



noyb – European Center for Digital Rights
Goldschlagstraße 172/4/3/2
1140 Vienna
AUSTRIA

Data Protection Authority (GBA/APD)
Drukpersstraat 35
1000 Brussel, België

Per e-mail: contact@apd-gba.be

Vienna, 17 July 2024

noyb Case-No: **C100-01**

Complainant:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Aliexpress account: [REDACTED]

User number: [REDACTED]

e-mail address: [REDACTED]

Represented under
Article 80(1) GDPR by:

noyb – European Center for Digital Rights
Goldschlagstraße 172/4/3/2, 1140 Vienna, Austria

Respondent:

Alibaba.com Singapore E-Commerce Private Limited
51 Bras Basah Road #04-08 Lazada One Singapore, 189554
Singapore

Regarding:

Right of access – Article 15 GDPR
Transparent information, communication and modalities for the exercise of the rights of the data subject - Article 12(1) GDPR

COMPLAINT

1. REPRESENTATION

1. *noyb* – European Center for Digital Rights is a not-for-profit organisation active in the field of the protection of data subjects’ rights and freedoms with its registered office in Goldschlagstraße 172/4/3/2, 1140 Vienna, Austria, registry number ZVR: 1354838270 (hereinafter: “*noyb*”) (**Annex 1**).
2. *noyb* is representing the Complainant under Article 80(1) GDPR (**Annex 2**).

2. FACTS PERTAINING TO THE CASE

2.1. Respondent (“*AliExpress Singapore*” or “*AliExpress*”)

3. Alibaba is a multinational “*leading global retail e-commerce platform enabling consumers to buy directly from manufacturers around the world*”, according to its website.¹ More specifically, Alibaba provides users with access to an e-commerce platform called AliExpress, on which users can sell (“*Seller*”) or purchase (“*Buyer*”) a variety of goods.
4. Alibaba.com Singapore E-Commerce Private Limited (hereinafter: “*Respondent*” or “*AliExpress Singapore*” or “*AliExpress*”) is part of the Alibaba International Digital Commerce Group, which is one of the six groups of Alibaba Group Holding Limited (hereinafter: “*Alibaba Group*”).² To be accessible worldwide and depending on the scope of business activity, Alibaba Group acts via its subsidiaries, such as the Respondent, AliExpress Russia Holding Private Limited (Singapore), AliExpress E-Commerce One Pte. Ltd (Singapore) and Hangzhou Alibaba Advertising Co., Ltd. (Hangzhou, China).
5. Alibaba’s Group main corporate bodies responsible for data protection, namely the Compliance and Risk Management Committee of the Board of Directors, as well as the Comprehensive Risk Management Working Group and President of the Security Department, are all based in China.³
6. “*AliExpress.com*” (“*AliExpress*” or, the “*Platform*”) is a business to consumer (or “*B2C*”) platform which connects and facilitates sales and purchases between business sellers (or “*Sellers*”) and consumer buyers (or “*Buyers*”).” (**Annex 3**, Introduction). By offering its Platform to EU/EEA users, AliExpress Singapore is offering goods and services to data subjects in the Union, as described in Article 3(2)(a) GDPR. Therefore, the GDPR is applicable. That AliExpress is in fact explicitly offering its Platform service to data subjects in the Union, is (among other things) confirmed by the fact that its Privacy Policy is clearly directed to EU/EEA users as well.⁴

¹ <https://www.alibabagroup.com/en-US/about-alibaba-businesses-1747705938191581184>

² <https://www.alibabagroup.com/en-US/about-alibaba-businesses>

³ Alibaba Environmental, Social, and Governance Report. 2024, [link](#), p. 150 and p. 158.

⁴ **Annex 3A, Annex 3B, Annex 3C** e.g. Section J.

7. Based on widely available public reporting, the Complainant assumes that the Respondent's main establishment within the EU is located in Belgium. A facility located in the Belgian city of Liège (a subsidiary of Alibaba Group, called Cainiao Smart Logistics Network Limited,⁵ also known as AliExpress' European hub or Cainiao Liège eHub⁶) is responsible for managing purchases of European clients of AliExpress Singapore.⁷ While there may be other smaller sales offices of Alibaba in Europe, there is no indication of any similar, let alone larger, establishment than the hub in Liège or any decision-making as to the purposes of means of processing in Europe.

2.2. Complainant

8. The Complainant is a Buyer of the Platform since [REDACTED]. To use the Platform and to buy products on the Platform, the Complainant had to create an account and provide personal data to do so. According to the Privacy Policy of the Platform, the Platform collects and processes personal data, such as contact data (name, address, phone number, e-mail address), financial data (payment data), passport or ID card data (used for user verification) and platform usage and social media information (**Annex 3A, Annex 3B, Annex 3C** Section A).
9. Since the Complainant's habitual residence is located within the EU/EEA, the Complainant's personal data are processed, in particular, by AliExpress' place of its central administration in the Singapore by AliExpress Singapore (**Annex 3A, Annex 3B, Annex 3C** Introduction).⁸
10. On [REDACTED], the Complainant tried to access her personal data. For that purpose, the Privacy Policy (**Annex 3A**, Section O, **Annex 3B, Annex 3C** Section P) directed her to the website <https://privacy.aliexpress.com/>, where she could download a "Copy of Personal Data" of her personal data after logging in with her account details (**Screenshot 1-2**).⁹ After downloading the files, it turned out that AliExpress Singapore provided the Complainant with a broken file, which could only be opened once.¹⁰

⁵ <https://www.alibabagroup.com/en-US/about-alibaba-businesses>; <https://global.cainiao.com/>

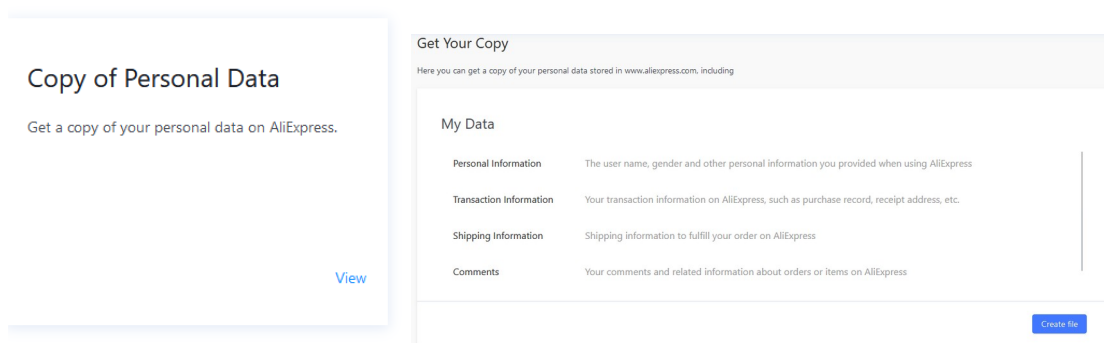
⁶ <https://www.linkedin.com/showcase/cainiao-liege-ehub/>

⁷ <https://www.ft.com/content/256ee824-9710-49d2-a8bc-f173e3f74286> ; https://www.reddit.com/r/Aliexpress/comments/lvayiu/why_is_everything_coming_to_europe_being_sent_to/?rdt=49110; <https://www.belganewsagency.eu/belgian-intelligence-monitors-alibaba-hub-over-espionage-concerns>

⁸ "If you are a registered member of the Platform, and either (a) you are from a place other than mainland China, and United States; or (b) you access and use the Platform from any of the Relevant Jurisdictions, you are contracting with Alibaba.com Singapore E-Commerce Private Limited [...]" (**Annex 3A, Annex 3B, Annex 3C** Introduction).

⁹ <https://privacy.aliexpress.com/home#/> which linked to after clicking the "View" button under "Get a copy of your personal data on AliExpress": <https://privacy.aliexpress.com/home#/request/backup> where she pressed "Create File" to download a "Copy of Personal Data".

¹⁰ Therefore, the Complainant is not able to add this file as an Annex to this Complaint.



Screenshot 1-2. The complainant pressed the “View” button under “Get a copy of your personal data on AliExpress”, which lead to a webpage where she pressed the “Create File” button to receive a “Copy of Personal data”.¹¹

11. Since downloading a “Copy of Personal Data” did not provide the Complainant with any information under Article 15(1) or (3) GDPR, she decided to file an access request under Article 15 GDPR on [REDACTED] (**Annex 4A**). The access request was sent to DataProtection.AE@aliexpress.com, the e-mail address provided in the Respondent’s Privacy Policy (**Annex 3A**, Section O).
12. The Respondent sent a message “generated by an auto-reply program” to this access request of the Complainant [REDACTED] (**Annex 4B**).
13. On [REDACTED] the Respondent replied to the access request via email. In this email the Respondent referred the Complainant to the information in its Privacy Policy and to the possibility of downloading a “Copy of Personal Data” (which as is stated above, did not provide the Complainant with a copy of her personal data in practice) (**Annex 4C**).
14. However, none of these responses did include an answer to the Complainant’s questions regarding her data.

3. COMPETENT AUTHORITY

15. This complaint is being lodged with the Belgian Data Protection Authority (Gegevensbeschermingsautoriteit/Autorité de Protection des Données hereinafter: “GBA”) because AliExpress Singapore’s representative in Europe is located in Belgium.
16. As mentioned in Section 2.1 above, the main establishment of the Respondent is in Liège.
17. Therefore, the Cainiao Smart Logistics Network Limited in Liège should be treated as the Respondent’s representative in the Union under Article 27(1) GDPR. Be-

¹¹ <https://privacy.aliexpress.com/home#/> which linked to after clicking the “View” button under “Get a copy of your personal data on AliExpress”: <https://privacy.aliexpress.com/home#/request/backup> where she pressed “Create File” to download a “Copy of Personal Data”.

cause of this, we consider the GBA to be the the competent authority to handle this Complaint.

4. VIOLATIONS OF THE GDPR

18. The respondent violated more than one GDPR provisions. AliExpress did not answer the complainant's access request adequately and thus violated Article 15(1), (2) and (3) and Article 12(1) and (2) GDPR.

4.1. Violation of Article 15(1), (2) and (3) GDPR

3.1.1. AliExpress did not provide access to the complainant's personal data according to Article 15(1) and (2) GDPR

19. Contrarily to the obligations laid out in Article 15(1) GDPR, the Respondent never fulfilled the complainant's access request.
20. The Respondent replied to the access request by referring the Complainant to the information in its Privacy Policy and to the possibility of downloading a *"Copy of Personal Data"*, which as is stated above, did not provide the Complainant with a copy of her personal data in practice (**Annex 4C**).
21. It is, therefore, impossible for the complainant to verify the lawfulness of the processing of her personal data, which is the ultimate objective of the right of access to her personal data, according to Recital 63 GDPR, as well as the CJEU case-law on the right of access. The CJEU explicitly referred to the purpose of the right of access in para. 44 in case C-141/12, YS and Others (*"it is in order to carry out the necessary checks that the data subject has [...] a right of access to the data relating to him which are being processed"*)¹². Fulfilling the complainant's right of access would mean that AliExpress has to provide information *"updated and tailored for the processing operations actually carried out with regard to the data subject"*¹³, which the company did not do.
22. The CJEU reaffirmed this obligation of the controller in para 51 in case C-154/21 *"RW v Österreichische Post AG"*, as follows:

"[...] Article 15(1)(c) of Regulation (EU) 2016/679 [...] must be interpreted as meaning that the data subject's right of access to the personal data concerning him or her, provided for by that provision, entails, where those data have been or will be disclosed to recipients, an

¹²See

here:

[https://curia.europa.eu/juris/document/document.jsf?jsessionid=8B5237DDAD14AB16A555ABCCB2F7F3B2?](https://curia.europa.eu/juris/document/document.jsf?jsessionid=8B5237DDAD14AB16A555ABCCB2F7F3B2?text=&docid=155114&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=58965)

<text=&docid=155114&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=58965>

¹³Para 113, EDPB, Guidelines 01/2022 on data subject rights – Right of access, 2023, https://www.edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-012022-data-subject-rights-right-access_en

*obligation on the part of the controller to provide the data subject with the actual identity of those recipients [...]*¹⁴.

23. Therefore, the controller violated Article 15(1)(c) GDPR. The mere violation of this provision is of particularly gravity as it hinders the exercise of the complainant's remaining rights as per Articles 16 - 22 GDPR. Providing the data subject with a document that can only be opened once is not an adequate response to the access request advanced by the Complainant.
24. Additionally, the Respondent did not provide access to any of the safeguards required for transferring the complainant's personal data to China as per Article 46 GDPR, thereby violating Article 15(2) GDPR.

3.1.2. AliExpress did not provide access to a copy of the complainant's personal data under Article 15(3) GDPR

25. Contrarily to the obligation of Article 15(3) GDPR to provide "a copy of the personal data undergoing processing", AliExpress provided the complainant with an option to access a broken file, which therefore made it impossible for her to provide it to your Authority. Such option is particularly problematic because it allows for a one time reading of the document, and hinders any further situation where the document should have been consulted, for instance for legal compliance purposes. This is an insurmountable obstacle to the Complainant's right of access. Subsequently, the Respondent sent the complainant another document, which did not contain sufficient information, therefore also not fulfilling the requirements of Article 15(3) GDPR (**Annex 4C**).
26. As AliExpress did not provide a complete copy of the processed data, AliExpress violated Article 15(3) GDPR.

4.2. Violation of multiple provisions of Article 12 GDPR

27. AliExpress violated Article 12(1) and (2) GDPR.
28. First, AliExpress violated Article 12(1) GDPR by not taking appropriate measures to provide the requested communication under Article 15 GDPR, as they failed to provide the complainant with the information they requested. Additionally, as the information was provided in a file that could only be opened once, the controller failed to make the personal data requested easily accessible to the complainant (**Annex 4C**).
29. Second, the fact that AliExpress provided the complainant with a broken file obliged the complainant to advance a second access request, thus violating Article 12(2) GDPR.

¹⁴See here: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=269146&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=60526>

5. REQUESTS AND SUGGESTIONS

5.1. Request to investigate

30. The complainant invites the competent authority to investigate according Article 58(1) GDPR the processing that AliExpress conducts.

5.2. Request to issue a declaratory decision

31. The complainant requests that the complaint be upheld and that the Respondent be found to have infringed Articles 15(1), (2) and (3), 12(1) and (2) GDPR.

5.3. Request to order the Controller to comply with the complainant's request

32. The complainant requests that the competent authority orders the Respondent to comply with the complainant's request and to provide all information relevant to his request.

5.4. Suggestion to impose a fine

33. The complainant suggests that the competent authority imposes a fine against AliExpress, as controller, pursuant to Articles 58(2) (i) and 83(5) (a) and (b) GDPR for the infringements of Articles 15(1), (2), (3) and 12(1) and (2) GDPR.

6. CONTACT

34. Communications between *noyb* and the GBA in the course of this procedure can be done by email at [REDACTED] with reference to the **Case-No C100-01** or [REDACTED].