

## **LfDI Baden-Wuerttemberg imposed first fine against police officers [1]**

In Germany a police officer used his credentials to run a lookup for personal information of some EU citizen. He did this for personal reasons not related to his position as an officer; the person whom he looked up was not breaking any laws (specifically, the article listed the person as a 'private random acquaintance'). The officer then used this information to perform another search to obtain the personal cell phone number of the acquaintance (victim) [1].

According to the article, this is the first instance in which a singular person (the police officer) has been convicted of violating GDPR [1].

The Office of Fine Arts of the Land Commissioner for Data Protection and Freedom of Information (LfDI) was the entity to impose the fine. The article[1] doesn't say who prompted the LfDI to investigate, but my guess is that the victim complained about the unsolicited phone calls and thus the internal investigation got handed over to the LfDI. Also, it is noted in the article that the fine of 1,400 Euro is due to the fact that this kind of case (singular person) has never happened before. That leads me to assume that this case signals that future singular person fines will be much higher. Personally, I hope that the fines for such infringements would be much higher as I believe personal and private data like cell phone numbers to be worth much more than 1,400 Euros.

In this case, the data subject is the 'private random acquaintance' (victim). The data controller and data processor is the German Police Officer since he alone decided to acquire and use the data [2]. Therefore the data controller/processor is at fault according to section 6 of the GDPR in which data was processed unlawfully [1]. As for the result of this case, I couldn't find anything on whether or not the fine was paid or if some other result (more training, more restrictions, etc) were issued.

On a technical level, the problem lies in the capabilities of a singular Police Officer. The officer has unfettered access to process the data controlled by the German Police. Unfortunately, this seems necessary for the completion of his duties since there is no way of accurately predicting who he should be able to gather information on (i.e. he could be required to look up information on any German citizen at any time, during his shift, to fulfill his duties as a police officer). However, I think some of the following practices could make a similar infringement more difficult:

- Restrict the type of information a police has access to (e.g. not personal cell phone numbers)
- Require manager approval of information requests (e.g. the officer would need to state a valid reason for requesting the information)

- Require a 'partner' to also sign-off on the information request
- Mandatory training for all officers
- Steeper/standardized fines for this kind of infringement

Finally, this case sets a precedence that the GDPR is to be taken seriously by everyone including the 'public sector bodies' (i.e. Governments). This is extremely important for not only Germany, not only the EU, but to all governing bodies who are in scope of the GDPR as it reigns in the power that Police and similar government officials have and that they are certainly not exempt from the GDPR. I think the fine in this case was too low, even for the first singular offender.

## References

- [1] *LfdI Baden-Wuerttemberg imposed first fine against police officers.* (German) [*Employees of public sector bodies do not enjoy "immunity" for illegal data processing for private purposes*].  
<https://www.baden-wuerttemberg.datenschutz.de/lfdi-baden-wuerttemberg-verhaengt-erstes-bussgeld-gegen-polizeibeamten/>  
Baden-Wuerttemberg Press Office, June 18, 2019
- [2] Sam Clark, Global Data Review *German regulator fines police officer.*  
<https://globaldatareview.com/article/1194218/german-regulator-fines-police-officer>  
June 19, 2019