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# PRIVACY TICKER

## 1. Case Law

### **+++ ADMINISTRATIVE COURT OF COLOGNE PERMITS ASSEMBLY WITHOUT OBLIGATION TO LIST PARTICIPANTS +++**

The Administrative Court of Cologne ruled that permission for an assembly may not be tied to the condition that participants' identities are being recorded (decision of 7 May 2020 – 7 L 809/20). Due to people being discouraged from attending the assembly by such an obligation, this condition is regarded as disproportionate and unlawful, even taking into account the corona pandemic. The Court also considered that in other cases only a general mask obligation and distance regulations had to be observed which of course also had to be respected at assemblies.

The decision (in German) is published [here](#).

### **+++ LABOUR COURT OF WESEL: CORONA PANDEMIC DOES NOT JUSTIFY VIDEO SURVEILLANCE IN THE COMPANY WITHOUT WORKS COUNCIL CO-DETERMINATION +++**

In a preliminary injunction, the Wesel Labour Court decided that an employer may only use video recordings to verify compliance with distance requirements due to the coronavirus if the works council's co-determination rights are respected (decision of 24 April 2020 – 2 BVGa 4/20). The continuous spread of the coronavirus does not in itself pose such an urgent risk in which postponing the works council's co-determination would be permissible.

The decision (in German) is published [here](#).

## 2. Regulatory Investigations and Enforcement Actions

### **+++ ICO FINES AIRLINE FOR MULTIPLE SECURITY BREACHES IN ITS IT SYSTEMS +++**

The UK data protection authority (ICO) has fined an international airline in the amount of around EUR 560,000 for shortcomings in the data security of its IT systems, which allowed unauthorised persons to access data of roughly 9.4 million customers. During investigations, the ICO discovered that, *inter alia*, backup copies were not encrypted and a prompt installation of the software patches provided by the manufacturer was at least not documented.

You can find the press release [here](#).

### **+++ DUTCH DPA HAS FINED UNLAWFUL FINGERPRINT SCANNING FOR WORKING TIME RECORDING +++**

The Dutch data protection authority has imposed its highest fine to date in the amount of EUR 725,000 on a company which introduced a system for recording time, using fingerprint scans without the company being able to prove that the employees had given their consent and that the consent was given voluntarily. There was no other applicable legal basis for the use of biometric data.

The press release (in Dutch) is published [here](#).

### **+++ FINE IMPOSED ON SWEDISH ADMINISTRATIVE AUTHORITY FOR FAILURE TO NOTIFY DATA BREACH IN DUE TIME +++**

The data protection authority of Sweden fined a state-owned IT service provider in the amount of roughly EUR 18,700 for not notifying the supervisory authority and data subjects concerned until months after the provider became aware of a security vulnerability in salary administration systems it had offered to customers. The provider had learned about the vulnerability through complaints from individual clients who could access data from other clients, mostly government bodies, for months.

The press release is available [here](#).

### 3. Opinions

#### **+++ EDPB CLARIFIES: NO VALID CONSENT TO COOKIES IN CASE OF COOKIE WALLS WITHOUT ANY ALTERNATIVES +++**

The European Data Protection Board (EDPB) has clarified in its guidelines on consent that consent to cookies is not given voluntarily and is therefore invalid, if access to services is denied in total without the consent. Also, the Board clarifies that scrolling or continued use of the website does not constitute effective consent either.

The updated guidelines can be found [here](#).

#### **+++ GERMAN DPAS APPROVE UNIFIED TEMPLATE FOR PATIENT CONSENT TO DATA USE FOR RESEARCH PURPOSES +++**

The German Data Protection Conference noted that it fully approved of the template consent for the use of clinical data for research purposes which was drafted by the Medical Informatics Initiative of the Federal Ministry of Education and Research. The German authorities, thus, accept that the template is used through-out Germany without any state-specific additions.

The template text can be downloaded [here](#). Further information on how to use the template is provided in the document [here](#).

#### **+++ FEDERAL DATA PROTECTION COMMISSIONER: USE OF WHATSAPP EXCLUDED FOR AUTHORITIES +++**

In a circular letter to the Federal authorities, the German Federal Commissioner for Data Protection points out that the authorities may not use WhatsApp, in particular due to metadata which WhatsApp receives on the users involved.

A copy of the circular letter can be viewed [here](#).

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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