



Berliner Beauftragte
für Datenschutz
und Informationsfreiheit

521.13446
631.345
CR 52519
DD 186058

FINAL DECISION

Berlin, 26 April 2021

OUTFITTERY GmbH
Management Board
[redacted]
Leuschnerdamm 31
10999 Berlin

For information:
ISiCO Datenschutz GmbH
[redacted]
Am Hamburger Bahnhof 4
10557 Berlin

Reprimand

Complainant: [redacted]
Your letter of 18 December 2020 (Your ref IS-0472-10)

Dear [redacted],

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

Reasoning:

This decision is based on the following considerations

I.

The Berlin DPA has established the following facts:

The above-mentioned complainant maintained a customer account with Curated Shopping GmbH, which was taken over by Outfittery GmbH on 27 June 2019, under his email address [redacted - email address 2] and another customer account with Outfittery GmbH under the email address [redacted - email address 1]. By email from the address [redacted - email address 1], the complainant requested Outfittery GmbH to erase his data on 30 December 2019 and mentioned his user account set up under the email address [redacted - email address 2] in his erasure request.

Berlin Commissioner for Data Protection and Freedom of Information

Friedrichstr. 219
10969 Berlin

Visitors' entrance:
Puttkamer Str. 16-18

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

Contact us

Phone: +49 (0)30 13889-0
Fax: +49 (0)30 215 50 50

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
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How to find us

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

Visit our Website

<https://privacy.de>

You confirmed the erasure of the complainant's data in an email sent to his email address [redacted - email address 2] on 2 January 2020. On 16 September 2020, the complainant again received an advertising letter from Outfittery GmbH by post. In the above-mentioned statement, you stated that on 2 January 2020, the complainant's existing customer account at the e-mail address [redacted - email address 2] had been deleted and admitted that due to an employee error, however, his other customer account with the e-mail address [redacted - email address 1] had not been erased.

II.

Legally, we assess the facts of the case as follows. Your company has violated the GDPR.

According to Article 5(1)(a) GDPR, personal data must be processed in a lawful manner. In order for processing to be lawful, personal data must be processed either on the bases of the consent of the data subject concerned or some other legal basis, according to sentence one of Article 6(1) GDPR. Pursuant to Article 17(1)(a) GDPR, the data subject has the right to obtain from the controller the erasure of personal data concerning him or her without undue delay.

Through his erasure request of 30 December 2019 pursuant to Article 17(1) GDPR, the complainant has expressed that he is not interested in continuing the customer relationship with Outfittery GmbH. Further processing of his data for the business purposes of Outfittery GmbH was therefore no longer necessary. Nor was the erasure request barred for other reasons.

However, his erasure request was not fully implemented due to an internal employee error at Outfittery GmbH. Admittedly the data assigned to the customer account with the email address [redacted - email address 2], was erased by Outfittery GmbH on 2 January 2020. However, the erasure of the data assigned to the customer account with the email address [redacted - email address 1] did not take place. This data continued to be stored in the systems of Outfittery GmbH and was used again by sending the postal advertising letter that the complainant received on 16 October 2020, although it should have already been erased based on his previous request for erasure.

The fact that Outfittery GmbH did not fully implement his deletion request of 30 December 2019 due to an internal employee error is irrelevant, as Outfittery GmbH must ensure compliance with its data protection obligations by taking appropriate technical and organisational measures in accordance with Article 24(1) GDPR. In any case, Outfittery GmbH could also be expected to take internal organisational measures to ensure that the request for deletion was processed in accordance with data protection laws.

The continued use of the complainant's data and its continued storage were therefore without legal grounds.

Outfittery GmbH thus violated Articles 5(1)(a), 6(1), 17(1) and 24(1) of the GDPR.

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.

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

Taking into account the specific circumstances of the case under investigation, we consider a reprimand to be appropriate after completion of our investigation. We have again established a violation on your part

In the safe expectation that you will comply with the data protection regulations in the future, we consider the matter closed.

Kind regards,

[redacted]