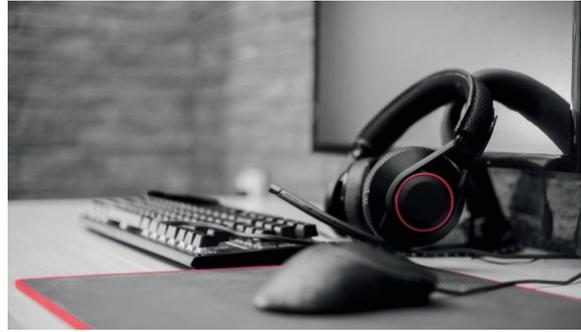


Privacy Ticker

October 2023



+++ ECJ: RIGHT TO FREE AND COMPLETE COPY OF DATA WITHOUT JUSTIFICATION OR RESTRICTION +++ FEDERAL COURT OF JUSTICE: NO GDPR RIGHT TO INFORMATION FOR THE REVIEW OF PREMIUM INCREASES FOR PRIVATE HEALTH INSURANCES +++ FINES OF EUR 12.8 MILLION FOR INADEQUATE SAFETY MEASURES IN THE UK +++ EDPB AND EDPS ON THE DRAFT REGULATION ON THE INTRODUCTION OF THE DIGITAL EURO +++

1. Case Law

+++ ECJ: RIGHT TO FREE AND COMPLETE COPY OF DATA WITHOUT JUSTIFICATION OR RESTRICTION +++

The European Court of Justice has ruled that claims for information under Art. 15 GDPR do not require a statement of reasons and that initial copies must be handed over free of charge and, if necessary, in full. As a patient, the plaintiff demanded that his dentist hand over a copy of his patient file. The dentist considered the demand to be an abuse of rights, as he assumed that the plaintiff only wanted to prepare a medical liability lawsuit and was not interested in reviewing the data processing. He therefore made the surrender of a copy of the patient file conditional on the plaintiff reimbursing the costs of the copy in accordance with Section 630g (2) of the German Civil Code. The ECJ ruled that the German standard cannot restrict the right to a free initial data copy. Moreover, according to the wording of Article 12(5) and Article 15(1) and (3) of the GDPR, the provision of a first copy of personal data free of charge is not dependent on the data subject giving reasons for the request. In addition, the ECJ states that a complete copy of the documents containing personal data must be issued, provided that only this shows the accuracy, completeness and comprehensibility of the data.

[To the judgement of the ECJ \(26 October 2023, C 307/22\)](#)

+++ FEDERAL COURT OF JUSTICE: NO GDPR RIGHT TO INFORMATION FOR THE REVIEW OF PREMIUM INCREASES FOR PRIVATE HEALTH INSURANCES +++

The Federal Court of Justice has ruled that there is no claim to the surrender of the entire justification letters for premium increases of a private health insurance company under Art. 15 GDPR. The plaintiff demanded information on premium increases from 2013 to 2016 and sought repayments due to possible ineffectiveness. The court dismissed the claim, but the court of appeal ordered the insurer to provide information. The Federal Court of Justice declared the action for information admissible because the policyholder had a legitimate interest in the information to check the ineffectiveness of premium increases. A claim for information could result from good faith if there were repayment claims. However, the GDPR does not give rise to a claim for copies of the justification letters, as the justification letters for the premium increases in their entirety do not constitute personal data of the policyholder. Although the data subject was in principle entitled to a copy of the personal data processed by the data controller, the right was not suitable to demand specific documents.

[To the press release of the Federal Court of Justice \(dated 27 September 2023, IV ZR 177/22, in German\)](#)

+++ BRANDENBURG HIGHER REGIONAL COURT: NO CLAIM FOR DAMAGES IN THE CASE OF INCORRECT DEBTOR DATA IN CREDIT AGENCIES +++

The Higher Regional Court of Brandenburg has ruled that a data subject is not entitled to claim damages against a credit agency if it is not responsible for incorrect data reported there. A contractual partner of the credit agency had inadmissibly provided the agency with data on an enforceable debt, which could have an influence on creditworthiness. The data subject demanded deletion of the entry and claimed non-material damages from the credit agency. The Court ruled that although there had been inadmissible data processing, the credit agency was not responsible for the incorrect data, as it had received this data from its contractual partner. The agency had also had no reason to doubt the accuracy of the data. In addition, the Court denied joint responsibility between the credit agency and the reporting agency, since the submitting agency decided for itself which data it would provide. Also, the credit agency did not coordinate and organise the data processing by its contractual partners.

[To the judgement of the Brandenburg Higher Regional Court \(dated 26 May 2023, 7 U 166/22, in German\)](#)

+++ DUSSELDORF REGIONAL COURT: EUR 120,000 IN DAMAGES FOR UNAUTHORISED PUBLICATION OF INTIMATE VIDEOS +++

The Regional Court of Dusseldorf awarded damages of EUR 120,000 to a data subject for publishing several intimate videos on porn platforms. The later plaintiff and the defendant had known each other on a dating platform but had never met. However, the plaintiff sent the defendant several videos with intimate and partly sexual content. The defendant published 15 of these videos on his own authority on relevant online platforms, where the videos were accessed en masse. In doing so, the defendant also advertised the videos with the first and last name of the data subject on an account specifically set up under her name. The videos could also be found via Google. Hence, the court affirmed a serious violation of the plaintiff's general right of personality and her right to her own image. The defendant's economic circumstances as an estate agent for exclusive real estate also had an influence on the amount of monetary compensation.

[To the judgement of Dusseldorf Regional Court \(dated 14 June 2023, 12 O 55/22, in German\)](#)

2. Regulatory Investigations and Enforcement Actions

+++ FINES OF EUR 12.8 MILLION FOR INADEQUATE SAFETY MEASURES IN THE UK +++

The Financial Conduct Authority (FCA) of the United Kingdom has imposed a fine of approximately EUR 12.8 million on the credit agency Equifax Ltd. In 2017, the company was the victim of a cyber attack in which personal data of over 147 million people was stolen. The US Federal Trade Commission (FTC) has already imposed a sanction of USD 13.5 million in 2019 because of the incident. The British FCA now found that the company had not maintained sufficient security measures and that British customers had not been adequately informed about the security incident. Although the company was aware of the theft of UK customers' data, it initially played down the incident and spoke only of a cyber attack in the US. It was not until October 2018 that the company confirmed that data from around 12.3 million UK customers had also been affected. On top of that came the poor processing of complaints, which had been outsourced to a third-party company that only provided unreliable information. The original fine of the equivalent of about EUR 18.4 million was reduced by an agreement between the authority and the company.

[To the administrative fine notice of FCA \(dated 3 October 2023\)](#)

+++ FINE OF EUR 200,000 FOR COLLECTING SENSITIVE DATA FROM EMPLOYEES +++

The French data protection authority Commission Nationale de l'Informatique et des Libertés (CNIL) has fined SAF LOGISTICS EUR 200,000 for extensive data collection. SAF LOGISTICS is an air freight company whose parent company is based in China. Following a complaint from an employee, the authority carried out investigations and found several data protection violations. For instance, during the application process, applicants were asked to provide sensitive data in a form, such as their ethnic and political affiliation, health data, and information on all family members. In addition, the company inadmissibly stored extracts from criminal records on its employees. Furthermore, the company violated its duty to cooperate and only submitted an incompletely translated form to the CNIL, so that the authority had to translate the Chinese form itself. The CNIL therefore believed that the company had deliberately tried to prevent it from exercising its inspection powers.

[To the CNIL press release \(dated 28 September 2023, in French\)](#)

[To the administrative fine notice of CNIL \(dated 18 September 2023, in French\)](#)

+++ FINE OF EUR 5.47 MILLION AGAINST DEBT COLLECTION AGENCY FOR UNLAWFUL ADVERTISING MEASURES +++

A fine of EUR 5.47 million has been imposed by the Croatian data protection authority Agencija za zaštitu osobnih podataka (AZOP) on the debt collection agency EOS Matrix d.o.o. After receiving an anonymous tip and a USB stick with more than 180,000 debtors' data, the authority initiated investigations against the agency and found several data protection violations. In particular, the data contained on the USB stick could be accessed and copied without authorisation due to insufficient technical protection measures. Furthermore, the debt collection company also processed data of persons who were not debtors, so that there was no legal basis for this processing. Health data of debtors were also unlawfully recorded in the database. Furthermore, this processing was not properly explained in the data protection information. Finally, the debt collection agency had recorded telephone calls of almost 50,000 data subjects without consent between May 2018 and January 2019.

[To the press release of the European Data Protection Board \(dated 5 October 2023\)](#)

[To the press release of AZOP \(dated 5 October 2023\)](#)

3. Opinions

+++ EDPB AND EDPS ON THE DRAFT REGULATION ON THE INTRODUCTION OF THE DIGITAL EURO +++

The European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS) have jointly published an opinion on the proposed Regulation on the introduction of a digital euro. They appreciate that the draft regulation respects and considers data protection. For instance, it will be possible to use the digital euro offline so as to minimise the processing of personal data. Furthermore, it should always be possible to still pay with cash in addition to the digital euro. The criticism is that there is to be only one access point that checks the amount held by each user. A decentralised solution is recommended in this respect. Furthermore, the EDPB and the EDPS suggest introducing a threshold for small amounts below which no measures for the prevention of money laundering or terrorist financing are to be applied, thus reducing the monitoring of payment transactions to an appropriate level.

[To the press release of EDPS \(dated 18 October 2023\).](#)

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