



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

Autoriteit Persoonsgegevens (AP)
Hoge Nieuwstraat 8
2514 EL The Hague, Netherlands

Vienna, 17.07.2025

noyb Case-No: **C100-02**

Complainant:

[REDACTED]
[REDACTED]
[REDACTED]

WeChat ID: [REDACTED]

Linked phone number: [REDACTED]

represented under
Article 80(1) GDPR by:

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

Respondent:

Tencent International Service Europe B.V.,
Buitenveldertselaan 1-5, 1082 VA
Amsterdam, Netherlands

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), (2), (3) and (4) 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 complainants’ rights and freedoms with its registered office in Goldschlagstraße 172/4/2, 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. The Respondent (“*Tencent*”)

3. Tencent is a “*a world-leading internet and technology company that develops innovative products and services to improve the quality of life of people around the world*”, according to its website.¹ More specifically, Tencent provides users with access to (inter alia) WeChat, a social network application, enabling users to (inter alia) call, chat and video call (hereinafter: “*WeChat*”).²
4. Tencent International Service Europe (hereinafter: “*Respondent*” or “*Tencent*”) is part of the Weixin Group, which is one of the six groups of Tencent Holdings Limited (hereinafter: “*Tencent Group*”). Tencent Group acts via its subsidiaries, such as the Respondent, WeChat International Pte. Ltd. (Singapore) and Shenzhen Tencent Computer Systems Company Limited (China).³
5. Tencent (Europe) is established in the Netherlands, and is processing personal data in the context of this establishment (Article 3(1) GDPR).⁴ Therefore, the GDPR is applicable.

2.2. Complainant

6. The Complainant is a user of WeChat since [REDACTED]. To use WeChat, the Complainant had to create an account and provide personal data to do so. According to the Privacy Policy of WeChat, WeChat collects and processes personal data, such as registration data (such as name Apple ID, mobile number, and more), location data (such as location data derived from your GPS, WiFi or IP address), log data (such as information on device attributes, information about your commu-

¹ <https://www.tencent.com/en-us/about.html>

² <https://www.wechat.com/>

³ <https://www.tencent.com/en-us/about.html>

⁴ **Annex 3**, Summary and Section 1.

nication on WeChat and metadata), profile data (such as WeChat ID, name, gender and photo), contacts and friend lists and more (**Annex 3**, under 3. and 4.).

7. Since the Complainant's habitual residence is located within the EU/EEA, the Complainant's personal data are processed, in particular, by Tencent's place of its central administration in the EU: Tencent International Service Europe B.V. (the Respondent) (**Annex 3**, under 1.).
8. On [REDACTED], the Complainant tried to access his personal data, to verify whether his personal data was being transferred to China or any other third country by Tencent. For that purpose, the Privacy Policy (**Annex 3**, under 11.) directed him to the WeChat Data Subject Rights Request Form, which he filled out to file an access request (**Annex 4**).⁵ The Complainant therefore ticked the box "Access":
9. The Complainant furthermore added in the open field to the question "*Have you additional questions or requests about our data access policies? Please list them here.*"



*Annex 4. The access request the Complainant filed.*⁶

10. The Complainant sent his access request in [REDACTED]. The Respondent replied to the Complainant's email six months later, on [REDACTED], by explaining how to use the "Export Personal Data" tool on the WeChat application, without providing any other information on Articles 15(1), (2) and (3) GDPR (**Annex 5**). This does not constitute a reply to the Complainant's access request.

3. COMPETENT AUTHORITY/ LEAD AUTHORITY

11. This Complaint is being lodged with the Dutch Data Protection Authority (Autoriteit Persoonsgegevens, hereinafter: "AP") because the Respondent, Tencent Europe, is located in Amsterdam, the Netherlands and therefore that is the place of the infringement, according to Article 77(1) GDPR.

⁵ https://help.wechat.com/cgi-bin/newreadtemplate?t=help_center/index_vue#/rights-request

⁶ https://www.wechat.com/en/privacy_policy.html (**Annex 3**) which linked to https://help.wechat.com/cgi-bin/newreadtemplate?t=help_center/index_vue#/rights-request (**Annex 4**) .

4. GROUNDS FOR THE COMPLAINT

4.1. Violations

12. The Respondent violated more than one GDPR provisions. The Respondent did not answer the complainant's access request and thus violated Article 15(1), (2) and (3) and Article 12(1), (2), (3), (4) GDPR.

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

4.2.1. *The Respondent did not provide access to the complainant's personal data according to Article 15(1), (2) GDPR*

13. Contrarily to the obligations laid out in Article 15(1) GDPR, the Respondent never fulfilled the complainant's access request.
14. It is, therefore, impossible for the complainant to verify the lawfulness of the processing of his 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")⁷. Fulfilling the complainant's right of access would mean that the Respondent has to provide information "updated and tailored for the processing operations actually carried out with regard to the data subject"⁸, which the company did not do.
15. 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 obligation on the part of the controller to provide the data subject with the actual identity of those recipients [...]"*⁹.

⁷See here:

<https://curia.europa.eu/juris/document/document.jsf?sessionId=8B5237DDAD14AB16A555ABCCB2F7F3B2?text=&docid=155114&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=58965>

⁸Para 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

⁹See 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>

16. 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.
17. 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.

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

18. Contrarily to the obligation of Article 15(3) GDPR to provide "a copy of the personal data undergoing processing", Tencent did not provide anything to the complainant following the complainant's request. As Tencent did not provide a copy of the processed data, Tencent violated Article 15(3) GDPR.

4.3. Tencent's lack of response to the complainant's request violated multiple elements of Article 12 GDPR

19. Tencent violated Article 12(1), (2), (3) and (4) GDPR.
20. First, Tencent 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 he requested.
21. Second, Tencent's six month inaction followed by the "template" in relation to the complainant's request rendered the complainant unable to exercise his rights any further, thus violating Article 12(2) GDPR.
22. Third, as Tencent did not react to the data subject's access request in a timely manner, not even to verify that they received the complainant's request, the controller did not respond to the request without undue delay and, in any case, within a month from the receipt of the data subject's request, violating Article 12(3) GDPR (for the request, see **Annex 4**).
23. Finally, Tencent did not inform the data subject that they will not take action and of the reasons behind this decision,, thus violating Article 12(4) GDPR.

5. REQUESTS AND SUGGESTIONS

5.1. Request to investigate

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

5.2. Request to issue a declaratory decision

25. 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), (2), (3), (4) GDPR.

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

26. 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

27. The complainant suggests that the competent authority imposes a fine against Tencent 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), (2), (3), (4) GDPR.

6. CONTACT

28. Communications between *noyb* and the DPA in the course of this procedure can be done by email at [REDACTED] with reference to the **Case-No C100-02** or [REDACTED].