



## Privacy in Bavaria

News for the Bavarian public sector

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### **Bavarian Supreme Court, order of 9 January 2025, 204 StObWs 403/24**

Relationship between the right of access to medical records, based on the patient's constitutional rights, and the right of access under Art. 204 Bavarian Prison Act [Bayerisches Strafvollzugsgesetz]; right to receive photographs of the lunch menu provided (background: difference of opinion as to whether the requirements for a medically prescribed special diet were met).

<https://www.gesetze-bayern.de/Content/Document/Y-300-Z-BECKRS-B-2025-N-413>

### **Bavarian Supreme Court, order of 6 December 2024, 101 VA 129/24**

Transmission of a civil proceedings file to the public prosecutor's office; interplay of section 161 (1) 1 Code of Criminal Procedure [Strafprozeßordnung] and Art. 5 (1) 1 No. 1 Bavarian Data Protection Act [Bayerisches Datenschutzgesetz] in regard to the "Doppeltürmodell" (meaning both request and transmission of data require a proportionate justification, cf. Privacy in Bavaria 5\_2022); scope of the duty of the entity that has been requested to transmit data to review the request.

<https://www.gesetze-bayern.de/Content/Document/Y-300-Z-BECKRS-B-2024-N-34857>

### **Wiesbaden Administrative Court, judgement of 18 December 2024, 6 K 1563/21**

Lawfulness of fingerprint requirement for ID cards (see European Court of Justice, judgement of 21 March 2024, C-61/22); failure to carry out a data protection impact assessment or insufficiency of such an impact assessment does not affect the lawfulness of the specific data processing.

<https://www.rv.hessenrecht.hessen.de/bshe/document/LARE250000162>

### **Federal Administrative Court (Austria), decision of 5 February 2025, W291 2298821-1**

Disclosure of a medical diagnosis in a reply to a Google review by the data subject as unlawful processing of special categories of personal data.

[https://www.ris.bka.gv.at/Dokumente/Bwmg/BWVGWGT\\_20250205\\_W291\\_2298821\\_1\\_00.pdf](https://www.ris.bka.gv.at/Dokumente/Bwmg/BWVGWGT_20250205_W291_2298821_1_00.pdf)

### **Federal Administrative Court (Austria), decision of 23 January 2025, W605 2284399-1**

Obligation to cooperate with the supervisory authority in accordance with Art. 31 GDPR; failure to provide information requested by the supervisory authority.

[https://www.ris.bka.gv.at/Dokumente/Bwmg/BWVGWGT\\_20250123\\_W605\\_2284399\\_1\\_00.pdf](https://www.ris.bka.gv.at/Dokumente/Bwmg/BWVGWGT_20250123_W605_2284399_1_00.pdf)

### **Federal Administrative Court (Austria), decision of 7 January 2025, W108 2289035-1**

On the right of access under Art. 15 GDPR; notably in relation to the recipients (Art 15 (1) (c), Art. 4 No. 9 GDPR) and the period of storage (Art. 15 (1) (d) GDPR).

[https://www.ris.bka.gv.at/Dokumente/Bwmg/BWVGWGT\\_20250107\\_W108\\_2289035\\_1\\_00.pdf](https://www.ris.bka.gv.at/Dokumente/Bwmg/BWVGWGT_20250107_W108_2289035_1_00.pdf)

### **Federal Administrative Court (Austria), decision of 27 December 2024, W258 2227269-1**

Violation of Art. 9 (1) GDPR by virtue of computing and selling information on "political affinities" (see also Supreme Administrative Court [Austria], decision of 17 May 2024, Ra 2023/04/0005).

[https://www.ris.bka.gv.at/Dokumente/Bwmg/BWVGWGT\\_20241227\\_W258\\_2227269\\_1\\_00\\_01.pdf](https://www.ris.bka.gv.at/Dokumente/Bwmg/BWVGWGT_20241227_W258_2227269_1_00_01.pdf)

### **Data Protection Authority (Austria), administrative penalty decision of 16 October 2024, 2024-0.641.771**

On the requirements in relation to the duty to designate a data protection officer (Art. 37 (1) (c) GDPR); designation entailing a conflict of interest (Art. 38 (6) GDPR).

[https://www.ris.bka.gv.at/Dokumente/Dsk/DSBT\\_20241016\\_2024\\_0\\_641\\_771\\_00.pdf](https://www.ris.bka.gv.at/Dokumente/Dsk/DSBT_20241016_2024_0_641_771_00.pdf)

## **The Bavarian Data Protection Commissioner**

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

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