

# Privacy Ticker

January 2026



**+++ FEDERAL COURT OF JUSTICE: PREMIUM HISTORY DATA IN PRIVATE HEALTH INSURANCE ONLY SUBJECT TO INFORMATION IN CASE OF PERSONAL REFERENCE +++ HIGHER REGIONAL COURT OF FRANKFURT: THIRD-PARTY PROVIDERS LIABLE FOR COOKIES WITHOUT CONSENT +++ FRANCE: EUR 42 MILLION FINE AGAINST MOBILE TELECOMMUNICATIONS PROVIDERS DUE TO INADEQUATE SECURITY MEASURES +++ GDPR REFORM SUGGESTIONS OF THE DSK +++**

## 1. Case Law

**+++ FEDERAL COURT OF JUSTICE: PREMIUM HISTORY DATA IN PRIVATE HEALTH INSURANCE ONLY SUBJECT TO INFORMATION IN CASE OF PERSONAL REFERENCE +++**

The Federal Court of Justice has clarified when information on the premium history of a private health insurance company is subject to the right to information under Art. 15 GDPR. The court clarifies that such data is only personal within the meaning of the GDPR if it is linked to a specific person and such person can be identified as a result. Mere effects on a person were not sufficient to justify the personal reference. The court also found that Art. 15 GDPR does not in principle entitle to copies of the letters of justification for premium adjustments together with annexes, as this does not have to be personal data of the policyholder.

[To the ruling of the Federal Court of Justice \(dated 18 December 2025, I ZR 115/25, in German\)](#)

### **+++ FRANKFURT HIGHER REGIONAL COURT: THIRD-PARTY PROVIDERS ARE LIABLE FOR COOKIES WITHOUT CONSENT +++**

The Higher Regional Court of Frankfurt has ruled that third-party providers are also liable for the setting of cookies without consent according to section 25 TDDDg. The prohibition of cookie storage is not limited to telemedia providers in the narrower sense but applies to anyone who participates in the technical implementation. Anyone who is involved in the provision of a website operator's telemedia by setting third-party cookies is considered a provider within the meaning of the provision, even if he has contractually agreed with the website operator to set cookies only with consent. The defendant in the case should therefore have ensured that the user's consent was transmitted to it before it was stored. Technical solutions such as consent management systems are possible and reasonable. The court also upheld a claim for damages by the affected individual but reduced it to EUR 100 because the plaintiff had deliberately caused the cookies to be set for the purpose of preserving evidence and could have deleted the cookies at any time. The court pointed out that a loss of control is generally compensated with EUR 100, unless there are special circumstances.

[To the ruling of the Higher Regional Court of Frankfurt \(dated 11 December 2025, 6 U 81/23, in German\)](#)

### **+++ ADMINISTRATIVE COURT OF WIESBADEN: DATA PROTECTION AUTHORITY MUST TAKE ACTION AGAINST SCHUFA+++**

The Administrative Court of Wiesbaden has ordered the Hessian Commissioner for Data Protection and Freedom of Information to take regulatory action against Schufa Holding AG. The authority had previously refused to intervene against the credit agency's failure to provide sufficient information. However, the court has now ruled that the authority exercised its discretion incorrectly when it rejected a consumer's complaint. After being denied credit due to her Schufa score, the plaintiff had requested detailed explanations of how the score was calculated, which she considered insufficient. The court emphasises that the data protection authority is not only entitled but also obliged to take action in the event of violations of the GDPR. It is at the authority's discretion which specific supervisory measures it applies, but not the decision on whether to intervene.

[To the judgment of the Administrative Court of Wiesbaden \(dated 19 November 2025, 6 K 788/20.WI, in German\)](#)

### **+++ MUNICH HIGHER REGIONAL COURT: META LIABLE FOR DAMAGES IN CONNECTION WITH BUSINESS TOOLS +++**

The Munich Higher Regional Court has ordered Meta to pay damages of EUR 750 because the company collected personal data on third-party websites via its Meta Business Tools without effective consent. The court found that Meta, together with the website operators, was to be regarded as joint controller for the collection and transfer of data, as Meta developed, provided and, above all, controlled the tools. The plaintiff, on the other hand, was unable to control what data Meta collected about her, which significantly violated her right to informational self-determination. In determining the amount of damages, the court took into account the plaintiff's above-average sensitivity due to health problems, the generation of sensitive data through her search behaviour and the significant loss of control over time.

[To the judgment of the Higher Regional Court of Munich \(dated 18 December 2025, 14 U 1068/25 e, in German\)](#)

## **2. Regulatory Investigations and Enforcement Actions**

### **+++ FRANCE: EUR 42 MILLION FINE IMPOSED ON MOBILE TELECOMMUNICATIONS PROVIDER FOR INADEQUATE SECURITY MEASURES +++**

The French data protection authority Commission Nationale de l'Informatique et des Libertés (CNIL) has imposed fines totalling EUR 42 million on FREE MOBILE and FREE for inadequate technical and organisational measures. The reason for this is a data breach in 2024 in which personal data, including bank details, of around 24 million customers was compromised. The CNIL identified several violations of the GDPR, in particular deficiencies in the technical and organisational measures of the IT systems, insufficient notification of the persons concerned and the lack of a deletion concept. FREE MOBILE was fined EUR 27 million and FREE EUR 15 million. Both companies were also required to improve the security of their systems and remedy technical deficiencies.

[To the CNIL press release \(dated 14 January 2026\)](#)

[To the decision against FREE MOBILE \(dated 8 January 2026, in French\)](#)

[To the decision against FREE \(dated 8 January 2026, in French\)](#)

### **+++ FRANCE: FURTHER FINE OF EUR 1.7 MILLION FOR INADEQUATE SECURITY MEASURES +++**

The CNIL also imposed a fine of EUR 1.7 million on the software company Nexpublica France. The reason for this was also inadequate security measures, this time in the company's software product used to manage user relationships in the field of social work, particularly in homes for people with disabilities. In 2022, users reported to the CNIL that they were able to access documents belonging to other users of the software that contained personal data. Investigations revealed that basic technical and organisational measures were lacking and were only implemented after the incident. The CNIL considered this to be a violation of Article 32 of the GDPR.

[To the CNIL press release \(dated 24 December 2025\)](#)

[To the decision against Nexpublica France \(dated 22 December 2025, in French\)](#)

### **+++ LDI NRW: EUR 300,000 FINE FOR MISLEADING ADVERTISING AND DISREGARD OF DATA SUBJECT RIGHTS +++**

The State Commissioner for Data Protection and Freedom of Information in North Rhine-Westphalia has imposed a fine totalling EUR 300,000 on a telecommunications company. Since 2022, consumers have been complaining about personalised advertising letters for internet and telephone connections, even though they claim to have never had any contact with the company. The letters contained detailed personal data such as addresses and landline telephone numbers, as well as pre-filled contract documents for a change of provider. Due to the misleading presentation and similarity of the name to a well-known telecommunications provider, many consumers did not realise that this was a change of provider. The company's ignorant behaviour had an aggravating effect on the calculation of the fine imposed: it did not respond to requests for information, deletion requests or objections from the data subjects. In addition, the advertising letters lacked the required information about data processing and the origin of the data.

[To the press release of the authority \(dated 5 December 2025, in German\)](#)

# 3. Opinions

## +++ GDPR REFORM SUGGESTIONS BY THE DSK +++

In response to the EU Commission's proposals on the Digital Omnibus ([see Privacy Ticker November 2025](#)), the Data Protection Conference (DSK) has presented its own reform proposals for a target-oriented adaptation of the GDPR. It proposes to place greater responsibility on manufacturers and providers of IT services when designing their

products. This is intended to relieve the burden on small and medium-sized enterprises in particular. Currently, these companies often have no influence on the implementation of data protection-compliant processes in the products they use, but are nevertheless responsible for data protection. Processors should therefore be obliged to design their services to be data protection-compliant from the outset. With regard to the use of AI, the Conference calls for specific legal bases for the development, training and operation of AI models and AI systems to be laid down in law. In this context, it also emphasises that the rights of data subjects should be given greater consideration when using AI.

[To the press release of the DSK \(dated 12 December 2025, in German\)](#)

## +++ JOINT OPINION OF THE EDPB AND EDPS ON THE DIGITAL OMNIBUS ON AI +++

The European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS) have published a joint opinion on simplifying the implementation of harmonised rules for artificial intelligence within the framework of the Digital Omnibus. Among other things, they focus on striking a balance between simplification and data protection. The EDPB and EDPS call for clear boundaries and high standards for the planned expansion of the processing of special categories of personal data for the detection and correction of bias in AI models in order to prevent abuse. With regard to the registration and documentation requirements for AI systems, they also warn against removing key transparency and accountability mechanisms without replacement. The joint statement also advocates the establishment of EU-wide AI regulatory sandboxes to promote innovation, but calls for greater legal clarity on the role of data protection supervisory authorities in these structures.

[To the Joint Opinion of the EDPB and EDPS \(dated 20 January 2026\)](#)

### **+++ BAFIN: GUIDANCE FOR THE USE OF AI IN FINANCIAL COMPANIES +++**

The German Federal Financial Supervisory Authority (BaFin) has published guidance on ICT risks associated with the use of AI. This is intended to help financial companies implement regulatory requirements from the Digital Operational Resilience Act (DORA), in particular Articles 5 to 15 DORA, when using AI ([see Privacy Ticker January 2025](#)). According to BaFin's assessment, significant risks arise from data collection, model development, operation and decommissioning of AI systems, with particular emphasis on cybersecurity and data integrity. The guidance emphasises the importance of a risk-based approach and proportionality in the implementation of security measures, especially for critical functions.

[To BaFin's guidance \(dated 18 December 2025, in German\)](#)

# 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](#)



## Office Hamburg

Neuer Wall 72 | 20354 Hamburg

### Jan-Dierk Schaal

+49 40 688745-0

[vCard](#)



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### EDITOR IN CHARGE

Susanne Klein, LL.M. | Rechtsanwältin

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Rechtsanwaltsgesellschaft mbH

[BB-Datenschutz-Ticker@advant-beiten.com](mailto:BB-Datenschutz-Ticker@advant-beiten.com)

[www.advant-beiten.com](http://www.advant-beiten.com)



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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](mailto:munich@advant-beiten.com)

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