



Berlin Commissioner
for Data Protection
and Freedom of Information

Berlin Commissioner for Data Protection and Freedom of Information
Alt-Moabit 59-61, 10555 Berlin, Germany

IMI FD 517447
521.15203

1. Summary of the case

The complainant rented an accommodation through the online platform of the controller on 28 June 2020. On 29 June 2020 they received a message by the accommodation provider, in which they were requested to contact them through a specific email address. After having contacted this email address, they were informed that the controller had not updated the calendar for the booked accommodation and that renting the apartment was therefore no longer possible. After several email exchanges, the complainant decided to rent a comparable accommodation and paid the reservation to a Spanish bank account. Upon arrival, however, the complainant discovered that no such accommodation existed and that they had probably been victims of fraud. They thus suspected that a data leak occurred at the controller, through which the specific information used for the originally rented accommodation may have been leaked.

The Lead Supervisory Authority initiated a written hearing of the controller on 19 August 2022, in which it, among other things, inquired as to whether the company listed for the accommodation had been previously known for/or suspected of committing fraud. The controller confirmed this, and also informed that as part of standard procedure the reservation on the platform was cancelled. With regards to the specific reservation, the controller's systems indicated that the reservation had been cancelled by the complainant themselves. The cancellation was free of charge, resulting in no money being withdrawn from the credit card of the complainant. As the payment for the reservation had been carried out directly by the controller, the accommodation provider did not receive the payment data by the controller. An investigation has instead demonstrated that the suspected fraudulent accommodation provider had instead requested the person to answer directly to an email address provided by the

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suspected fraudulent accommodation provider. The communication between the complainant and the suspected fraudulent accommodation provider was investigated by the responsible authority, which concluded that the complainant themselves had sent an email to the suspected fraudulent accommodation. By doing so, it is possible that the complainant had thus transmitted personal data directly to the suspected accommodation provider, potentially including details of his credit card. The controller clarified that this occurred outside of their platform and that such communication was not visible for the controller.

2. Legal assessment by the Lead Supervisory Authority

The Lead Supervisory Authority could not determine an infringement against Art. 32 Para. 1 GDPR by the controller. As a result of the complainant sending their data directly to the suspected fraudulent accommodation provider, the data of the complainant were not leaked through the platform provider. It was therefore also not possible to determine a failure of the employed technical and organisational measures by the controller in accordance with Art. 32 Para. 1 GDPR.