

To: [REDACTED]
From: CBU2Complaints@dataprotection.ie
(By email)

DPC Ref: C -19-5-362

Re: [REDACTED] v [REDACTED]

30 September 2020

Dear [REDACTED],

This is a final decision of the Data Protection Commission (**DPC**) in relation to your complaint originally lodged on 13 May 2019 against [REDACTED]. As you are already aware, the Berlin Commissioner for Data Protection and Freedom of Information (**BfDI**) investigated your complaint because it was the lead supervisory authority for [REDACTED]. This decision is based on the investigation and information provided to the DPC by the BfDI.

The DPC's role in relation to your complaint

The DPC's initial investigation confirmed that the processing at issue in relation to your complaint was 'cross border' for the purpose of applying the General Data Protection Regulation (**GDPR**). This meant that the DPC's role in relation to your complaint was as a concerned supervisory authority, and that the investigation into your complaint would be conducted by the lead supervisory authority for [REDACTED] the BfDI.

The DPC informed you on 25 June 2019 that the BfDI were the lead supervisory authority competent to investigate your complaint. The DPC forwarded your complaint to the BfDI and provided you with regular updates in relation to your complaint.

Decision of the BfDI dated 24 January 2020

Following the conclusion of the investigation into your complaint by the BfDI and subsequent consultations with the DPC and other supervisory authorities in Europe, a draft decision was issued in relation to your complaint pursuant to Article 60 of GDPR.

The BfDI dismissed your complaint based on its investigation into this matter. The decision and reasoning of the BfDI, to which the DPC had no objection, is enclosed for your information.

Final Decision of the DPC

As the supervisory authority with which the complaint was lodged, the DPC must adopt and issue the final decision based on the investigation of the BfDI that your complaint has been dismissed.

Please note, a procedural change impacting whether or not the BfDI or DPC had responsibility for issuing a final decision led to a short delay in issuing this final decision to you. A copy of this letter and final decision will also be provided to [REDACTED] for its information.

Your right to an effective judicial remedy

Article 78 GDPR entitles you to an effective judicial remedy against a legally binding decision of a supervisory authority. The adoption of this dismissal of your complaint is a “legally binding decision” of the DPC as defined in Section 150 (12) DPA. Pursuant to section 150 (5) DPA, you may, within 28 days from the date you received this notice from the DPC, appeal against this decision to either the Circuit Court or the High Court. In the event you are dissatisfied with the final decision and you wish to take the matter further in Ireland or Germany, we suggest getting your own independent legal advice.

Next Steps

As the BfDI have completed its investigation into this matter and the DPC has issued you with the final decision and informed of your rights, the DPC will close its file in relation to your complaint.

Yours sincerely,

██████████

Deputy Commissioner

Data Protection Commission



Draft Decision
521.11522
IMI A56ID 71254

Berlin, 24. January 2020

The Complaint:

The complainant criticizes that his [REDACTED] app requests the permission to access "location services". The app manufacturer states that this is a requirement of Android 6.0 or higher to be able to scan for Bluetooth LE devices in order to connect to the [REDACTED]. Location data is not used by the app at all.

Our Evaluation:

The statement is (unfortunately) correct, because so-called beacons (for indoor localization) also use Bluetooth. This is a technical restriction of the Android operating system. The procedure is necessary to provide the requested service.

Proposed Action:

The app manufacturer has not breached data protection laws as far as the complaint is concerned. The case should therefore be closed.

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>