



Berliner Beauftragte
für Datenschutz
und Informationsfreiheit

Berlin DPA: 521.11398 / 632.208
Spanish DPA: E/04491/2019
IMI CR: 72181
DD 329643

Final Decision

Attorney at Law
[redacted]
Sieglindestraße 7
12159 Berlin

Reprimand

Your letter of 4 September 2020
Our hearing of 21 June 2021

Dear [redacted],

We hereby issue a reprimand to your client for a violation of the General Data Protection Regulation (GDPR).

Reasoning:

Our decision is based on the following considerations:

I.

We have established the following facts:

On 9 January 2019, the complainant sent an unsolicited application with her CV to info@secretaria.es. On the same day, as well as on 15 January 2019, she received an email from [Person 1] informing her that she had received the complainant's application for the company CLBS in Thailand. She did not reply as she assumed they were fraudulent emails. The complainant then received a call from [Person 1] on 21 January 2019. [Person 1] advised that she had received the data from the unsolicited application to secretaria.es. On 21 January 2019, the complainant therefore sent an email to dataprivacy@secretaria.es requesting access to her data and its erasure. The complainant did not receive a reply.

The email address info@secretaria.es is the general contact address of Deutsche Bureau AG's customer service. Deutsche Bureau AG is a wholly-owned subsidiary of ebuero AG, which is also based in Berlin, Germany. Deutsche Bureau AG provides telephone secretarial and business centre services for customers in several EU member states. This also includes permanent activity on the Spanish market, where the company offers its services under the domain secretaria.es as well as by means of Spanish telephone numbers and Spanish-speaking employees. For this purpose, Deutsche Bureau AG uses, among others, Chiangmai Lanna Business Services Ltd. ("CLBS"). CLBS, which is based in Thailand, is also a wholly-

Berlin Commissioner for Data Protection and Freedom of Information

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The building is fully accessible to disabled members of the public.

Contact us

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Use our encrypted contact form for registering data protection complaints:
www.datenschutz-berlin.de/beschwerde.html

For all other enquiries, please send an e-mail to:
mailbox@privacy.de

Fingerprint of our PGP-Key:

D3C9 AEEA B403 7F96 7EF6
C77F B607 1D0F B27C 29A7

Office hours

Daily from 10 am to 3 pm,
Thursdays from 10 am to 6 pm
(or by appointment)

How to find us

The underground line U6 to Kochstraße / Bus number M29 and 248

Visit our Website

<https://privacy.de>

owned subsidiary of ebuero AG and operates for the other parts of the group of companies on the basis of order processing agreements supplemented by EU standard contractual clauses.

Customer service requests to info@secretaria.es are processed on behalf of Deutsche Bureau AG by employees of CLBS as a processor. The complainant's e-mail was therefore opened and processed by an employee of CLBS. The employee forwarded the e-mail to the internal recruiting department of CLBS. In doing so, he assumed that he was acting in the complainant's interest. We were provided with a copy of the underlying data processing agreement and the signed standard contractual clauses.

After the hearing was received by Deutsche Buero AG, CLBS employees were once again instructed not to forward incoming applications and application documents internally for recruiting purposes without the sender's consent.

Deutsche Bureau AG has stated that the complainant's data has since been erased. It was therefore no longer possible to establish whether the request for information had been answered or whether the erasure had been confirmed.

II.

Legally, we assess the facts of the case as follows: Your client has committed a violation of the General Data Protection Regulation (GDPR).

There has been a violation of Article 6(1) GDPR by Deutsche Bureau AG, as there was no legal basis for the further processing of the application documents. CLBS processed personal data on behalf of Deutsche Bureau AG in accordance with Article 28 GDPR. Deutsche Bureau AG has concluded a data processing agreement with CLBS for this purpose. Deutsche Bureau AG remains responsible for the processing of the data. For the export of the data, the companies have concluded the standard contractual clauses issued by the EU. The processing of personal data on the basis of these contracts is permitted under the GDPR. Accordingly, an employee of CLBS was allowed to receive the application documents. However, the complainant applied to secretaria.es and thus directly to Deutsche Bureau AG. Her documents should therefore have been forwarded only to the competent persons at Deutsche Bureau AG. There is no legal basis for forwarding them within CLBS. The documents should not have been examined in more detail there, nor should [REDACTED] have been allowed to contact the complainant by e-mail or telephone.

Furthermore, there is a violation of Articles 15(1), 17(1) and 12(1) and (3) GDPR, as the erasure request of 21 January 2019 was not answered within one month. It is true that the application documents have been erased in the meantime. However, Deutsche Bureau AG should have responded to the request within one month, which it did not do.

III.

As a result, we have decided not to take any further supervisory measures due to the violation, but to leave it at a reprimand for the time being.

The reprimand is based on Article 58(2)(b) GDPR.

Taking into account the specific circumstances of the established facts, we consider a reprimand to be appropriate after completing our investigation. We have identified a violation on the part of your client for the first time. When we approached your client, she was reasonable and once again instructed the employees of the processor not to forward application documents internally.

In the certain expectation that your client will comply with the data protection regulations in the future, we consider the matter closed.

Legal remedy

An action against this decision may be brought before the Berlin Administrative Court. It must be filed in writing - also as an electronic document using a qualified electronic signature (QES) - or with the clerk of the court within one month of notification of this decision at the Berlin Administrative Court, Kirchstraße 7, 10557 Berlin. It is pointed out that if the action is filed in writing, the time limit for filing an action is only met if the action is received by the Administrative Court within this time limit.

Kind regards,
[redacted]