



Privacy in Bavaria

News for the Bavarian public sector

No. 2_2024 | 26 February 2024

The Bavarian Data Protection Commissioner, When is a natural person identifiable? [Wann ist eine natürliche Person identifizierbar?] • Information note 53.

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

European Court of Justice, judgement of 25 January 2024, C-687/21 • Referral from a claim for damages: Disclosure of a document containing personal data to an unauthorised third party by an employee does not in itself prove that the controller has failed to take the “appropriate measures” required by Art. 24 and Art. 32 GDPR (continuation of CJEU, judgement of 14 December 2023, C-340/21); compensatory not punitive function of the claim for damages pursuant to Art. 82 (1) GDPR; limitation of monetary compensation by compensatory interest (continuation of CJEU, judgement of 21 December 2023, C-667/21); if unauthorised third parties do not gain knowledge of the data, the mere fear of future dissemination or misuse of the data does not constitute non-material damage within the meaning of Art. 82 (1) GDPR. | <https://curia.europa.eu>

European Court of Justice, judgement of 11 January 2024, C-231/22 • Responsibility under data protection law for successive processing operations by several bodies (here: the body responsible under national law for publications in the Official Journal of a member state and a judicial authority which has transmitted documents to be published in the Official Journal and with which they are subsequently deposited); responsibility within the meaning of Art. 4 No. 7 GDPR does not require legal personality. <https://curia.europa.eu>

Federal Fiscal Court, order of 5 December 2023, IX B 108/22 • Exclusion of the claim under Art. 15 GDPR in the relationship between the insolvency administrator and the tax office.

<https://www.bundesfinanzhof.de>

Munich Higher Regional Court (Bavaria), order of 13 December 2023, 31 U 1786/23 e • No causality between a cyberattack and the misuse of personal data if it remains undisputed that the data subject was affected by a data leak on several occasions. | <https://www.gesetze.bayern.de>

Lewinski/Biermeier, State emergency reporting – Are the state and local authorities allowed to slow down “blue light reporters”? [Staatliche Einsatzberichterstattung – Dürfen Staat und Kommunen „Blaulichtreporter“ ausbremsen?] • Contribution on the legality of the distribution of photographs documenting operational events by the public sector. Bayerische Verwaltungsblätter 2023, p. 656 ff.

Seckelmann, Artificial intelligence in administration [Künstliche Intelligenz in der Verwaltung] • Discussion of the key concepts of administrative digitisation in the light of the draft European AI regulation. | Die Verwaltung 56 (2023), p. 1 ff.

Datenschutz und Datensicherheit, issue 11/2023, focus topic “Research topics in data protection and IT security” [„Forschungsthemen in Datenschutz und IT-Sicherheit“] • Articles inter alia on new challenges at the interface of law and technology (p. 688 ff.) and on cryptology at the FZI Research Centre for Information Technology (p. 692 ff.).

Multimedia und Recht, supplement 1/2024, Data Act • Essays inter alia on the scope of the Data Act (p. 71 ff.), on technical protection measures of the data holder under the Data Act (p. 91 ff.) and on the provision of data due to exceptional need (p. 104 ff.).

The Bavarian Data Protection Commissioner

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

poststelle@datenschutz-bayern.de | <https://www.datenschutz-bayern.de>