

# PRIVACY TICKER

## 1. Case Law

### +++ ECJ: CONSENT TO ADVERTISING COOKIES VIA PRE-TICKED CHECK BOX IS INADMISSIBLE +++

The European Court of Justice (ECJ) has ruled that consent to setting cookies for advertising purposes is void if the website visitor only gives his consent via a preset selection box and, thus, without his own active behaviour (Case no. C-673/17 – “Planet49”). In addition, the validity of such consent requires that the user, before consenting, is informed on the cookies' storage period and on any third parties who can access the cookies. On the other hand, the ECJ has explicitly not decided on whether consent is still voluntary and thus effective if it is a mandatory condition for participating in a lottery free of charge. Besides this, the ECJ seems to assume that advertising cookies may only be set with the consent of the website visitor.

The full decision is available [here](#).

### +++ ECJ DETERMINES SCOPE OF RIGHT TO BE FORGOTTEN VIS-À-VIS SEARCH ENGINE OPERATORS +++

In another case the ECJ ruled on the scope of the right to be forgotten pursuant to the GDPR that a search engine operator has to comply with the request of a data subject to remove search entries on him only from the versions of the search engine available in EU member states (Case no. C-507/17 – “Google LLC ./ Commission nationale de l'informatique et des libertés”). However, the national law of an EU member state may also stipulate more extensive obligations that include removing search entries in all versions of the search engine, i.e. also for versions in countries outside the EU.

You can access the decision [here](#).

### +++ FEDERAL ADMINISTRATIVE COURT: OBLIGATION FOR POLICE OFFICERS TO WEAR NAME BADGES COMPLIES WITH CONSTITUTION +++

The Federal Administrative Court has decided that the obligation of police officers to wear a name badge on their uniforms, as provided for in the Police Act of the German federal state of Brandenburg, is in accordance with the German constitution (file ref. 2 C 33.18).

You can find the official press release (in German) [here](#).

## 2. Regulatory Investigations and Enforcement Actions

### +++ BERLIN SUPERVISORY AUTHORITY IMPOSES RECORD FINE ON GERMAN ONLINE DELIVERY SERVICE FOR FAILURE TO RESPECT DATA SUBJECT'S RIGHTS +++

The Berlin data protection authority has imposed fines totalling EUR 195,407 on the online delivery service Delivery Hero Germany because it has disregarded various rights of data subjects in a multitude of cases. Due to the high number of violations, the supervisory authority assumed that the company had fundamental organisational problems with regard to the fulfilment of the rights of data subjects.

The press release (in German) can be downloaded [here](#).

### +++ POLISH SUPERVISORY AUTHORITY FINES ONLINE SHOP FOR LACK OF TECHNICAL MEASURES TO PROTECT CUSTOMER DATA +++

The Polish data protection authority UODO has sanctioned inadequate technical and organizational measures taken by the online retailer Morele.net to protect customer data from unauthorised access with a fine of approximately EUR 645,000. These inadequate measures enabled unauthorised third parties to access the data of more than 2.2 million customers, including ID card data and data on income of the customer.

You will find a detailed press release [here](#).

The official decision of the supervisory authority (in Polish) is available [here](#).



### +++ FINES IMPOSED BY THE BELGIAN AUTHORITY FOR EXCESSIVE COLLECTION OF DATA FOR CUSTOMER CARD +++

The Belgian supervisory authority recently imposed a fine of EUR 10,000 on a trader for requiring, as mandatory condition for registering for a customer card, access to all data on the electronic identity card of interested customers, including their official unique ID number, although this data collecting was not necessary for the customer loyalty programme.

You can find the press release (in French) [here](#).

The decision of the supervisory authority (in Dutch) has been published [here](#).

## 3. Opinions

### +++ GERMAN DATA PROTECTION CONFERENCE DRAWS UP CONCEPT FOR CALCULATING FINES FOR VIOLATIONS OF DATA PROTECTION LAW +++

The German data protection authorities are currently drawing up a calculation concept on the basis of which they intend to determine the amount of fines for violations of data protection law in future. The concept is not yet final and therefore neither officially published nor elaborated, but will be discussed in detail at the beginning of November and amended if necessary. In addition, the existing conceptual considerations will initially be tested in practice. The supervisory authorities intend to introduce the considerations underlying the concept into the ongoing discussions at European level on the development of basic European guidelines for the assessment of fines.

The official notification of the supervisory authorities (in German) can be found [here](#).

### +++ BADEN-WUERTTEMBERG'S SUPERVISORY AUTHORITY PROVIDES PRACTICAL HELP ON DATA PROTECTION FOR PHOTOGRAPHS +++

The Baden-Wuerttemberg supervisory authority has published practical information on data protection requirements for creating and publishing images of persons, in particular from the perspective of associations and schools.

You can download the brochure with the instructions (in German) [here](#).

## 4. Upcoming Events

### +++ BREAKFAST SEMINAR PRIVACY POLICY – INFORMATION, DELETION & CO.: HOW DO I HANDLE INQUIRIES FROM DATA SUBJECTS? +++

Customers, employees and other affected individuals may assert various data protection claims against companies. These rights include, for example, the rights to information, deletion and data portability. For these requests, companies must comply with the strict requirements and deadlines of the GDPR.

In our breakfast seminar, we discuss with you how you can respond to enquiries from affected persons. We will advise you on how you can use practical guidelines and templates to reduce the risk and effort involved in responding to enquiries.

Further details and the opportunity to register can be found in the respective date entry. We are looking forward to seeing you there!

### DATES

[Berlin, 6 November 2019](#)

[Frankfurt, 31 October 2019](#)

[Hamburg, 22 October 2019](#)

[Munich, 15 October 2019](#)

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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