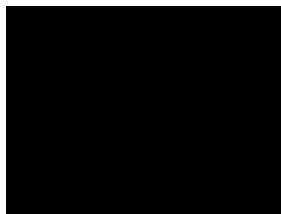


The President



Registered letter with acknowledgement of receipt

N°AR : [REDACTED]

Investigation of the case :

Paris,

27 NOV. 2024

Please quote our references in all correspondence:

Ref. no. [REDACTED]

Mr. Chairman,

I am following up on the various exchanges that have taken place between the services of the Commission Nationale de l'Informatique et des Libertés (hereinafter "CNIL") and the Data Protection Officer (DPO) of the company [REDACTED] in connection with the investigation of Mr [REDACTED]'s complaint. This complaint was forwarded to us by the Danish Data Protection Authority pursuant to article 56.1 of the General Data Protection Regulation (GDPR).

I. Background to the claim and the facts

The complaint relates to difficulties encountered by [REDACTED] (hereinafter "the complainant") in exercising his right of access.

The complainant stated that, at the end of February 2023, he had visited an [REDACTED] in Copenhagen (located at [REDACTED]) (hereinafter [REDACTED] Copenhagen") and that [REDACTED].

On 4 April 2023, he made an access request in order to obtain a digital copy of the aforementioned photograph and information about the processing of his personal data. His request was sent by e-mail to the following address: [REDACTED].

On 4 May 2023, he received a reply stating that it was not possible to erase his personal data.

On the same day, the complainant reiterated his request, stating that he was not seeking the erasure of his personal data, but rather a copy of it and information on how it was processed.

On 15 May 2023, the complainant received a reply confirming that his personal data and [REDACTED] had been erased.

RÉPUBLIQUE FRANÇAISE

3 Place de Fontenoy, TSA 80715 - 75334 PARIS CEDEX 07 - 01 53 73 22 22 - www.cnil.fr 1

II. Analysis of the facts: failure to respect the data subject's right of access

At the outset, [REDACTED], whose current address is [REDACTED] (hereinafter referred to as [REDACTED]), was asked whether it was responsible for the processing operation that was the subject of the complaint, i.e. the processing of customers' personal data, including that of the [REDACTED] in Copenhagen.

In response, the Data Protection Officer explained that [REDACTED] is a franchisor with a network of franchises within the European Union. Franchisees are not considered to be independent data controllers, as "[they] *do not [alone] determine the purposes and means of the processing operations that [they] carry out in connection with the provision of the services that [they] provide under the franchise agreement*" (unofficial translation).

On the other hand, the company considers that the franchisor (itself) and the franchisees are jointly responsible for the processing.

The CNIL is therefore competent to investigate this complaint.

Pursuant to Article 15 of the GDPR, the data subject has the right to obtain from the controller confirmation as to whether or not personal data relating to him or her are being processed and, where they are, access to such personal data, as well as certain information about the processing carried out.

In this case, although the complainant had repeatedly requested access to his personal data [REDACTED] and information about the processing thereof, it emerged from the emails dated 4 and 15 May 2023 that [REDACTED] Copenhagen had only referred to the erasure of his data, thereby failing to respond to his request for a right of access.

In fact, the first response given to the complainant showed that instead of answering his request for right of access, the franchisee indicated that it was impossible to erase his personal data, which the complainant had not requested. After the complainant again stated that he wished to have access to his personal data, the company nevertheless, in its second response, continued to refer to the right to erasure, confirming to the complainant that his data had been erased.

In doing so, by proceeding to erase the complainant's personal data even though he had requested that it be disclosed, [REDACTED] Copenhagen obstructed the complainant's right of access.

When asked about the handling of the complainant's request for access during the investigation of this complaint, the Data Protection Officer acknowledged that the "*response provided by the franchisee, who had only recently started his business and was not yet aware of data protection, was not satisfactory, the response being both inappropriate (deletion of data following a request for access) and late (response with a deadline exceeding one month, without any information about the need to extend the deadline)*" (unofficial translation).

Therefore, I consider that [REDACTED] has breached the provisions of Article 15(1) and (3) of the GDPR, firstly by failing to provide the personal data requested by the complainant in accordance with his request and by proceeding to erase them, and secondly by failing to provide the information required by those provisions.

Nevertheless, I note the measures taken by the company following the intervention of the CNIL. In particular, the latter indicated that it had made the members of the [REDACTED] network aware of personal data protection and access rights. It has also indicated that it is working on a library of standard answers that it will make available to franchisees, so that they can easily answer the most common questions. In this specific case, it also said that it had sent the Copenhagen-based franchisee a model letter to be sent to the complainant in order to provide the information referred to in Article 15(1) of the GDPR.

These facts justify a reminder to [REDACTED] of its legal obligations.

For your information, the CNIL provides a practical information sheet on its website: "Professionals: how to respond to a request for right of access".

III. Corrective measures ordered by the CNIL

In view of all these factors, and in agreement with the other data protection authorities concerned by this processing operation, the following corrective measure should therefore be imposed on [REDACTED]:

- **A REMINDER TO LEGAL OBLIGATIONS**, in accordance with the provisions of article 20.II of the amended law of 6 January 1978, concerning the failure to respect the data subject's right of access.

This decision takes into account the measures implemented by [REDACTED] as detailed above.

Please note that in accordance with Article 77 of the GDPR, the person who lodged the complaint will be informed of this decision.

This decision, which closes the investigation into complaint no. 2310209, does not preclude the CNIL from making use, particularly in the event of new complaints, of all the other powers conferred on it by the GDPR and by the amended Act of 6 January 1978.

The CNIL ([REDACTED] Rights and Complaints Department, [REDACTED]) will be happy to provide any further information you may require.

This decision may be appealed to the Conseil d'État within two months of notification.

Yours sincerely,

[REDACTED]
Marie-Laure DENIS

Copy sent to the Data Protection Officer