



PRIVACY TICKER

1. Case Law

+++ ECJ ANNULS EU-US PRIVACY SHIELD +++

The European Court of Justice (ECJ) has ruled that the adequacy decision of the EU Commission, which previously allowed the transfer of personal data to the USA (so-called EU-US Privacy Shield), is invalid. Due to extensive access powers of US authorities, the Privacy Shield is not sufficient to legitimise the transfer of data, because an adequate level of data protection in terms of the GDPR is not guaranteed in the USA. As an alternative to the Privacy Shield, companies may still conclude standard contractual clauses with the data recipient allowing data transfer from the EU. However, the ECJ emphasises that the parties must verify whether these clauses effectively provide for an adequate level of data protection in the recipient's country, taking into account access powers of authorities.

We will discuss details on the judgment and its consequences for the practice in our [online seminar “ECJ Annuls EU-US Privacy Shield – What Companies Need to Do Now” on 30 July 2020 at 9 am](#) (seminar language: German). [Register online](#)

[To the judgment of the ECJ \(of 16 July 2020, case no. C-311/18\)](#)

[FAQ of the supervisory authority of Rhineland-Palatinate on handling the ruling](#)

+++ CURRENT PRACTICE OF STATE ACCESS TO SUBSCRIBER DATA IS UNCONSTITUTIONAL +++

The German Federal Constitutional Court has concluded that the powers for authorities to access data on service subscribers are unconstitutional. Regulations allow authorities to demand from telecommunication providers customer data based on the customer's telephone access or IP address. According to the ruling, these powers have to be restricted to cases where there is a concrete initial suspicion of criminal conduct and the legal interests to be protected are of particular importance.

[To the decision of the Federal Constitutional Court \(of 27 May 2020, file ref. 1 BvR 1873/13, 1 BvR 2618/13\)](#)

2. Regulatory Investigations and Enforcement Actions

+++ DPA BADEN-WUERTEMBERG IMPOSES ONE MILLION FINE ON STATUTORY HEALTH INSURANCE FOR INSECURE DATA PROCESSING +++

The data protection authority of Baden-Wuerttemberg has imposed a fine of EUR 1.24 million on a statutory health insurance company as the company used data of participants of sweepstakes without establishing secure technical and organisational measures. Because of this, the company failed to correctly identify which participants had consented to advertising, so that 500 participants received advertising without having given their consent. The authority already took several mitigating factors into account when determining the amount of the fine, including the fact that the health insurance company cooperated constructively and expeditiously and that the fine should not jeopardise the fulfilment of its statutory task

[To the press release of the DPA Baden-Wuerttemberg](#)

+++ DUTCH CREDIT AGENCY IS SANCTIONED FOR IMPEDING ACCESS RIGHTS OF DATA SUBJECTS +++

The Dutch data protection authority has imposed its highest fine so far, in total EUR 830,000, on a credit agency, because the agency granted data subjects free access to their data only once per year and only upon postal request, and referred data subjects to this restriction. The credit agency also offered data subjects unlimited online access to the recorded data for a fee. According to the authority, such restriction on free access is only lawful on a case-by-case basis if an individual request is excessive.

[To the opinion of the authority \(in Dutch\)](#)

+++ ITALIAN DPA IMPOSES MULTI-MILLION FINE FOR ILLEGAL MARKETING ACTIVITIES +++

The Italian data protection authority has fined a telecommunication company in total EUR 16.7 million for illegal direct marketing campaigns. In particular, the data subjects could only use several of the company's apps if they consented to receiving marketing messages, and this consent could only be withdrawn within 24 hours of being given. In light of these findings the authority also investigated service providers of the telecommunication company and imposed an additional fine of EUR 200,000 on one service provider for the shortcomings.

[To the DPA's decision \(in Italian\)](#)

+++ FINE ON NORWEGIAN TOWN FOR PROCESSING DATA VIA INEFFECTIVELY SECURED LEARNING PLATFORM +++

The Norwegian Authority has imposed a fine of approximately EUR 47,000 on a municipality. The reason was a learning platform operated by the municipality which processed children's data, including health data, without appropriate technical safeguards. In addition, the municipality had failed to conduct a data protection impact assessment for the platform. The decision is based on the GDPR provisions which have been fully adopted by Norway (as well as by Iceland and Liechtenstein).

[To the official decision \(in Norwegian\)](#)

+++ BELGIUM SANCTIONS GOOGLE FOR FAILING TO DELETE LINKS TO OUTDATED DATA +++

The data protection authority of Belgium has imposed a fine of EUR 600,000 on Google for refusing to comply with a request to remove a link containing potentially reputation damaging information about a person. According to the authority, the link had to be removed because the information was outdated. The authority justified its competence with the specific role of Google's Belgian subsidiary in these removal requests.

[To the decision of the authority \(in French\)](#)

+++ CALIFORNIAN DATA PROTECTION LAW CAN BE ENFORCED FROM NOW ON +++

Since 1 July 2020, compliance with the California Consumer Privacy Act (CCPA) can be monitored by the competent authority and violations can be sanctioned. It remains to be seen on what matters the competent authority will focus its enforcement activities.

[To the FAQ of the authority on the CCPA](#)

3. Opinions

+++ GERMAN FEDERAL COMMISSIONER FOR DATA PROTECTION PUBLISHES STATEMENT ON THE FRAMEWORK FOR ANONYMISATION +++

The German Federal Data Protection Authority has published its position on the legal framework for the anonymisation of data. The authority had already provided a draft of the paper to the public in February 2020 and has now amended its position with regard to comments from the public, such as on data protection impact assessments for anonymisation.

[To the statement of the Commissioner](#)

+++ DPA BERLIN EVALUATES DATA PROTECTION PROVISIONS FOR WEB CONFERENCING SERVICES +++

The data protection supervisory authority in Berlin has published information on data protection in some widely used web conferencing tools. The authority has evaluated – explicitly only cursorily – whether the providers offer a sufficient data processing agreement and whether appropriate technical measures are in place.

[To the authority's evaluation](#)

+++ FRENCH SUPERVISORY AUTHORITY PROVIDES GUIDANCE ON HOW TO RESPOND TO REGULATORY ENQUIRIES +++

The French data protection authority (CNIL) has published recommendations for companies concerning data transfers in response to requests for information from public authorities. In particular, data controllers must verify that the request is actually made by an authority and that there is a basis for data collection by the authority. In addition, the authority provides an overview of frequent requests for information and of the competent French authorities.

[To the recommendations of the CNIL \(in French\)](#)

[To the overview of typical, admissible requests for information \(in French\)](#)

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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