



Berliner Beauftragte
für Datenschutz
und Informationsfreiheit

631.221.4
521.11551
IMI (56) 126901
IMI CR 134719
IMI DD 137776
IMI FD 159432

Callosum Software GmbH
Mr [redacted]
Wallstr. 88
10179 Berlin

Berlin, 22 October 2020

Reprimand

Your letters of 17 September 2019, 21 October 2019 and 27 November 2019

Dear Mr. [redacted],

We hereby issue a reprimand to your company for a violation of the General Data Protection Regulation (GDPR) when processing personal data in your area of responsibility.

Justification:

Our decision is based on the following considerations:

I.
We have established the following facts:

The complainant has an account with you under the link [tellyonym.me/\[redacted\]](https://tellyonym.me/[redacted]). In a letter dated 11 April 2019, the complainant's mother, who is entitled to represent the complainant, requested that you provide her with a copy of the personal data that you have stored about the complainant. Initially, you refused to do so, citing reasons of data protection law. You did not respond to further requests by the complainant's authorised representatives.

You first stated that at the time of the request you had no valid indications that the sender was in fact the mother of the complainant. In particular, you did not know the first or last name of the account user [redacted], the e-mail was not sent from an e-mail address that is linked to the account concerned and you regularly receive so-called "phishing" requests in which third parties attempt to obtain private data. For this reason, you did not answer the inquiry. The request from the legitimate mother of the complainant was wrongly identified as a request for data on inappropriate content, which led to the suggestion to contact a local police station. The complainant's

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>

mother, who was entitled to represent her, had not made any further inquiry, so that you regarded the matter resolved.

In your comments of 17 September 2019 and 21 October 2019, you first informed us of the categories of data that you had stored on the complainant. We then drew your attention to your legal obligation under Article 15(1), second half-sentence (GDPR) according to which data subjects have a right of access to this personal data, not only to the categories of data, when data is processed.

In a letter dated 27 November 2019, you provided us with the specific data relating to the account [redacted] and sent us a letter to the mother of the complainant who is entitled to represent her, announcing that the data export would be sent by e-mail.

II.

The reprimand is based on Art. 58(2) (b) GDPR. There has been a violation of the GDPR in your area of responsibility.

Under Article 12(3) sentence 1 of the General Data Protection Regulation (GDPR), the controller must provide the data subject with information on the measures taken in response to an application under Articles 15 to 22 GDPR without delay, as a rule, and in any event within one month of receipt of the application. This means that the controller must provide the information or at least state why this is not possible within the deadline. This time limit may exceptionally be extended by a further two months if this is necessary in view of the complexity and number of applications. However, the GDPR does not provide for a routine and blanket extension of the deadline without examining the individual case. Nor have you informed the complainant's mother, who is authorised to represent her, of an extension of the deadline and the reasons for it.

In the present case, you state that you have not provided information within the meaning of Article 15(1) or (3) of the GDPR, in particular because of doubts as to the identity of the complainant or the complainant's mother entitled to represent her.

However, according to Article 12(6) of the GDPR, the controller may, if there is reasonable doubt as to the identity of the natural person, request additional information necessary to confirm the identity of the person concerned.

A request for additional information to identify the complainant or the complainant's mother entitled to represent her has not been made. Rather, the request was not correctly identified and you have sent a reply from the frequently asked questions templates. Callosum Software GmbH has therefore responded inappropriately to the request for access.

Consequently, the reply to the request for access of 11 April 2019 was sent significantly late on 27 November 2019. This constitutes a violation of Art. 12(3) GDPR.

Taking into account the specific circumstances of the facts of the case, we consider a reprimand to be appropriate after completion of our investigation. This is the first time we have established a violation on your part. In response to our inquiry, you showed understanding and announced that you

would comply with data protection regulations and remedy the conduct for which you have been reprimanded.

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