk.com) . This platform brings together businesses and small independent workers located all over the world. These workers (also called " *MTurk Workers* ") perform more or less complex micro-tasks for little remuneration. These tasks most often involve producing information in areas where artificial intelligence is still insufficiently efficient, such as image content analysis, online content moderation, or data validation.
5. On the AMT " Privacy Notice " page ( <https://www.mturk.com/privacy-notice> ), last updated on October 17, 2017, it is stated :

*" Please note that Amazon Mechanical Turk, Inc. (a subsidiary of Amazon.com, Inc.) owns and operates this site and associated products and services. Amazon Mechanical Turk follows the same information practices as Amazon, and information we collect is subject to the [Amazon Privacy Notice](#) . By visiting or accessing Amazon Mechanical Turk, you are accepting the practices described in the [Amazon Privacy Notice](#) . "*

The two hyperlinks inserted in this short paragraph automatically redirect users to the data protection notice of Amazon.com, Inc. (hereinafter, the " **Common Notice** "), accessible via [https://www.amazon.com/gp/help/customer/display.html/ref=footer\\_privacy?ie=UTF8&nodeId=468496](https://www.amazon.com/gp/help/customer/display.html/ref=footer_privacy?ie=UTF8&nodeId=468496) ( **Exhibit 3** ).

6. On October 8, 2019, the Complainant attempted to create an account as a worker on the AMT platform via the form available on their website. The request to create such an account is done in a few clicks.
7. On October 9, 2019 at 4 a.m., the Complainant received an automatic email from the address " mturk-noreply@amazon.com ", in which it was indicated that after completing a review of her request, AMT had decided that the Complainant would not be allowed to work on the AMT platform (see **Exhibit 4** ). This email also specified :

*“ Our account review criteria are proprietary and we cannot disclose the reason why an invitation to complete registration has been denied. If our criteria for invitation changes, you may be invited to complete registration in the future. ”*

8. On the same day, the Complainant attempted to obtain more information on how her personal data had been processed in connection with her registration request. However, nothing in the Common Notice allowed the Complainant to identify the controller or any subcontractor, to understand which data had been the subject of automated processing, or the reasons for its request. registration had been refused. The Complainant therefore decided to contact AMT's Data Protection Officer (the “ **DPO** ”). However, no address or contact form was indicated in the Common Notice, so that the Complainant could not know precisely *to whom* to send such a request for information.
9. Also on the same day, after further research, the Complainant finally found the email address of one of the DPOs of the Amazon group on the website [www.amazon.com.uk](http://www.amazon.com.uk) , and sent a request for access to based on Article 15 of the GDPR at [eu-privacy@amazon.co.uk](mailto:eu-privacy@amazon.co.uk) (see **Exhibit 5** ). The Complainant clearly explained the context of this access request, and specified that she wanted in particular to obtain the following information:
  - The identity of the data controller who processed and refused their registration request with AMT (AMT ? Amazon.com, Inc. ? Another entity ?)
  - Contact details of the responsible DPO (if it was not the correct address) ;
  - The purposes as well as the legal basis of the processing within the framework of the request to create an account with AMT ;
  - The recipients or categories of recipients of his personal data (AMT ? AWS? Amazon.com, Inc. ? Another entity ?)
  - The retention period of the data (in particular to find out whether he would be allowed to apply again in the future) ; and, more fundamentally ;

- The existence of automated decision making (" **PDA** ") referred to in Article 22 of the GDPR, and, at least in such cases, useful information regarding the underlying logic, as well as the importance and consequences this treatment for the Complainant.
10. The Complainant's goal behind this access request was to be able to challenge the PDA to which her application had been made. However, despite the fact that the Complainant sent reminders on several occasions (see **Exhibit 6** and **Exhibit 7** ), the Complainant still has not received the requested information. The Amazon group itself does not seem to know who is the controller, nor how to contact them, as evidenced by the correspondence between the Complainant and Amazon Customer Service (see **Exhibits 8a** to **8e** ).
  11. On September 21, 2021, Amazon Customer Service finally informed the Complainant that AMT was in fact part of another Amazon group entity, namely Amazon Web Services (AWS), and that the Complainant therefore had to submit its request for information via a contact form available on the AWS website ( **Exhibit 8d** ). This greatly surprised the Complainant, given that contradictory information is provided by AMT itself on its website (namely, that AMT is part of Amazon.com, Inc., see §5, above). Fearing that this is the nth confusion, the Complainant therefore replied by email to Amazon Customer Service that she was surprised that she was being referred to AWS since the Common Notice did not even mention AWS. as data controller ( **Exhibit 8e** ).
  12. To increase the chances of success, the Complainant nevertheless resubmitted its request for information on September 22, 2021 to AWS, via the form available online for this purpose ( <https://aws.amazon.com/fr/contact-us/> ). The Complainant received instant confirmation on the AWS website that the form had been submitted. However, this form did not indicate the recipient's address at all, and the Complainant did not receive a copy of the message sent. To date, the Complainant has still not received a response from AWS regarding her request for information.
  13. In conclusion, despite having contacted several DPOs of the Amazon group, having sent them reminders, and having received the assurance of a return from them (see in particular **Exhibit 9** ), the Complainant has still not received the information requested, and therefore always does not know who is the controller or how their data was processed in the context of its registration request with AMT.

### 3. COMPETENT SUPERVISORY AUTHORITY

14. The identity of the controller remains, to this day, difficult to determine for the reasons mentioned above. However, since the Amazon group has its main establishment within

the European Union in the Grand Duchy of Luxembourg (cf. Amazon Europe Core, S.à rl), the CNPD seems *a priori* to be the most appropriate supervisory authority for submit this Complaint.

15. If the CNPD should declare itself not competent, or consider that another authority would be competent, we ask in any case the CNPD to transfer this Complaint to the competent authority, and to inform us of this decision.

#### 4. LEGAL BASIS OF THE CLAIM

16. The Complainant considers that there are several significant violations of the GDPR by the entity or entities of the Amazon group concerned, and in particular :

##### 4.1 Violation of PDA ban and PDA obligations (Article 22 GDPR)

17. For a decision to fall under the scope of Article 22 of the GDPR, the decision must (i) have been taken automatically (i.e. without the assistance of a human being), and (ii) has legal effects or a significant impact on the data subject (Article 22 (1) of the GDPR).
18. In the present case, AMT's refusal decision fulfills these two conditions. In view of the email address used by AMT (" mturk- noreply @ amazon.com "), the impersonal and expeditious tone of the message, as well as the speed with which the said examination was carried out, it can indeed only be deduced that the decision to refuse AMT was taken automatically ( **Exhibit 4** ). Moreover, such a decision had a significant impact on the Complainant, in that it deprived her of a remunerated contractual relationship (see, in this regard, the guidelines of the " Article 29 " Working Group on PDAs, wp251rev.01, 17 / FR, as taken up by the EDPS, and in particular pages 22 and 23, in which reference is made to ' *decisions which deprive a person of an employment opportunity*' ).
20. Article 22 (1) of the GDPR establishes a general prohibition on subjecting individuals to PDAs. Therefore, AMT should generally not resort to this type of treatment. The aforementioned guidelines also confirm that Article 22 establishes a general prohibition on taking decisions based exclusively on automated processing, and that this prohibition applies whether or not the data subject takes a measure concerning the processing of his data. of a personal nature (see page 21 of the guidelines).
21. In addition, AMT cannot claim an exception under Article 22 (2) of the GDPR, since none of the cases mentioned in this provision apply. Furthermore, AMT never informed

prospective users that their automated decision would be based on any of the above exceptions, which in itself already constitutes a breach of the information obligation under Article 13 of the GDPR. (see below, §§23at 29).

22. In addition, assuming that one of the exceptions of Article 22 (2) of the GDPR applies in the present case, it must be noted that Amazon has not implemented any appropriate measures to safeguard the rights and freedoms of the data subject as well as their legitimate interests, as required by Article 22 (3) of the GDPR. These measures should include, as a minimum, a means for the data subject to obtain human intervention, to express his point of view and to challenge the decision effectively. However, as explained above, no recourse is available to the data subjects, the latter not even having the possibility of identifying the data controller or the contact details of the competent DPO.
23. Therefore, it should be noted that AMT - and / or any other responsible entity within the Amazon group - violates the general prohibition and the rules established in Article 22 of the GDPR.

#### **4.2 Breach of the principle of transparency and the obligation to inform (Article 5 (1) (a) of the GDPR and Article 13 of the GDPR)**

24. Article 5 (1) (a) of the GDPR establishes that personal data must be processed in a lawful, fair and transparent manner with regard to the data subject. Article 13 (1) (a) and (b) of the GDPR also obliges the data controller to indicate his identity, his contact details, as well as the contact details of his DPO. Finally, Article 13 (2) (f) of the GDPR obliges the controller to inform data subjects about the existence of a PDA and, "*at least in such cases, useful information concerning the underlying logic, as well as the importance and the expected consequences of this processing for the data subject*". This information should normally be provided no later than the time the Complainant's data was obtained.
25. However, in the present case, neither the Joint Notice, nor any other document accessible to the Complainant contains this information (see **Exhibit 3** ). Therefore, there is a clear violation of the principle of transparency (Article 5 (1) (a) of the GDPR) and of the information obligation (Article 13 of the GDPR).
26. As stressed by both the Group Work " Article 29 " <sup>[1]</sup> and by recital 71 of the GDPR,<sup>[2]</sup> These transparency obligations are particularly important in the context of a PDA since they condition the possibility for the data subject to exercise his rights enshrined in Article 22 (3) of the GDPR. In fact, by failing to indicate his identity, the contact details of his DPO, and all "*general information useful for contesting the automated decision*", <sup>[3]</sup> the controller has *de facto* deprived the Complainant of the possibility of understanding the

underlying logic of the automated decision, of expressing his point of view, of obtaining human intervention and / or of contesting the said decision.

27. In any case, it is surprising that Amazon openly refuses to communicate the criteria used to adopt this automated decision on the grounds that they are " *confidential* ". <sup>[4]</sup> (see **Exhibit 3** ). The GDPR does not in fact provide for an exception to the information obligation enshrined in Article 13 (2) (f) of the GDPR, according to which the controller must inform the data subjects of the " *underlying logic* Of the PDA. This means, among other things, that the controller must find simple ways to inform the data subject of the criteria on which the automated decision is based. <sup>[5]</sup> It is furthermore entirely possible for Amazon to explain the reasons for its automated decision without revealing any trade secrets or confidential information. Finally, Amazon's invitation to the Complainant to submit a new request in the future in the event of a change in said criteria is laughable, since by definition they are not shared by Amazon.
28. Therefore, the Amazon group clearly violated Articles 5 (1) (a) and 13 of the GDPR , and these violations are all the more significant as they deprived the Complainant of the possibility of exercising her rights enshrined in the Article 22 (3) of the GDPR.

#### **4.3 Violation of the obligation to respond to the Complainant's access request (Article 12 (3) and Article 15 GDPR)**

29. As indicated in §10 and 13 above, despite numerous requests and reminders, the Complainant never received the information requested under Article 15 of the GDPR.
30. Normally, this information should have already been communicated to him at the latest when collecting his personal data on the basis of Article 13 of the GDPR (see §24above). Even after having specifically requested this information on the basis of Article 15 of the GDPR, however, the Amazon group was not able to meet the 2-month deadline indicated in Article 12 (3) of the GDPR to respond to such a request for information.
31. Therefore, the Amazon group also violated Article 12 (3) and Article 15 of the GDPR.

### **5. REQUESTS**

32. As for article 22 of the RGPD, the Complainant requests the CNPD to kindly:

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- Examine the processing of personal data referred to in this Complaint in order to determine (i) which entity (ies) is / are responsible for the processing ; (ii) that a PDA within the meaning of Article 22 of the GDPR has indeed taken place ;
- Retain the breaches of Article 22 of the GDPR by the data controller (s), in that the PDA would not have a valid legal basis, and that the Complainant was moreover deprived of the exercise of his rights under this PDA;
- Issue an injunction against the controller (s) to comply with Article 22 of the GDPR, by prohibiting the controller (s) from using such PDAs, or at least by offering the Complainant the opportunity to challenge the automated decision, express her point of view and obtain human intervention ; and subjects such an injunction to a daily deterrent penalty against the data controller (s);
- Impose an administrative fine against the data controller (s) in view of the violation of Article 22 of the GDPR.

33. As for Articles 5 (1) (a), 12, 13 and 15 of the GDPR, the Complainant requests the CNPD to kindly:

- Examine the information relating to the processing of personal data referred to in this Complaint in order to establish the breaches of the aforementioned articles;
- Retain breaches of Articles 5 (1) (a), 12, 13 and 15 of the GDPR by the data controller (s) regarding the lack of transparency, information and exercise of the right of access relating the treatments referred to in this Complaint ;
- Issue an injunction against the controller (s) to comply with Articles 5 (1) (a), 12, 13 and 15 of the GDPR, in particular by providing clear, complete and accessible information about to the processing (s) referred to in this Complaint, and by responding to the Complainant's request for access ; and subject such an injunction to a daily deterrent penalty against the data controller (s);
- Impose an administrative fine against the controller (s) for the violation of Articles 5 (1) (a), 12, 13 and 15 of the GDPR.

## **6. CONTACT**

34. Communications between noyb and the CNPD during this procedure can be made by email to [REDACTED], referring to the file number as mentioned in the title of this Complaint.

35. We of course remain at your disposal in the event of any question relating to this Complaint. Please contact us at [REDACTED] or [REDACTED].