

Privacy Ticker

April 2025



+++ GERMAN COALITION AGREEMENT: DEMANDS TO ADAPT THE GDPR AND BDSG +++ FEDERAL COURT OF JUSTICE: DATA PROTECTION VIOLATIONS CAN BE PROSECUTED BY CONSUMER PROTECTION ASSOCIATIONS AND COMPETITORS +++ FEDERAL COURT OF JUSTICE: MERE LOSS OF CONTROL IS SUFFICIENT FOR GDPR COMPENSATION +++ HAMBURG COMMISSIONER FOR DATA PROTECTION: POSSIBILITY TO OBJECT TO META'S AI TRAINING +++

1. Changes in Legislation

+++ GERMAN COALITION AGREEMENT: DEMANDS TO ADAPT THE GDPR AND BDSG +++

In their coalition agreement, the German political parties Christian Democratic Union (CDU), Christian Social Union (CSU) and Social Democratic Party (SPD) have agreed on several changes concerning data protection, data usage, and IT security. The coalition aims to reduce bureaucracy in data protection at both the national German and European levels. For example, consent for the use of public services shall be replaced with opt-out solutions. Non-commercial activities (e.g. in associations), small and medium-sized companies and low-risk data processing shall be excluded from the scope of the GDPR. Additionally, data protection supervision will be restructured by bundling responsibilities and competencies under the Federal Commissioner for Data Protection and Freedom of Information. However, the German Conference of Independent Federal and State Data Protection Authorities shall also be anchored in the German Federal Data Protection Act (BDSG) to develop unified standards. The incoming government also plans to enhance data usage and cyber defense.

[To the coalition agreement \(dated 9 April 2025, in German\)](#)

2. Case Law

+++ FEDERAL COURT OF JUSTICE: DATA PROTECTION VIOLATIONS CAN BE PROSECUTED BY CONSUMER PROTECTION ASSOCIATIONS AND COMPETITORS +++

The Federal Court of Justice has ruled that a violation of data protection law can give rise to a claim for injunctive relief under competition law, enabling consumer protection associations to issue a warning and pursue the matter before the civil courts. The case involved online games offered on Facebook's "App Center" where personal data was processed. The Federation of German Consumer Organizations deemed the information provided about the scope and purpose of the data processing to be insufficient, considering it anti-competitive behavior, and filed an action for injunctive relief. The court referred the question of the right of action for consumer protection associations to the European Court of Justice (ECJ), which confirmed it ([see Privacy Ticker July 2024](#)). The Federal Court of Justice has now ruled that consumer protection associations can pursue claims for GDPR infringements if they are not purely hypothetical. A breach of the information obligations also constitutes a breach of competition law, as withholding essential details is considered anti-competitive. In two additional rulings on the same day, the court determined that competitors, in this specific case pharmacists, can also file competition law claims before the civil courts as a result of data protection violations. The ECJ had previously confirmed the question of right of action for competitors ([see Privacy Ticker October 2024](#)). According to the Federal Court of Justice, the provisions of processing sensitive data under Art. 9 GDPR are considered as market conduct rules, meaning that violations of these provisions are regarded as unfair competition and can be pursued by competitors.

[To the press release of the Federal Court of Justice \(dated 27 March 2025, in German\)](#)

[To the ruling of the Federal Court of Justice on the right of action of consumer protection associations \(dated 27 March 2025, I ZR 186/17, in German\)](#)

[To the ruling of the Federal Court of Justice on the right of action of competitors \(dated 27 March 2025, I ZR 222/19, in German\)](#)

[To the ruling of the Federal Court of Justice on the right of action of competitors \(dated 27 March 2025, I ZR 223/19, in German\)](#)

+++ FEDERAL COURT OF JUSTICE: MERE LOSS OF CONTROL IS SUFFICIENT FOR GDPR COMPENSATION +++

The Federal Court of Justice has once again confirmed that the mere loss of control over one's personal data is sufficient for GDPR compensation. The personnel file of a civil servant had been managed by employees of the state of Lower Saxony for years. The civil servant considered this practice unlawful and sued the Federal Republic of Germany for non-material compensation. It was undisputed that the file management in this case was unlawful and constituted a breach of data protection. The unlawful practice was discontinued after the Federal Commissioner for Data Protection and Freedom of Information became involved. The court confirmed that the loss of control over personal data is sufficient for a claim for damages. The decisive factor was that the data had been shared without authorization. The plaintiff was not required to prove concrete harm or exposure. The fact that the state employees had been obliged to maintain confidentiality did not change this. At most, this would be considered later when determining the amount of compensation.

[To the ruling of the Federal Court of Justice \(dated 11 February 2025, VI ZR 365/22, in German\)](#)

+++ ADMINISTRATIVE COURT OF LUXEMBOURG CONFIRMS FINE OF EUR 746 MIO. AGAINST AMAZON +++

The Luxembourg data protection authority, Commission Nationale pour la Protection des Données (CNPD), had imposed a fine of EUR 746 Mio. on Amazon in 2021 ([see Privacy Ticker August 2021](#)), which has now been confirmed by the Luxembourg Administrative Court. The CNPD's decision was based on the unlawful processing of personal data for personalized advertising, as Amazon had failed to obtain valid consent from users. Additionally, affected individuals had not been properly informed, deletion requests had not been processed, and users could not easily unsubscribe from the advertising. The court has now confirmed the data protection authority's decision in full. Amazon was not allowed to rely on legitimate interests as a defense. The court also clarified that personalized advertising necessarily requires the identification of the user, meaning that the argument of a lack of re-identification of the data subject is not sufficient for the non-fulfillment of the data subject's rights.

[To the judgment of the Luxembourg Administrative Court \(of 18 March 2025, in French\)](#)

+++ REGIONAL COURT OF BERLIN OBLIGES META TO PAY COMPENSATION OF EUR 2,000 FOR BUSINESS TOOLS +++

In six judgments, the Regional Court of Berlin II upheld the claims of several individuals against Meta for, among other things, information and anonymization or deletion of their personal data collected via Meta Business Tools and also awarded them non-material compensation of EUR 2,000 each. The meta business tools installed on websites record all digital movements on the websites and apps of all Facebook and Instagram users, enabling the creation of a detailed profile of these individuals. The court assumes that Meta is responsible and sees no relevant legal basis for this data processing.

[To the press release of the Regional Court of Berlin \(dated 7 April 2025, in German\)](#)

+++ LOCAL COURT OF LÖRRACH: DATA SUBJECTS HAVE NO RIGHT TO PROOF OF DATA ERASURE +++

The Local Court of Lörrach has ruled that data subjects are not entitled to proof of the erasure of personal data. In the case at hand, the defendant had recorded videos of his neighbor, the plaintiff, which he intended to use as evidence. The plaintiff demanded both the erasure of the videos and proof of their erasure. The court affirmed the plaintiff's right to have the videos deleted due to a lack of legal basis. However, the plaintiff was not entitled to demand proof of erasure. Such a claim does not arise from the GDPR. Nor could the controller be required to store further data to prove the erasure, as this would undermine the very purpose of the erasure request. Alternatively, the court suggests that the deletion be confirmed through an affidavit. The local court declined to refer the question to the European Court of Justice, deeming it a minor ancillary issue.

[To the judgment of the Local Court of Lörrach \(dated 3 March 2025, 3 C 1099/24, in German\)](#)

3. Regulatory Investigations and Enforcement Actions

+++ BRITISH DATA PROTECTION AUTHORITY: FINE OF EUR 3.68 MIO. FOR INADEQUATE TECHNICAL AND ORGANIZATIONAL MEASURES +++

The UK's Information Commissioner's Office (ICO) has imposed a fine of GBP 3.07 Mio., approximately EUR 3.68 Mio., on Advanced Computer Software Group Limited and Advanced Health & Care Division Limited. The company group, which offers IT services for the healthcare sector, was fined after a hacker attack compromised personal data of around 79,000 individuals, including sensitive healthcare data. The attackers exploited a vulnerability in Microsoft, which Microsoft itself had already classified as a significant security risk back in 2020. Despite existing warnings and options, Advanced had neither installed patches nor taken other measures to minimize the risk. The authority therefore found that the companies concerned had not taken sufficient technical and organizational measures.

[To the ICO press release \(dated 27 March 2025\)](#)

[To the ICO's fine notice \(dated 26 March 2025\)](#)

4. Opinions

+++ HAMBURG COMMISSIONER FOR DATA PROTECTION: POSSIBILITY TO OBJECT TO META'S AI TRAINING +++

The Hamburg Commissioner for Data Protection and Freedom of Information has issued a guide and Q&A in response to Meta's upcoming AI training. This concerns the training of AI-based services such as the Meta-AI chatbot on WhatsApp or language models like Llama. The data of all adult European users of Facebook and Instagram will be used for this purpose. As the AI training is set to begin at the end of May, the authority advises users who do not wish to release their data for AI training to object before the end of May and refers them to the respective objection and contact options for Facebook and Instagram. Although it is still possible to object after the end of May, the user's data has already been used for AI training and irrevocably incorporated into the AI model. In a Q&A, individual questions are also answered, such as the continued use of Meta AI after an objection to the AI training.

[To the guidelines and Q&A of the Hamburg Commissioner for Data Protection \(dated 15 April 2025\)](#)

Your Contacts

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

Office Frankfurt

Mainzer Landstrasse 36 | 60325 Frankfurt am Main

Dr Andreas Lober

+49 69 756095-582
[vCard](#)



Susanne Klein, LL.M.

+49 69 756095-582
[vCard](#)



Lennart Kriebel

+49 69 756095-582
[vCard](#)



Fabian Eckstein, LL.M.

+49 69 756095-582
[vCard](#)



Jason Komninos, LL.M

+49 69 756095-582
[vCard](#)



Mirjam Kaiser

+49 69 756095-582
[vCard](#)



Office Dusseldorf

Cecilienallee 7 | 40474 Dusseldorf

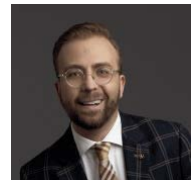
Mathias Zimmer-Goertz

+49 211 518989-144
[vCard](#)



Christian Frederik Döpke, LL.M.

+49 211 518989-144
[vCard](#)



Office Munich

Ganghoferstrasse 33 | 80339 Munich

Katharina Mayerbacher

+89 35065-1363

[vCard](#)



Dr Birgit Münchbach

+89 35065-1312

[vCard](#)



Beiten Burkhardt Rechtsanwaltsgesellschaft mbH is a member of ADVANT, an association of independent law firms. Each Member Firm is a separate and legally distinct entity, and is liable only for its own acts or omissions. This privacy ticker was created in cooperation with the ADVANT partner law firms Nctm and Altana.

EDITOR IN CHARGE

Dr Andreas Lober | Rechtsanwalt

©Beiten Burkhardt

Rechtsanwaltsgesellschaft mbH

BB-Datenschutz-Ticker@advant-beiten.com

www.advant-beiten.com



[Update Preferences](#) | [Forward](#)

Please note: If you no longer wish to receive information, you can [unsubscribe](#) at any time.

Imprint

Beiten Burkhardt Rechtsanwaltsgesellschaft mbH

Ganghoferstrasse 33, 80339 Munich, Germany

Registered under HR B 155350 at the Regional Court Munich / VAT Reg. No: DE11218811

Tel.: +49 89 35065-0, Fax: +49 89 35065-123 | E-Mail: munich@advant-beiten.com

Here you will find our complete imprint: www.advant-beiten.com/en/imprint and our privacy policy: www.advant-beiten.com/en/privacy-protection