



REPUBLIC OF CYPRUS



OFFICE OF THE COMMISSIONER  
FOR PERSONAL DATA  
PROTECTION

COMMISSIONER

Our ref.: 11.17.001.012.009

22 January 2025

## **Decision**

### **Failure to Fully Comply to an Erasure Request by Freedom Finance Europe Ltd**

A complaint was lodged with the Federal Commissioner for Data Protection and Freedom of Information in Germany (Berlin SA) against Freedom Finance Europe Ltd (the Controller), whose main establishment is in Cyprus. Moreover, the complaint was subsequently transmitted to the Office of the Commissioner for Personal Data Protection (Cyprus SA), in line with Article 56 of the General Data Protection Regulation.

2. On the basis of the above, the Commissioner for Personal Data Protection (the Commissioner) is acting as the lead authority in this matter. In the course of the investigation, other EU countries were identified as being concerned by this case.

#### **Description of the case**

3.1. The complaint involves the Controller's failure to comply with the complainant's erasure request (article 17 of the GDPR) submitted to Freedom Finance Germany TT GmbH in Germany which is a subsidiary of the Controller.

3.2. The complainant stated that he registered an investment account through the controller's subsidiary in Germany on 30/9/2022. Moreover, on 1/11/2022, he sent an email to [info@ffineu.eu](mailto:info@ffineu.eu) and he requested the cancelation of his account, the erasure of his data and to stop receiving any advertising emails from the controller.

3.3. The complainant received a reply the same day from a customer support specialist, who informed him that he would need to log into his account for identification and to proceed with the closure of his account.

3.4. In his response the complainant demanded the deletion of his account without the need to log into his account.

3.5. According to the complainant, he did not receive another reply regarding his erasure request and his account was not deleted since he was still receiving relevant emails.

## **Investigation by Cyprus SA**

4.1. The Commissioner's Office contacted the Controller on 29/1/2024, and requested their views on the matter raised by the complainant as also proof that the complainant's personal data had been deleted.

4.2. In their responses, the controller mentioned, among others, the following:

- i. The complainant expressly agreed to be bound by the provisions of the General Terms of Business (TOBs), including conditions laid out in the Annexes and any other relevant Addendums and all documents in Business Policies and Regulations located on the FFEU website.
- ii. During the onboarding process, the complainant accepted the data protection and processing policy provided for in the Data Protection Notice.
- iii. According to Section 8 of the Data Protection Notice, considering the general limitation period stipulated by laws of the Republic of Cyprus and in the absence of specific regulatory or contractual requirements their baseline retention period for the personal data is 7 years.
- iv. Pursuant to section 37.2 of the TOBs, being in effect on 01/11/2022 – the date of the complainant's request to cancel his account with the controller and to erase his data, the Client was obliged to terminate the contractual relationship with the Company first by following the steps set out in the TOBs, such as by giving an Instruction to close the Account in the Member Area section of the controller's website.
- v. The complainant was notified of the account closure procedure via e-mail on the same day, 01/11/2022, as he requested. It was explained to the complainant that the personal data, meaning e-mail address for the regular e-mail notifications from the Controller, will be deleted once his account is closed.
- vi. The complainant's account was closed on 01.02.2024, and a notification e-mail was sent to the complainant, including the information relating to GDPR on the retention of personal data for 7 years.

## **Preliminary Views of the Commissioner**

5. On 25 October 2024, I issued a Preliminary Decision regarding the controller's failure to notify the complainant of the erasure of his data. In the said Preliminary Decision, I concluded that:

5.1. The complainant had requested that his account was closed and that his personal data are erased. After receiving a reply from the controller explaining that he must go through the identification process through the Member Area section of the controller's website, the complainant refused to follow the steps and sent another email explaining that his erasure request should be satisfied without following any other steps. The controller did not send any other responses. It is also noted that the controller proceeded with the closure of the complainant's account and notified him accordingly, though this was done after my Office first contacted the controller regarding the complaint.

## **5.2. In examining whether the verification process is excessive in violation of Article 12(2) GDPR:**

5.2.1. In reference to the EDPB guidelines 01/2022 on data subject rights - Right of access (para. 73): *"In practice, authentication procedures often exist and controllers do not need to introduce additional safeguards to prevent unauthorised access to services. In order to enable individuals to access the data contained in their accounts (such as an e-mail account, an account on social networks or online shops), controllers are most likely to request the logging through the login and password of the user to authenticate, which in such cases should be sufficient to identify a data subject."*

5.2.2. Moreover, implementing an additional step for verification and/or identification purposes in order to prevent malicious attempts, is not considered excessive especially since no additional data is collected for this purpose. Additionally, implementing such a safeguard ensures that there is a balance between the risks for the rights and freedoms of natural persons, and the security of the processing throughout the process of handling data subject requests in accordance with Art. 32 GDPR.

5.2.3. Thus, using a mechanism to verify a data subject identity through his registered member account, can be considered an adequate justification for the facilitation of data subjects' rights in compliance with Art. 12(2).

## **5.3. In examining whether the controller informed the data subject about the fact that it would not act on the request in line with Art. 12(4) GDPR:**

5.3.1. Although the controller replied on the same day to the erasure request, they did not reply to the second email where the complainant clearly stated that he considered his erasure request valid without the need for verification.

5.3.2. Moreover, we consider that the controller should have informed the complainant, within the timeframe set in Article 12(4), that they would not act on the erasure request for the reason that the complainant did not complete the verification process. Thus, there is a breach of Article 12(4) GDPR.

### **Controller's response to the Commissioner's Preliminary Decision**

6. The controller responded on 6 November 2024 to my Preliminary Decision and stated, inter alia, that:

- i. Their response to the complainant's request was both comprehensive and clear, providing instructions to follow by logging into his account to complete the identification process.
- ii. The fact that their request for the complainant to complete the identification process was neither excessive nor unreasonable, affirms that their actions were well-justified and fully aligned with GDPR requirements and relevant guidelines.
- iii. The complainant's subsequent request ("Request 2") did not substantially differ from Request 1. Given that the information has already been provided

comprehensively and timely in response to Request 1, there was neither a valid nor reasonable basis to issue a duplicate response to a duplicative request. As such, non-provision of another identical response to a duplicative request does not constitute an abuse of the complainant's rights, but rather ensures efficient handling of inquiries.

- iv. In matters involving "duplicative requests," it is essential to maintain a balance of interests. Once the complainant has received a comprehensive and thorough response to their initial request, any further duplicative inquiries should not serve as grounds for any alleged infringement. Failing to address this matter appropriately may result in an unjust situation where the submission of numerous identical requests could exploit the process as a whole, ultimately leading to an abuse of the data controller's rights and resources.

## **Legal framework**

### **7.1. Article 12 of the GDPR states that:**

“ ...

*2. The controller shall facilitate the exercise of data subject rights under Articles 15 to 22. In the cases referred to in Article 11(2), the controller shall not refuse to act on the request of the data subject for exercising his or her rights under Articles 15 to 22, unless the controller demonstrates that it is not in a position to identify the data subject.*

...  
...

*4. If the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy.*

...”

### **7.2. Article 17 GDPR: Right to erasure ('right to be forgotten')**

*“1. The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies:*

*(a) the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;*

*(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or point (a) of Article 9(2), and where there is no other legal ground for the processing;*

*(c) the data subject objects to the processing pursuant to Article 21(1) and there*

*are no overriding legitimate grounds for the processing, or the data subject objects to the processing pursuant to Article 21(2);*

*(d) the personal data have been unlawfully processed;*

*(e) the personal data have to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject;*

*(f) the personal data have been collected in relation to the offer of information society services referred to in Article 8(1).*

*...”*

**7.3. Pursuant to Article 58(2) GDPR, Each supervisory authority shall have all of the following corrective powers:**

*...(b) to issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation;*

*...(i) to impose an administrative fine pursuant to Article 83, in addition to, or instead of measures referred to in this paragraph, depending on the circumstances of each individual case;*

## **Final Views of the Commissioner**

8. In addition to my assessments mentioned in my Preliminary Decision, the following are noted:

8.1. The controller's response provided clear instructions for the complainant to follow in order to close the account. As mentioned in section 5.2 above, the controller justifiably requests from the data subjects to follow this procedure so as to verify their identity and avoid wrongful disclosure or erasure of data, even by mistake. However, in the controller's response, it was not clear whether the complainant was obligated to follow this procedure or if there was an alternative way of satisfying his request. Hence the second request in which the complainant demanded again the erasure of his data without following the said procedure.

8.2. The controller, keeping in mind that the complainant would not follow the procedure, should have made it clear to the complainant that his request would not be satisfied, in line with Article 12(4) GDPR. More specifically, the first response to the request could have included a statement informing the data subject that his request would not be satisfied if the relevant procedure is not followed. Alternatively, the controller could have placed a mechanism to detect when a data subject's request is not satisfied from not following the procedure.

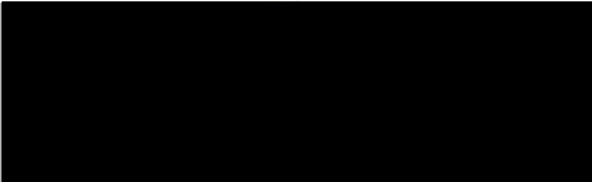
8.3. The fact that controller did not show any intention of not satisfying the complainant's request and proceeded with the erasure of the said data as soon as they received an email from my Office, is also taken into account.

## Decision

9. Having regard to all the above information, and based on the powers vested in me by **Articles 58 and 83 of Regulation (EU) 2016/679 and article 24(b) of National Law 125(I)/2018**, I conclude that there is an infringement by Freedom Finance Europe Ltd of Article 12(4) of the GDPR, for the reasons mentioned above.

10.1. In view of the above and on the basis of the powers conferred on me by the provisions of subparagraph (b) of paragraph (2) of Article 58 of the GDPR, I have decided to **issue a reprimand** to Freedom Finance Europe Ltd for the infringement mentioned above. In the event of a recurrence of a similar infringement within 12 months from today, this Decision may be counted against the company.

10.2. In addition to the above I have decided to **order** Freedom Finance Europe Ltd to review the information provided to the data subjects while exercising their rights (as explained in paragraph 8.2 above) and inform my Office within 1 month.



Commissioner  
For Personal Data Protection