

Summary Final Decision Art 60

Complaint

Infringement of the GDPR

EDPBI:EE:OSS:D:2019:55

Background information

Date of final decision:	7 October 2019
LSA:	EE
CSAs:	DE-Lower Saxony, DE-Rhineland-Palatinate, ES, FI, FR, LV, SK
Legal Reference:	Right to object (Article 21), Right to erasure (Article 17)
Decision:	Infringement of the GDPR, issue of reprimand in accordance with Article 58(2)(b) GDPR
Key words:	Right to object, Right to erasure, Unsolicited communication

Summary of the Decision

Origin of the case

The first complainant alleged that his right to erasure of his account and personal data had not been respected by the controller. The second complainant alleged that he could not unsubscribe from the controller's marketing text messages.

Findings

The controller carried-out an internal investigation. It became clear that, due to technical reasons, the data subject's request to unsubscribe from the text messages had not been correctly registered with the controller. Additionally, the confirmation messages sent after the second complainant's request for un-subscription from the text messages were falsely understood by the data subject to be marketing messages. Following the investigation, the controller confirmed that the first complainant's account and personal data had been deleted, and that improvements had been introduced to the text messages system.

Decision

The LSA found that Article 5 and Article 17 GDPR had been infringed, and issued a reprimand to the controller. The LSA ordered that in accordance to on Article 5(1) (a) GDPR, the outgoing text messages of the controller should be clear and understandable as to their content. While in accordance to Article 17 GDPR, the right to erasure of personal data should be respected without undue delay and personal data should be deleted if there is no legal basis for further processing.