



noyb – European Center for Digital Rights  
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1140 Vienna  
AUSTRIA

Austrian Data Protection Authority (DSB)  
Barichgasse 40-42  
1030 Vienna  
AUSTRIA

Vienna, December 9, 2025

*noyb* case number: C-103-02

Complainant:

[REDACTED] born on [REDACTED]

TikTok username: [REDACTED]  
Email address linked to Grindr: [REDACTED]

Represented in accordance with  
Article 80(1) GDPR by:

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

Initial respondent:

**TikTok Technology Limited,**  
The Sorting Office, Ropemaker Place, Dublin 2, Ireland

Second respondent:

**AppsFlyer Ltd.**  
14 Maskit St., Herzliya, Israel

EU branch:  
**AppsFlyer Germany GmbH**  
Schönhauser Allee 180, 10119 Berlin, Germany

Third-party respondent:

**Grindr LLC**  
P.O. Box 69176, West Hollywood  
CA 90069, United States of America

Re:

Articles 5(1)(c), 6(1), and 9(1) GDPR

## COMPLAINT

## 1. REPRESENTATION

1. *noyb* – European Center for Digital Rights is a non-profit organization that works to protect the rights and freedoms of individuals with regard to the protection of their personal data. It is based at Goldschlagstraße 172/4/2, 1140 Vienna, Austria, and is registered under ZVR number 1354838270 (hereinafter: "*noyb*") (Appendix 1).
2. The complainant is represented by *noyb* in accordance with Article 80(1) GDPR (Appendix 2).

## 2. FACTS

3. The complainant is a user of the **TikTok** and **Grindr** platforms. TikTok enables its users to interact with each other via short videos and is operated by the first respondent (hereinafter "TikTok"). Grindr is a dating app and is operated by the second respondent (hereinafter "Grindr").
4. In order to use the TikTok application, the complainant had to register with TikTok, provide certain personal data, and accept the relevant terms of use and privacy policy. In doing so, the complainant did not give any (explicit) consent to the processing of his activities outside of TikTok (hereinafter "off-TikTok activity data").
5. On [REDACTED] the complainant downloaded a copy of his personal data using a self-service tool. While TikTok's privacy policy does not provide any specific information about the processing of off-TikTok activity data,<sup>1</sup> the downloaded data copy did contain a reference to such information, but no further details could be derived from this data. The complainant therefore felt compelled to conduct further research. On [REDACTED] the complainant contacted TikTok with a request for information and specific questions about the processing of off-TikTok activity data (see Appendix 3)<sup>2</sup>.
6. In a letter dated [REDACTED] (Appendix 4), TikTok initially informed the complainant that it would take another two months to provide the information. In addition, TikTok provided the complainant with further information (in particular regarding the use of off-TikTok activity data) (see point 2 of the letter in Appendix 4).
7. In this letter, TikTok specifically stated that the purpose of processing off-TikTok activity data is to:
  - i. To provide **personalized advertising** (based on presumed consent)
  - ii. To provide **measurement and analytics services** (based on a presumed legitimate interest),
  - iii. **To improve the platform** (based on a legitimate interest), and
  - iv. Ensure the **security of the platform** (based on a legitimate interest).

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<sup>1</sup> See <https://www.tiktok.com/legal/page/eea/privacy-policy/de> under "Data from other sources," accessed on December 9, 2025.

<sup>2</sup> Correspondence with TikTok took place in English. A translation of the relevant correspondence can be provided upon request.

8. In a further letter from TikTok dated [REDACTED] (Appendix 5), the complainant was provided with further personal data processed about him and additional information. In this letter, TikTok stated that certain data concerning third parties would not be disclosed and referred to Article 15(4) GDPR in this regard. TikTok's failure to provide information is the subject of a separate complaint.
9. Insofar as relevant to the proceedings, two tables were submitted containing off-TikTok activity data, i.e., data about activities outside of TikTok (see Annexes 6 and 7). This data has not yet been made available to the complainant via the self-service tool and shows that personal data relating to the complainant's activities that are not related to the use of TikTok is indeed being collected on a large scale.
10. For example, it contains information about which other applications are used by the complainant (such as Grindr), what actions the complainant has taken in other applications (such as opening the application or adding a product to the shopping cart), or whether a so-called conversion event has taken place (i.e., whether a user has performed a desired action after an ad has been displayed on TikTok).
11. As the data transmitted by TikTok shows, the complainant's activities can be found in particular on the dating app Grindr (see lines 72, 73, 75, 84, 8, and 86 in Appendix 7). The data therefore shows that the complainant started and actively used the app several times. According to the information provided, TikTok is likely to have obtained this information from the online data broker "**AppsFlyer**."

### **3. COMPETENT AUTHORITY/LEADING AUTHORITY**

12. TikTok is based in Ireland. Therefore, the Irish Data Protection Commission is likely to be considered the lead supervisory authority within the meaning of Article 56 GDPR in this case. However, pursuant to Article 77(1) GDPR, the complainant has the right to lodge a complaint with the supervisory authority of his or her habitual residence. For the complainant, this is Austria; the present complaint is therefore being lodged with the DSB as the supervisory authority concerned within the meaning of Article 4(22).
13. AppsFlyer is a company registered in Israel. However, it has a branch in Berlin, which is why the Berlin Commissioner for Data Protection and Freedom of Information is presumably responsible for AppsFlyer under Article 56 GDPR.
14. Grindr is based in the US, has no branch in the EEA, and is subject to the GDPR pursuant to Article 3(2) GDPR. In the absence of a connection to another Member State, the cooperation mechanism provided in Article 56 et seq. GDPR does not apply to Grindr. The DSB is therefore the competent supervisory authority.

### **4. TIMELINESS OF THE COMPLAINT**

15. The unlawful processing by TikTok and Grindr that is the subject of the proceedings is likely to continue. It is therefore a permanent unlawful situation to which the preclusion periods in Section 24(2) DSG do not apply.

16. In any case, the complainant only became aware of the unlawful data processing through the relevant information provided by TikTok on [REDACTED]. This means that the subjective limitation period of one year from knowledge of the event giving rise to the complaint, which is not applicable in this case, would be observed.
17. On the part of TikTok, the processing activity that is the subject of the proceedings is still taking place; the Grindr usage data dates from [REDACTED]. This means that the objective preclusion period of three years from the date of the event giving rise to the complaint has been complied with in any case.

## **5. GROUNDS FOR THE COMPLAINT**

### **5.1. Legal violations by TikTok**

#### **5.1.1. Overview**

18. The complainant is of the opinion that TikTok has violated the following provisions of the GDPR:
1. **Article 5(1)(c) GDPR**, through the indiscriminate processing of off-TikTok activity data for numerous different purposes,
  2. **Article 6(1) GDPR**, by processing the complainant's personal data without a legal basis,
  3. **Article 9(1)**, by processing data relating to the complainant's sex life and sexual orientation without obtaining explicit consent or being able to invoke any other exception in Article 9(2) GDPR.

#### **5.1.2. Violation of Article 5(1)(c) GDPR**

19. According to Article 5(1)(c) GDPR, personal data must *be "adequate, relevant, and limited to what is necessary in relation to the purposes for which they are processed."*
20. TikTok's indiscriminate collection and processing of off-TikTok data is not compatible with this principle of data minimization. Rather, TikTok should have put in place appropriate organizational measures to ensure that, for each specific purpose, only the off-TikTok data that is indispensable for achieving that purpose is processed. In this regard, reference can be made to the relevant case law of the ECJ.<sup>3</sup>

#### **5.1.3. Violation of Article 6(1) GDPR**

21. TikTok cannot rely on any legal basis under Article 6(1) GDPR for the processing of off-TikTok data. In particular, the legal bases cited by TikTok (see point 2 in Appendix 4), i.e., the consent of the complainant and the necessity for the protection of a legitimate interest, do not exist:

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<sup>3</sup> EuGHC-446,21 (*Schrems v. Meta Platforms Ireland*) para 38 et seqq.

#### **5.1.3.1. No consent from the complainant**

22. TikTok states that it processes off-TikTok activity data for the purpose of personalizing advertising on the basis of consent. However, the complainant has not given consent to the processing of his off-TikTok data (for the purpose of personalized advertising). Simply accepting TikTok's terms of use and privacy policy does not constitute consent. In particular, there is no consent that would meet the requirements of Articles 4(11) and 7 GDPR. According to Article 7(1), the controller would be required to provide evidence of valid consent.
23. The fact that the complainant did not give consent to personalized advertising is also reflected in the documents provided by TikTok (see p. 20 under "user\_mode" in Appendix 8 in conjunction with Appendix 9, column AE).

#### **5.1.3.2. No overriding legitimate interest**

24. TikTok states (see point 2 of Appendix 4) that it processes off-TikTok activity data in order to provide measurement and analysis services, improve the platform, and ensure the security of the platform. TikTok invokes an alleged legitimate interest in doing so. However, the necessary conditions for this are not met in any of these cases.
25. First, the vaguely worded objectives do not constitute legitimate interests within the meaning of Article 6(1)(f).
26. Second, the processing of off-TikTok activity data is not necessary to safeguard the interests described. The interests could be achieved just as effectively with less invasive methods, for example, if the processing were limited to data generated during the use of TikTok.
27. Third, in any case, the interests, fundamental rights, and freedoms of the complainant outweigh the alleged legitimate interests of TikTok.

#### **5.1.4. Violation of Article 9(1) GDPR**

28. Information about the use of a dating app for gay, bisexual, transgender, and queer people is data relating to the sex life or sexual orientation of a natural person, which is subject to the special protection regime in Article 9 GDPR.
29. TikTok cannot rely on any of the exceptions in Article 9(2) GDPR when processing this data. In particular, the complainant has not given explicit consent within the meaning of Article 9(2) GDPR.

### **5.2. Legal violations by AppsFlyer**

#### **5.2.1. Overview**

30. The complainant believes that AppsFlyer has violated the following provisions of the GDPR:
1. **Article 6(1) GDPR**, by transferring the complainant's personal data to third parties without a legal basis,

2. **Article 9(1) GDPR**, by transferring special categories of the complainant's personal data without the existence of an exception under Article 9(2) GDPR.

### **5.2.2. Violation of Article 6(1) GDPR**

31. The facts of the case show that AppsFlyer then shared the complainant's activity data (directly or indirectly) with TikTok.
32. AppsFlyer cannot rely on any legal basis under Article 6(1) GDPR for this processing. In particular, the respondent did not give (explicit) consent to this data processing. Other legal bases are out of the question (in particular due to the intensity of the interference). It is also not clear to the complainant on what supposed legal basis AppsFlyer intends to rely with regard to this processing activity.

### **5.2.3. Violation of Article 9(1) GDPR**

33. As already explained above, the information in question about the use of Grindr concerns data relating to the complainant's sex life or sexual orientation and therefore constitutes special categories of personal data within the meaning of Article 9(1) GDPR.
34. Grindr cannot rely on any exception under Article 9(2) GDPR with regard to the data transfer in question. In particular, the complainant has not given his express consent.

## **5.3. Legal violations by Grindr**

### **5.3.1. Overview**

35. The complainant believes that Grindr has violated the following provisions of the GDPR:
  1. **Article 6(1) GDPR**, by transferring the complainant's personal data to third parties without a legal basis,
  2. **Article 9(1) GDPR**, by transferring special categories of the complainant's personal data without an exception under Article 9(2) GDPR.

### **5.3.2. Violation of Article 6(1) GDPR**

36. It is clear from the facts that Grindr shared the complainant's activity data with (at least one) third party ("AppsFlyer"), which then shared this data (directly or indirectly) with TikTok.
37. Grindr cannot rely on any legal basis under Article 6(1) GDPR for this processing. In particular, the respondent did not give (explicit) consent to this data processing. Other legal bases are out of the question (in particular due to the intensity of the interference). It is also not clear to the complainant on what alleged legal basis Grindr intends to rely with regard to this processing activity.

### **5.3.3. Violation of Article 9(1) GDPR**

38. As already explained above, the information in question about the use of Grindr concerns data relating to the complainant's sex life or sexual orientation and therefore constitutes special categories of personal data within the meaning of Article 9(1) GDPR.
39. Grindr cannot rely on any of the exceptions under Article 9(2) GDPR with regard to the data transfer in question. In particular, the complainant has not given his express consent.

## **6. MOTIONS AND REQUESTS**

### **6.1. Request for a comprehensive investigation**

40. In view of the above, the complainant requests that the DSB conduct an appropriate investigation.

### **6.2. Request for a declaratory decision**

41. In view of the above, the DSB should declare that TikTok
1. has violated Article 5(1)(c) GDPR by processing off-TikTok activity data in an undifferentiated manner,
  2. by processing the complainant's personal data without a legal basis, violated Article 6(1) GDPR,
  3. by processing data relating to the complainant's sex life and sexual orientation without obtaining explicit consent or being able to invoke another exception in Article 9(2) GDPR, violated Article 9(1) GDPR.
42. The DSB should further find that Grindr
1. has violated Article 6(1) GDPR by processing the complainant's personal data without a legal basis,
  2. by processing data relating to the complainant's sex life and sexual orientation without obtaining explicit consent or being able to invoke another exception in Article 9(2) GDPR, has violated Article 9(1) GDPR.

### **6.3. Proposal to impose a fine**

43. The complainant suggests imposing an effective, proportionate, and dissuasive fine for the violations to be established.

## **7. CONTACT**

44. Communication between *noyb* and the DSB in the context of these proceedings can be made by email at [REDACTED] quoting **case number C-103-02**, or by telephone at [REDACTED]