



## Privacy in Bavaria

News for the Bavarian public sector

No. 8\_2023 | 9 November 2023

**The Bavarian Data Protection Commissioner** • Microsoft as processor in the use of "Microsoft 365" [Microsoft als Auftragsverarbeiter beim Einsatz von „Microsoft 365“].

<https://www.datenschutz-bayern.de>, section „Datenschutzreform 2018“

**European Court of Justice, judgement of 26 October 2023, C-307/22** • The right to obtain a (first) copy pursuant to Art. 15 (3) GDPR can neither be made dependent on a justification nor on a fee; no negative effect of a motivation outside Recital 63 sentence 1 GDPR; no final clarification of the question if section 630g (2) 2 Civil Code [Bürgerliches Gesetzbuch] can be based on Art. 23 (1) (i) GDPR; continuation of jurisdiction on the right to obtain a copy of personal data in context. | <https://curia.europa.eu>

**European Court of Justice, judgement of 7 September 2023, C-162/22** • On the conditions for the use of personal data retained by providers of electronic communications services in connection with criminal investigation procedures and made available to the competent authorities for the purpose of combating serious crime in the context of investigations into official misconduct (case relating to Directive 2002/58/EC). | <https://curia.europa.eu>

**European Court of Justice, judgement of 4 July 2023, C-252/21** • Competition authorities may also check compliance with data protection rules in competition investigations. | <https://curia.europa.eu>

**High Administrative Court of Bavaria, order of 4 September 2023, 4 ZB 23.1056** • The authorisation to adopt statutes in Art. 24 (4) (1) Bavarian Municipal Code [Gemeindeordnung] (in the version applicable until 31 December 2023) provides a lawful legal basis pursuant to Art. 6 (1) (1) (e), (3) GDPR for the use of electronic water meters with radio function; the right to object under Art. 21 (1) GDPR does not cover mere preparatory measures for processing personal data.

<https://www.gesetze-bayern.de>

**High Administrative Court of Bavaria, order of 21 August 2023, 5 C 22.1782** • The burden of proof for the incorrectness of the date of birth in connection with a right to claim correction of the civil register pursuant to section 6 (1) 1 German Federal Act on Registration, Art. 16 sentence 1 GDPR is on the data subject according to Art. 5 (1) (d), (2) GDPR (see also Federal Administrative Court, judgement of 2 March 2022, 6 C 7/20). | <https://www.gesetze-bayern.de>

**Hamm Higher Regional Court (North Rhine-Westphalia), judgement of 15 August 2023, 7 U 19/23** • Claim for damages pursuant to Art. 82 (1) GDPR: requirements for demonstrating (and proving) non-material damage as well as causation establishing liability (case in connection with scraping). | <https://www.justiz.nrw/BS/nrwe2/index.php>

**Federal Administrative Court (Austria), decision of 22 August 2023, W137 2251172-1** • On the requirements for the exception in Art. 14 (5) (a) GDPR in connection with information for all teaching staff at Austrian schools. | <https://www.ris.bka.gv.at>

**Gola, Whistleblower protection under the Whistleblower Protection Act, the Act on Corporate Due Diligence Obligations in Supply Chains and other sector-specific reporting systems – an overview [Hinweisgeberschutz nach dem HinSchG, dem LkSG und weiteren bereichsspezifischen Melderegungen – ein Überblick]** • Recht der Datenverarbeitung 2023, p. 213 ff.

**The Bavarian Data Protection Commissioner**

80538 München | Waggmüllerstraße 18 | Phone: +49 89 21 26 72-0

[poststelle@datenschutz-bayern.de](mailto:poststelle@datenschutz-bayern.de) | <https://www.datenschutz-bayern.de>