



PRIVACY TICKER

1. Due to current events: Official information on the Coronavirus and BEITEN BURKHARDT's Information Center providing assistance

In a press release, the Conference of the German Data Protection Authorities (DSK) outlined the data protection framework within which private and public employers may collect, process and disclose health-related data of their employees in order to also contain the coronavirus SARS-CoV-2 in working places. The statement is available [here](#).

Additional notes have been published by the supervisory authorities of Baden-Wuerttemberg ([here](#)) and of Rhineland-Palatinate ([here](#)) which address some frequently arising questions in the context of an infection at work (e.g. regarding investigations on possible infections and spreading at work and on the data collection at events).

The British supervisory authority ICO has also issued guidance on the data protection framework for control measures and for working from home, which is available [here](#) for consultation.

Similarly, the French data protection authority CNIL provides Dos and Don'ts when implementing precautionary measures against corona in accordance with the GDPR. These explanations in French are available [here](#).

Further assistance in dealing with the effects of the coronavirus, including issues beyond data protection issues, can be found in the [Information Centre of BEITEN BURKHARDT on the Coronavirus](#).

2. Case Law

+++ THE HIGHER REGIONAL COURT OF STUTTGART CONSIDERS WARNING LETTERS BY COMPETITION ASSOCIATIONS FOR GDPR VIOLATIONS LEGALLY POSSIBLE +++

The Higher Regional Court of Stuttgart has ruled that competition associations can also send warning letters for certain violations of the GDPR and take legal action against such violations (judgment of 27 February 2020 – file ref. 2 U 257/19). According to the court, the GDPR only lays down the minimum standard for civil actions so that competition associations and even competitors may be entitled under competition law to take legal actions. However, it must always be specifically examined whether or not

the violated GDPR provision qualifies as so-called market conduct rule as required by competition law. Subject of the legal action was an eBay seller account which did not have a privacy policy.

The judgement is published [here](#).

+++ THE ADMINISTRATIVE COURT OF HAMBURG CONSIDERS PROCESSING OF EMPLOYMENT DATA TO BE POSSIBLE EVEN BEYOND THE EMPLOYMENT CONTEXT +++

The administrative court of Hamburg has decided that employers may not only process the data of their employees under the strict conditions of Section 26 German Data Protection Act (BDSG), but that processing may also be permissible under Art. 6 GDPR (judgement of 16 January 2020 – file ref. 17 K 3920/19). Accordingly, an employer may also process employee data, for instance, if this is necessary in the individual case for its predominant, legitimate interests or for fulfilling a legal obligation.

The decision can be found [here](#).

3. Regulatory investigations and enforcement actions

+++ SWEDISH SUPERVISORY AUTHORITY FINES GOOGLE MILLIONS FOR NOT RESPECTING THE RIGHT TO BE FORGOTTEN +++

The Swedish supervisory authority has imposed a fine of approximately EUR 7 million on Google for not removing two search entries despite explicit instructions to do so. The instructions concerned entries in which the persons concerned were named, despite this mention not being permitted (any longer), and which were to be removed based on the so-called right to be forgotten of the subjects. The authority also deemed Google's notification to the website operator concerned following a removal of such an entry to be inadmissible and took this into account for the amount of the fine.

The decision of the supervisory authority (in Swedish) can be found [here](#). The press release on the ruling is published [here](#).

+++ DANISH MUNICIPALITIES ARE FINED AFTER LOSS OF LAPTOPS WHICH STORED UNENCRYPTED DATA +++

The competent supervisory authority has imposed fines of approximately EUR 14,000 and EUR 7,000 on two Danish municipalities after two municipal employees each had their work computers stolen, on which the data of employees and municipal residents were stored in unencrypted form.

The press release (in Danish) is published [here](#).

+++ FINES AGAINST THE DUTCH TENNIS FEDERATION FOR SELLING MEMBERSHIP DATA TO SPONSORS +++

The supervisory authority of the Netherlands has imposed a fine of EUR 525,000 on the national tennis association KNLTB for selling the data of more than 350,000 members to sponsors without their consent. As legal basis the association referred to its legitimate interests, specifically the necessary financing of the association also in view of the currently decreasing number of members, which required the sale in the view of the association. The supervisory authority, however, considered such an interest, which ultimately lay in maximising profits, to be insufficient to justify the sale.

The decision is available [here](#).

+++ POLISH SUPERVISORY AUTHORITY PROHIBITS PAYMENT VERIFICATION VIA FINGERPRINT IN A SCHOOL CANTEEN +++

The Polish supervisory authority UODO has prohibited a school from reading the fingerprints of students in order to verify and account for their school lunch orders in the canteen, even if the parents have agreed to this procedure. The school alternatively allowed verification with a digital card but the students opting for this solution had to wait until all students had ordered using the fingerprint readers. The authority deemed the processing of fingerprints not necessary for payment verification as the school was offering an alternative via digital cards. Moreover, in the view of the authority the special protection of minors' data, not to mention of the sensitive biometric data of minors under the GDPR has not been taken into account sufficiently.

The authority's decision (in Polish) can be downloaded [here](#).

4. Opinions

+++ SOCIAL MEDIA PRESENTATIONS OF PUBLIC AUTHORITIES: SUPERVISORY AUTHORITY RHINELAND-PALATINATE PUBLISHES OPERATIONAL FRAMEWORK +++

In a current statement, the supervisory authority of Rhineland-Palatinate details the legal requirements which authorities have to observe when operating a presence in social media. If the provider of the respective social network also uses data of non-registered users, another option for information outside the social network must be offered as alternative in any case.

You can find the statement [here](#).

+++ UPDATED TEMPLATE DOCUMENTS FOR PHYSICIANS AND PSYCHOTHERAPISTS APPROVED BY RHINELAND-PALATINATE REGULATORY AUTHORITY +++

The German Association of Statutory Health Insurance Physicians of Rhineland-Palatinate (*Kassenärztliche Vereinigung Rheinland-Pfalz*) has updated and published templates for practices of physicians and psychotherapists to comply with the provisions of the GDPR. The templates have been approved by the competent authority and cover, inter alia, the information of the patient during admission and frequently required patient consent declarations.

The template documents are available for download [here](#).

If you have any questions, please address the BEITEN BURKHARDT lawyer of your choice or contact the BEITEN BURKHARDT Privacy Team directly:

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