



25 April 2024

Final Decision

Complaint against [REDACTED] – Right to erasure (Article 17 GDPR)

IMI entry numbers: A56ID 321844 / Case 331720 / A60DD 596146

The Hessian Commissioner for Data Protection and Freedom of Information (hereinafter “HBDI”) refers to the complaint lodged by [REDACTED] (hereinafter “data subject”) against [REDACTED] (hereinafter “controller”) with the Danish Data Protection Authority concerning the right to erasure (Article 17 GDPR).

1. Case Description

In December 2020, the data subject requested erasure of his user account to which he had transferred 0.1 DK for identification purposes, but which he had never activated, as well as erasure of the data he had sent (copy of driving licence). However, as the data subject had contacted the controller’s customer support from an e-mail address other than the one used for registration of his user account, the data subject’s request was rejected by the controller. However, later on the request had also been sent from the correct e-mail address and had apparently not been complied with.

2. Investigation Outcome

After examining the complaint documents provided by the Danish Data Protection Authority, HBDI contacted the controller who stated the following: The data subject submitted the erasure request from an e-mail address not stored with the controller and without providing his user name. The controller was therefore unable to assign and verify the erasure request and asked the data subject to provide the necessary data and to send the erasure request from the e-mail address on file. As the first e-mail was sent from an e-mail address unknown to the company, it was not saved with the customer but filed under “sender not known”.

After the data subject had sent the erasure request from the email address on file, he was asked to provide his username for verification purposes. However, the data subject did not answer anymore.

Nevertheless, the data subject’s user account had now been closed. However, since a booking had already been made in the account by the data subject, the data subject’s user account would only be deleted after the statutory retention periods have expired (7 years under Dutch law).

3. Decision

HBDI does not consider this a breach of data protection. The data subject could have submitted the user name and erasure would have been carried out. However, the data subject failed to do so. The data subject also confirmed this in his complaint. However, before deleting an account, controllers must ensure that the request is made by an authorised person, which is why the controller's requirement that the request must be made from the e-mail address on file and the user name must be stated is not objectionable as a minimum requirement.

However, HBDI does not consider the controller's procedure of not explaining the exact circumstances to the data subject to be appropriate. HBDI has therefore instructed the controller to contact the data subject again, to discuss the facts of the case and to explain to him what information is still missing in order to be able to delete his user account. The controller sent a corresponding message to the data subject in English and Danish language on 6 April 2022. In this letter, the controller informed the data subject that his account had now been closed. However, as the data subject has transferred DK 0.1 for identification purposes, i.e. a booking has been made, under Dutch law the controller is obliged to retain the data subject's data for a period of 7 years from the end of the year following the closure of the account (Article 52 WAR, Dutch General State Tax Law (Algemene Wet inzake Rijksbelastingen ("AWR")), Article 2:10 DCC, Dutch Civil Code (Burgelijk Wetboek, "DCC")). The legal basis for further storage is Article 6 (1)(c) GDPR.

In HBDI's opinion, no further action is required and the case is therefore closed.