

Complaint about failure to delete

Date: 18-05-2020

Decision

Private companies

The Danish Data Protection Agency expresses serious criticism of DMR A / S (Danish Environmental Advisory Service) for not deleting video recordings and pictures of a former employee on the Internet after he or she had withdrawn his or her consent.

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Summary

On 18 May 2020, the Danish Data Protection Agency made a decision in a case in which a former employee complained about DMR A / S 'failure to delete video recordings and photos of him, which was included in a number of films on the company's website, the company's Facebook page and Youtube.

The Danish Data Protection Agency found that DMR A / S had not deleted the information about the former employee without undue delay, as the former employee in his inquiries about deletion to DMR A / S had to be considered to have withdrawn his consent to the processing, and since DMR A / S did not immediately afterwards delete the information, cf. Article 17 (1) of the Data Protection Regulation. 1, letter b.

In the decision, the Danish Data Protection Agency emphasized that the former employee stated to DMR A / S that he wanted the video material deleted, and that DMR A / S subsequently stated that DMR A / S would on that basis cut him out of all films. Furthermore, the Danish Data Protection Agency emphasized that the former employee appeared in DMR A / S 'film on Youtube and DMR A / S's website after DMR A / S had informed him that he had now been cut from the employee film.

Decision

The Danish Data Protection Agency hereby returns to the case, where [complainants] on 27 September 2019 complained to the Authority that DMR A / S (Danish Environmental Advisory Service) has not deleted recordings and photos of him, which are included in a number of films that appear in DMR A / S 'website, Facebook page and on Youtube.

Decision

Following a review of the case, the Danish Data Protection Agency finds that there are grounds for expressing serious criticism that DMR A / S 'processing of the complainant's request for deletion has not taken place in accordance with Article 17 (1) of

the Data Protection Regulation [1]. 1.

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 when the complainant was employed by DMR A / S, he participated in a number of films which DMR A / S recorded for marketing purposes.

Complainant signed a statement of consent on June 7, 2018 for the publication of photos and videos. Complainants had ticked that he gave permission for DMR A / S to use video recordings of him for use on the company's website, in leaflets, newsletters or other externally targeted informational material.

The films, in which complaints appeared, were posted on DMR A / S 'website, Youtube and subsequently Facebook.

On 6 September 2019, the complainant requested DMR A / S to remove a film on Youtube, in which he appeared when the complainant's employment relationship with DMR A / S had ended. DMR A / S replied that the company would cut complaints out of all films.

Complainant wrote to DMR A / S on 10 September 2019 that he had still not been cut out of DMR A / S 'commercial film. DMR A / S stated on the same day that the company was "in progress" and requested complaints about showing patience.

On 17 September 2019, DMR A / S stated to complainants that he had now been cut from the employee film, but that DMR A / S did not otherwise expect to make further changes. In this connection, DMR A / S referred to the statement of consent that the complainant had signed, in which he had accepted the use of images and video material for use in marketing.

On 20 September 2019, complainants wrote that he found it strange that DMR A / S continued to use marketing material from which he appeared. DMR A / S stated that the film in question had been changed and that complaints had been cut out.

Complainants approached the Danish Data Protection Agency on 27 September 2019 with a complaint about the lack of deletion of information about him in the video material.

On 11 December 2019, the Danish Data Protection Agency found that complaints continued to appear in a video on DMR A / S 'website and on Youtube.

DMR A / S has subsequently deleted the information on complaints.

2.1. DMR A / S 'comments

DMR A / S has stated that the company, with reference to the complainant's written consent, still considers it legal and

reasonable to use technical professional films even after termination of employment.

On the basis of the Danish Data Protection Agency's inquiry, however, DMR A / S has found that the complainant regretted his consent. DMR A / S has chosen to respect this, which is why the professional film has been permanently deleted from the company's channel. However, DMR A / S cannot deny that there are external copies of the film, as the film has been publicly available since 2017.

DMR A / S has checked the company's website and brochures and ensured that there is no mention or pictures of complaints.

2.2. Complainant's remarks

Complainants have stated that DMR A / S posted a film on Facebook without his consent and without the company informing him about it.

Complainants have further stated that he has several times approached DMR A / S to have the beetles / videos removed.

DMR A / S promised to cut out complaints, but this has not happened as far as the cover image on Youtube and Facebook is concerned.

Justification for the Danish Data Protection Agency's decision

DMR A / S has informed the Danish Data Protection Agency that the basis for processing information on complaints in the marketing material was consent.

It follows from Article 17 (1) of the Data Protection Regulation 1, letter b, that 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 undue delay if the data subject withdraws the consent that is the basis for the processing, left and there is no other legal basis for the treatment.

The Danish Data Protection Agency considers that DMR A / S did not delete the information on complaints without undue delay, as complainants in their inquiries about deletion to DMR A / S must be considered to have withdrawn their consent to the processing, and since DMR A / S did not immediately thereafter delete the information in accordance with Article 17 (2). 1, letter b.

The Danish Data Protection Agency has hereby emphasized that on 6 September 2019 complaints to DMR A / S stated that he wanted the video material deleted, and that DMR A / S stated on the same day that DMR A / S would cut complaints on that basis. out of all movies.

Furthermore, the Danish Data Protection Agency has emphasized that complaints continued to appear in DMR A / S 'film on Youtube and DMR A / S's website on 11 December 2019, despite the fact that DMR A / S informed the complainants on 17 September 2019 , that he had now been cut out of the employee film.

Against this background, the Danish Data Protection Agency finds reason to express serious criticism that DMR A / S 'processing of the complainant's request for deletion has not taken place in accordance with Article 17 (1) of the Data Protection Regulation. 1.

The Danish Data Protection Agency has noted that DMR A / S has now deleted the information.

The Danish Data Protection Agency notes that the Authority has only dealt with the issue of deleting information on complaints, and that the Danish Data Protection Agency has not taken a more detailed position on the validity of the consent.

With regard to the general conditions for a valid consent, the Danish Data Protection Agency may, for information, refer to the Danish Data Protection Agency's guidelines on consent, which can be found on the Authority's website [2].

[1] 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).

[2] The Danish Data Protection Agency's guidelines on consent