

object to marketing.

The Chair

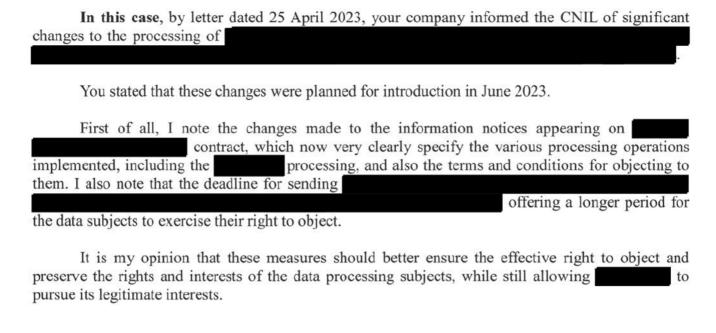
	MONSIEUR LE DIRECTEUR GÉNÉRAL (THE CEO)
	Paris, le 13 novembre 2023
Our ref.: (to be quoted in all correspondence) Registered letter with acknowledgement of rece	eipt No. 2C 156 060 1844 1
Dear Sir,	
The main activity of the company particular,	is . In
In accordance with Commission nationale de l'informatique et des website accessible from the URI an inspection at the company's premises .	on 15 September 2022 the libertés (CNIL) carried out an online audit of the created by . This audit continued with and then again on
with the provisions of Regulation (EU	rify the compliance of the processing carried out by J) 2016/679 on data protection (GDPR) and Law No. tection Act"). In particular, this involved processing

The findings from these inspections, and the additional findings on 28 November and 7 December 2022, and 20 January, 27 March and 25 April 2023, prompt me to make the following observations:

several complaints brought before the CNIL concerning issues such as the failure to handle the right to

I. As a preliminary point, on the improvements made to the processing

Article 12(2) of the GDPR provides that "the controller shall facilitate the exercise of data subject rights under Articles 15 to 22", which includes in particular the right to object provided for in Article 21. As such, the condition that in some cases governs the facilitation and effectiveness of the right to object is whether it was expressed in advance. This interpretation is consistent with the spirit of the GDPR, which aims to strengthen data subjects' control over their personal data, taking into account the practical conditions of the processing operations implemented.



II. Analysis of the facts in question

1. Regarding the failure to uphold requests to exercise rights

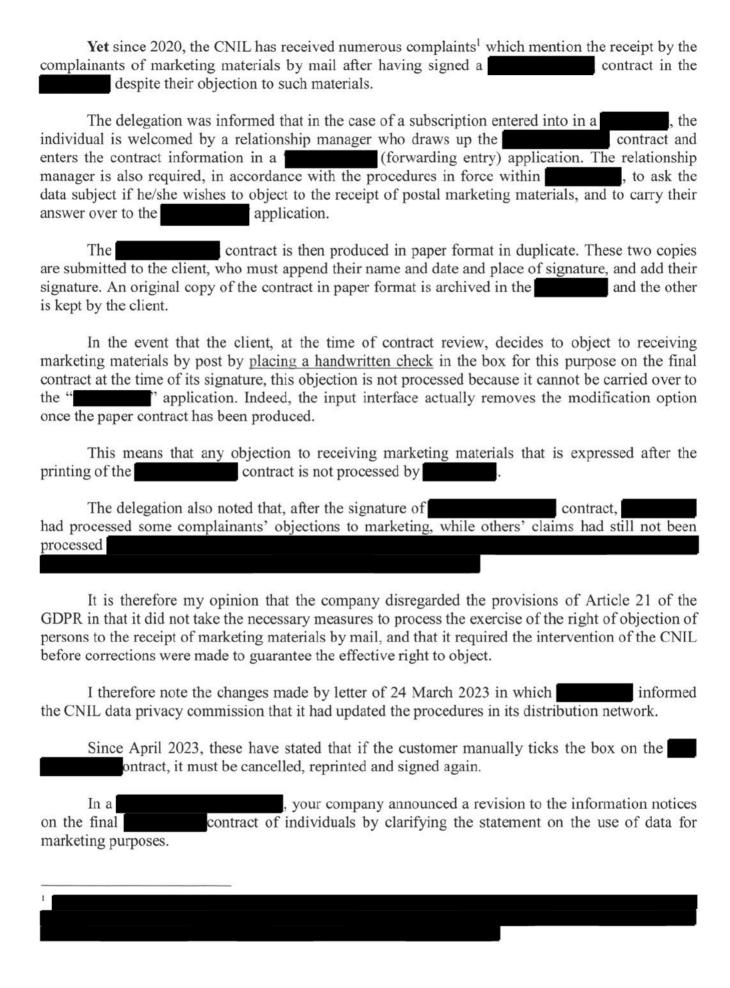
In law, Article 12(2) of the GDPR states that "the data controller shall facilitate the exercise of data subject rights under Articles 15 to 22." In the cases referred to in Article 11(2), the controller shall not refuse to act on the request of the data subject for exercising his or her rights under Articles 15 to 22, unless the controller demonstrates that it is not in a position to identify the data subject".

Article 12.3 of the GDPR states that "The controller shall provide information on action taken on a request under Articles 15 to 22 to the data subject without undue delay and in any event within one month of receipt of the request". If necessary, this period may be extended by two months, taking into account the complexity and number of requests. The controller shall inform the data subject of this extension and the reasons for the postponement within one month of receipt of the request. Where the data subject submits his or her request in electronic form, the information shall be provided electronically where possible, unless the data subject requests otherwise."

Article 12.6 of the GDPR states that "without prejudice to Article 11, where the controller has reasonable doubts concerning the identity of the natural person making the request referred to in Articles 15 to 21, the controller may request the provision of additional information necessary to confirm the identity of the data subject."

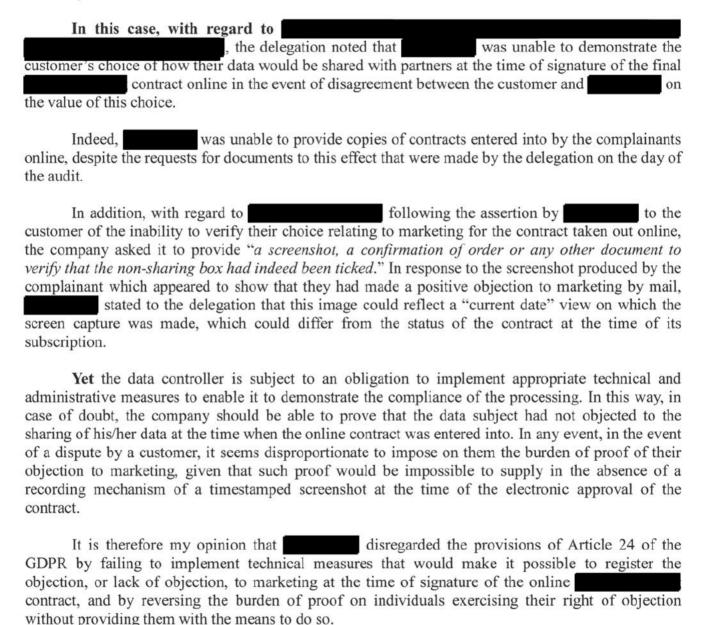
Finally, Article 17 of the GDPR specifies the conditions for exercising the right to erasure. In particular, Article 17-1 sets out a list of exceptions to the right to erasure, which allows, among other things, the retention of the data necessary for compliance with a legal obligation (for example, accounting) or for the establishment, exercise or defence of legal claims, even after exercising the right to erasure. Irrespective of whether a request is granted to exercise the right of erasure, in whole or in part, Article 12-3 of the aforementioned GDPR provides that the data controller shall inform the data subject of the measures taken following his/her request.

In this case, with regard to
Furthermore, with regard to delegation found that s customer service, in an email complainant who had entered into a document to enable him to exercise his right to object to commercial prospecting. With regard to the delegation noted the same situation, even though the complainant had provided his contract number in support of his claim.
Yet the collection of proof of identity in the context of the exercise of rights is permitted only in cases where there is a reasonable doubt as to the identity of the person, which does not appear to apply in this case. In general, the company could ask data subjects to prove their identity by less intrusive means; for example, by providing their contract number.
Finally, with regard to on 5 July 2021, the complainant made a request for personal data erasure. The Delegation noted that the reply sent to the complainant on 22 September 2021 stated that the data "have been deleted from our information systems." During the on-site inspection, the delegation found that the complainant's data were still being retained in the database, and the company stated to the delegation that this retention was justified for legal reasons, with the complainant's contract still ongoing.
I therefore consider that disregarded the provisions of Article 12 of the GDPR by not responding within the time limit given for requests for the exercise of rights, by requesting an identity document from a person exercising his/her right to object in the absence of reasonable doubt as to the identity of the person and by not informing the data subject of the retention of a portion of his data at the time of a request for erasure.
2. On the breach of the obligation to respect the right to object
According to the law, Article 21.2-3 of the GDPR provides that "Where personal data are processed for direct marketing purposes, the data subject shall have the right to object at any time to processing of personal data concerning him or her for such marketing, which includes profiling to the extent that it is related to such direct marketing." Where the data subject objects to processing for direct marketing purposes, the personal data shall no longer be processed for such purposes."
Article 12.2 of the GDPR provides that "The controller shall facilitate the exercise of data subject rights under Articles 15 to 22."
In this case, the delegation was informed that uses the data of persons who have subscribed to service for direct marketing purposes by post. The Delegation noted that allows individuals to object to the reuse of data from the contract for marketing purposes by post via a check box.



3. On the breach of the obligation to demonstrate the processing's compliance with the GDPR

According to the law, Article 24-1 of the GDPR provides that, "Taking into account the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons, the controller shall implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with this Regulation. Those measures shall be reviewed and updated where necessary."



III. Corrective action by CNIL (Article 20.II of the Law of 6 January 1978)

In light of all of the above, and in agreement with the other data protection authorities concerned by this processing, the following corrective measures must therefore be imposed against

- A LEGAL REPRIMAND, in accordance with the provisions of Article 20.II of the Law of 6
 January 1978 with regard to the failure to take into account the right to object to marketing
 materials by post, and to the requirement to respond to requests for the exercising of
 individuals' rights within the required time limits;
- AN ORDER in accordance with the provisions of Article 20.II of the Law of 6 January 1978, within a period of (3) months from the notification of this decision and subject to any measures it may have already adopted, to:
 - o comply with the conditions under which individuals may exercise their rights concerning their personal data, in particular by:
 - requesting proof of identity of the individual exercising their rights in accordance with the provisions of Article 12 of the GDPR in cases where that individual can be identified otherwise, except in case of reasonable doubt as to their identity;
 - ensuring that the right to object is considered for the purposes of sending marketing materials to data subjects.
 - o implement a mechanism for recording the customer's choice as to the sharing of their data with partners, at the time of signature of the final online which would constitute proof for

This formal order, which does not require a response from you, confirms closure of procedure However, this closure is without prejudice to the right of the Commission to carry out a fresh audit procedure to confirm that your company has complied with this formal notice at the end of the time limit.

In the event of a fresh audit procedure, if your company has not complied with this formal order, a rapporteur will be appointed who may request the restricted committee to issue one of the sanctions provided for by Article 20 of the amended Act of 6 January 1978.

This decision may be appealed before the Conseil d'Etat within two months of its notification.

For more information on the formal notice procedure, you can consult the CNIL website at the following page: https://www.cnil.fr/fr/la-procedure-de-mise-en-demeure-0.

Yours sincerely,		
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