



PRIVACY TICKER

1. Case Law

+++ RESCISSION OF THE DELETION ORDER FOR POLICE BIOMETRIC DATABASE +++

The Hamburg Administrative Court has overturned the order issued by the Hamburg Data Protection Commissioner to the Hamburg police to delete their facial recognition database for the purpose of investigating riots at the G20 Summit in 2017. In particular, the order for rescission is vitiated by errors of assessment in the selection of the measure ordered, inasmuch as no milder means such as mere conditions for the use of the database were taken into consideration.

The press release on the ruling is published [here](#).

2. Regulatory Investigations and Enforcement Actions

+++ BERLIN SUPERVISORY AUTHORITY IMPOSES FINE OF MILLIONS FOR ARCHIVING SYSTEM WITHOUT DELETION OPTION +++

The Berlin supervisory authority has imposed the highest fine so far in Germany on a housing company for data protection violations in the amount of EUR 14.5 million because the company used archiving software that did not provide for the deletion of data that was no longer required. As a result, information on tenants several years old, such as salary and insurance data, was still available without this being necessary for the original purpose of the data collection. In addition to this circumstance, the amount of the fine was also influenced by the fact that the supervisory authority had already objected to the inadequate functioning of the archiving software during an audit in 2017, without any remedial measures having been taken since then.

You will find the press release of the supervisory authority [here](#).

+++ AUSTRIAN POST FINED MILLIONS FOR PASSING ON DATA ON POTENTIAL POLITICAL ATTITUDES +++

The competent data protection authority has imposed a fine of EUR 18 million on the Austrian Post. The reason for this was that the Austrian Post had unlawfully used the data it had collected on individual customers for direct marketing purposes, including information on the frequency and regularity of parcel deliveries as well as a probable affinity of customers with a particular party which the Austrian Post derived from statistical data.

The ad-hoc announcement of the Austrian Post can be found [here](#).

+++ SPANISH SUPERVISORY AUTHORITY PUNISHES INSUFFICIENT COOKIE BANNER FOR USER'S CONSENT TO COOKIES +++

The Spanish Data Protection Authority has imposed a fine of EUR 30,000 on a website operator for an inadequately designed cookie banner which users were supposed to use to allow the website to place cookies. The authority objected to the fact that the cookie banner provided only a single button for accepting cookies, without giving the user the possibility to refuse acceptance of all or individual cookies. This does not meet the requirements for a valid consent of the user. In addition, the supervisory authority seems to assume that consent is required in this case.

You can view the complete decision (in Spanish) [here](#).

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

+++ FINES AGAINST GREEK TELEPHONE SERVICE PROVIDER FOR SENDING DIRECT ADVERTISING DESPITE OPPOSITION +++

The Greek Data Protection Authority has imposed fines totaling EUR 400,000 on a Greek telephone service provider for sending direct advertising to customers due to technical errors, even though the customers concerned had previously opposed such advertising. In that respect, the service provider did in any case not implement sufficient technical and organisational measures.

Further information can be found in the press release which can be downloaded [here](#).

The German supervisory authorities now want to apply this model as long as no other guidelines for the imposition of fines are laid down at EU level.

You can review the entire concept [here](#).

A summary of the new model can also be found in our [newsletter on data protection law/compliance on the subject of "New Concept for Calculating Fines for GDPR Infringements"](#).

3. Opinions

+++ GERMAN SUPERVISORY AUTHORITIES PUBLISH FUTURE MODEL FOR SETTING FINES UNDER THE GDPR +++

The German data protection supervisory authorities have now officially published the model on which future fines for breaches of data protection are to be based.

In a first step, the new model provides for a schematic classification of the infringing company depending on the annual turnover. On this basis, a daily rate is calculated and used as initial value to determine the specific amount of the fine with regard to the nature and severity of the infringement and taking into account all other circumstances for and against the infringing undertaking.

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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Imprint

This publication is issued by
BEITEN BURKHARDT
Rechtsanwaltsgesellschaft mbH
Ganghoferstrasse 33 | D-80339 Munich
Registered under HR B 155350 at the Regional Court
Munich/VAT Reg. No.: DE811218811

For more information see:
<https://www.beiten-burkhardt.com/en/imprint>

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