



19 November 2021

## Final Decision

### Complaint against [REDACTED] – Right to rectification (Article 16 GDPR)

IMI Case: 62334  
IMI A61VMN: 312886  
IMI A60DD: 330086

The Hessian Commissioner for Data Protection and Freedom of Information (hereinafter “HBDI”) refers to the complaint lodged by Mr. L. G. (hereinafter “Complainant”) against [REDACTED] (hereinafter “[REDACTED]”) with the French Data Protection Authority concerning the right to rectification.

#### 1. Case Description

The Complainant, who was born on [REDACTED] 2001, created an account with [REDACTED] in 2014. In order to circumvent restrictions that would have been associated with a minor’s account, he untruthfully stated [REDACTED] 1996 as his date of birth. As an account name, which he was free to choose, the Complainant chose the pseudonym “[REDACTED]”, the name [REDACTED] being his mother’s first name.

After the Complainant had reached the age of majority, he requested the correction of the account name and the date of birth stored by [REDACTED]. [REDACTED] refused both, which is why the Complainant lodged a complaint with the French DPA.

#### 2. Investigation outcome

With regard to the account name, there is no entitlement to rectification. A pseudonym freely chosen by the data subject cannot be incorrect within the meaning of Article 16(1) GDPR, even if it may contain names or other data of third parties.

Regarding the rejected correction of the date of birth, [REDACTED] was asked by the HBDI to comment. [REDACTED] replied that the correction had been rejected by the customer support because the provision of a false date of birth when creating an account violates the user contract. Depending on the age of the account holder, [REDACTED] would provide different functions and services. In addition, the request and storage of the date of birth serves the fulfilment of legal obligations. Since a subsequent change of the date of birth can have far-reaching consequences, users cannot change it themselves. This is

also pointed out to users when they create an account. Requests to change the date of birth would be examined more closely by [REDACTED] with regard to possible consequences. After reviewing the facts, the Complainant's date of birth would now be changed and he would be informed accordingly. This case was also taken as an opportunity to review the processes in the customer support and to adjust the underlying work instructions.

### **3. Decision**

In its Draft Decision of 07 October 2021, the HBDI has informed the supervisory authorities concerned that it intends to issue a warning to [REDACTED] pursuant to Article 58(2)(b) GDPR, as the correction of the Complainant's date of birth was initially improperly refused by [REDACTED]'s customer support. The right to rectification exists regardless of possible consequences under civil law in the contractual relationship between [REDACTED] and the Complainant. Accordingly, the processes in customer support must be adapted so that a correction is not generalized rejected in future, comparable cases. The HBDI found that further measures or sanctions are not necessary, as [REDACTED] has already initiated the rectification of the Complainant's date of birth as well as the adjustment of the work instructions on its own initiative. Moreover, the Complainant himself was responsible for the reason for the necessary correction by deliberately providing false information. No objections to the Draft Decision were raised by the supervisory authorities concerned.

The HBDI therefore issued a warning to [REDACTED] and concludes the proceedings with this Final Decision.

The Hessian DPA

[REDACTED]