Summary Final Decision Art 60

Complaint

Reprimand

EDPBI:DEBE:OSS:D:2020:152

Background information

Date of final decision:	27 October 2020
Date of broadcast:	30 October 2020
LSA:	DEBE
CSAs:	AT, DE, DK, ES, FR, NL, SE
Controller:	Just Fabulous GmbH
Legal Reference:	Right of access (Article 15), right to erasure (Article 17)
Decision:	Reprimand
Key words:	Right of access, right to erasure, controller's area responsibility

Summary of the Decision

Origin of the case

The complainant revoked consent to the recording of telephone conversations and requested a list of stored personal data, more precisely the stored telephone conversations. The customer service department of the controller informed the complainant that the records could not be sent, due to data protection reasons. The request of the complainant was interpreted, by the controller's employee, in a way that the complainant did not want to receive the telephone records, but wanted instead to seek for their erasure, together with the telephone calls. Along these lines, the data of the complainant were deleted.

Findings

The SA found that when data subjects within one request withdraw their consent and request access to their personal data, the latter should take priority to guarantee the rights of the data subjects. Even if the controller delegated this task to its employee, the later should have recognised the request made by the complainant to the customer service as a specific request for access and should have been able to request further information for identification purposes. However, in this case, the assessment of the employee was taken on board and the data were erased. This fact renders the

controller incapable of complying with the right of access. The SA found that the controller, in the present case, violated Article 15(1) and (2) of the GDPR.

Decision

The SA issued a reprimand to the controller for a violation of the GDPR when processing data in his area of responsibility, since controller's failure to comply with complainant's access request occurred due the controller's employee misinterpretation of the scope of the request.