

Complaint about lack of insight and lack of deletion

Date: 25-09-2019

Decision

Private companies

The Danish Data Protection Agency has processed a complaint from a citizen that the gaming provider Bet365 had refused to accede to the person's request for deletion of personal data, which the provider processed about him.

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Summary

The Danish Data Protection Agency has processed a complaint from a citizen that the gaming provider Bet365 had refused to accede to the person's request for deletion of personal data, which the provider processed about him.

The Data Protection Authority found that Bet365 - referring to the company's obligations to retain certain information about players - was entitled to reject the complainant's request for deletion.

However, the Danish Data Protection Agency found that Bet365 - by not disclosing the legal basis which obliged the company in connection with the rejection - had not sufficiently complied with the principle of transparency, which must ensure that data subjects have the opportunity to hold data controllers responsible and exercise control over their personal data.

Decision

The Danish Data Protection Authority hereby returns to the case, where on 2 January 2019 you complained to the Authority that Bet365 [1] did not comply with your request for deletion and did not respond to your request for insight.

Decision

After an overall review of the case, the Danish Data Protection Agency finds that Bet365, in connection with the handling / answering of your request for insight, has not acted in violation of Article 12 (1) of the Data Protection Regulation [2]. 3.

The Danish Data Protection Authority also finds that Bet365 was entitled to reject your request for deletion, cf. Article 17 (1) of the Data Protection Regulation. 3, letter b.

However, the Danish Data Protection Agency finds that Bet365's response to your request for deletion did not live up to the data protection regulation's requirement for transparency, cf. Article 5 (1). Article 12 (1) (a) in conjunction with Article 12 (1) 1, which gives the Authority an opportunity to express criticism.

Below is a more detailed review of the case and a justification for the Danish Data Protection Agency's decision.

2. Case presentation

It appears from the case that on 2 January 2019 - via Bet365's chat function - you requested the company to delete all data about your account, just as you requested the company for insight into all data that the company processes about you.

In addition, it appears that Bet365 rejected your request for cancellation with reference to the company's own internal risk management procedures and the legal and regulatory conditions to which the company is subject. Furthermore, it appears that Bet365 informed you that your request for insight would be answered within 28 days.

2.1. Your comments

In your complaint to the Danish Data Protection Agency of 2 January 2019, you have stated that it is impossible to have your personal information deleted at Bet365. Bet365 refers to laws, which in your opinion go beyond what follows from the GDPR. On March 1, 2019, you further stated that you have not yet received a response to your request for insight of January 2, 2019, even though Bet365 promised to respond to this within 28 days.

2.2. Bet365's comments

In relation to the company's rejection of your request for deletion, Bet365 has stated that the company is regulated by the gaming authority in Denmark, and that the company as license holder must store identity and control information about a registered player for at least 5 years after the customer relationship has ended. documents and records relating to the players' transactions must be kept so that they can be retrieved for at least 5 years after the completion of the transactions.

In relation to Bet365's response to your request for insight, the company has stated that this was answered on 24 January 2019 to the specified e-mail address, and that the company, if you have not received the response, can resend it.

Justification for the Danish Data Protection Agency's decision

Ad complain about lack of insight

3.1.

It follows from Article 12 (1) of the Data Protection Regulation 3, that the data controller without undue delay and in all cases no later than one month after receipt of the request must inform the data subject of measures taken on the basis of a request in accordance with i.a. Article 15. This period may be extended by two months, if necessary, taking into account the complexity and number of requests. The controller shall notify the data subject of any such extension within one month of receipt of the

request, together with the reasons for the delay. If the data subject submits a request electronically, the information will be communicated as far as possible electronically, unless the data subject requests otherwise.

After a comprehensive review of the case, the Danish Data Protection Agency finds that there is no basis for concluding that Bet365 has acted in violation of Article 12 (1) of the Data Protection Regulation. 3.

The Danish Data Protection Agency has hereby emphasized the information provided by Bet365 that the company sent the answer to your request for access to the specified e-mail address on 24 January 2019, which you are not seen to have commented on.

The Danish Data Protection Agency has noted that Bet365 has stated that the company, if you wish, will resubmit the answer, and the Authority therefore finds no basis for further action in this regard.

Ad complaint about failure to delete

3.2.

According to Article 17 (1) of the Data Protection Regulation 1, the data subject has the right to have personal data about himself deleted by the data controller without undue delay, and the data controller has a duty to delete personal data without unnecessary delay if one of the conditions in the provision's a-f is met.

In Article 17 (1) of the Data Protection Regulation 3, a number of exceptions are provided for the data subject's right to delete. It follows i.a. Article 17 (1) of the Regulation (B) that the data subject's right to have personal data on himself deleted by the controller does not apply if processing is necessary to comply with a legal obligation requiring processing under EU or national law, and to which the data controller is subject.

Bet365 has stated in the case that the company as a licensee is subject to and regulated by the gaming authority in Denmark and relevant legislation.

Of § 2, para. 4, in the Executive Order on Online Betting [3], it follows that the license holder must obtain information about the customer's identity, including name, address and CPR no. or other similar information if the person does not have a CPR no.

The information obtained must be confirmed by the necessary documentation. The scope of the documentation must be determined on the basis of a risk assessment, so that the license holder is sure that the customer is the person that the customer pretends to be.

Of section 4, subsection 1, it further follows that the license holder must keep the identity and control information covered by

the executive order about a registered player, cf. Chapter 2, for at least 5 years after the customer relationship has ended. Of the provision para. 2, it follows that documents and records concerning the players' transactions must be kept so that they can be found together for at least 5 years after the completion of the transactions.

In light of the above-mentioned provisions in the Executive Order on Online Betting and as there is no information in the case that Bet365 processes information about you that falls outside the scope of these provisions, the Danish Data Protection Agency finds that Bet365 was entitled to reject your request for deletion, as Bet365 is legally obliged to keep the information, so the right to delete does not apply, cf. Article 17 (1) of the Data Protection Regulation. 3, letter b.

3.3.

Transparency regarding the processing of personal data is an overriding obligation under the Data Protection Regulation, which is intended to ensure that data subjects have the ability to hold data controllers accountable and exercise control over their personal data.

The obligation for transparency follows i.a. of Article 5 (1) of the Data Protection Regulation 1 (a), which states that personal data must be processed lawfully, fairly and in a transparent manner in relation to the data subject ('legality, reasonableness and transparency').

In relation to the data controller's observance of data subjects' rights, including requests for deletion, there is also a requirement for transparency in Article 12 (1) of the Data Protection Regulation. 1, which states that the controller shall take appropriate measures to provide any information referred to in Articles 13 and 14 and any communication pursuant to Articles 15-22 and 34 concerning processing to the data subject in a concise, transparent, easily understandable and easily accessible form; and in clear and simple language, in particular when information is specifically directed at a child. The information is provided in writing or by other means, including, if appropriate, electronically. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is verified by other means.

In a case such as the present, where a request for deletion is rejected on the grounds that the data controller is subject to a legal obligation, the principle of transparency in the opinion of the Data Inspectorate implies that the data controller should specify in the response to the deletion request is subject so that the data subject has the opportunity to check its accuracy.

The Danish Data Protection Agency then finds that Bet365, in connection with the company's response to your request for deletion, has not sufficiently complied with the principle of transparency in accordance with Article 5 (1) of the Data Protection

Regulation. 1 (a) and Article 12 (1) 1, as Bet365 did not further inform you of the legal obligations to which they were subject, so that you yourself had the opportunity to check the correctness thereof. This gives the Danish Data Protection Agency the opportunity to express criticism.

[1] Hillside (New Media Malta) Plc

[2] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General data protection regulation).

[3] Executive Order no. 66 of 25 January 2012 on online betting with subsequent amendments.