

P r e s s e release

September 19, 2019

711.408.1

Delivery service and online bank –

Berlin data protection officer imposes severe fines

In August 2019, the Berlin Commissioner for Data Protection and Freedom of Information

Fines totaling EUR 195,407 including fees against Delivery Hero

Germany GmbH issued. The decision is final.

With the fines, the Berlin data protection officer punished various

individual violations of data protection law by the company. The majority of cases involved

Failure to respect the rights of data subjects, such as the right to information about the processing of data
own data, the right to delete the data and the right to object.

According to the findings of the Berlin data protection officer, Delivery Hero

Germany GmbH did not delete accounts of former customers in ten cases,

although those affected have not been on for years - in one case even since 2008

the company's delivery service platform had been active. Eight former customers

had also complained about unsolicited advertising emails from the company.

A victim who expressly consents to the use of his data for advertising purposes

had objected, nevertheless received a further 15 advertising e-mails from the delivery service. In

The company granted five other cases to the complainants

Persons do not provide the required self-declaration or only after the Berliner
data protection officer had intervened.

The data subject rights of the General Data Protection Regulation (GDPR) are an important one
tools for every individual to enforce fundamental rights

Informational self-determination. The European legislature was at the

Adoption of the General Data Protection Regulation is a major concern that

To strengthen the rights of the citizens concerned. Any company that processes personal data must therefore be technically and organizationally able to fulfill corresponding requests of the persons concerned immediately.

Delivery Hero Germany GmbH reported some of the violations to the supervisory authority explained with technical errors or employee mistakes. Because of the high number of repeated violations, however, were of fundamental, structural deal with organizational problems. Despite numerous indications from the supervisory authority no adequate measures have been implemented over a long period of time to dutiful fulfillment of the rights of those affected.

The fines were issued in two notices, since some of the violations occurred after the entry into force of the GDPR applicable data protection law had to be assessed. Authoritative for

Responsible: Dalia Kues

Office: Cristina Vecchi

Email: presse@datenschutz-berlin.de

Friedrichstr. 219

10969 Berlin

Tel: 030 13889 - 900

Fax: 030 2155050

- 2 -

the question of whether a violation is to be assessed according to the old or new legal situation is that time of crime.

When deciding whether to impose a fine and its amount, the

Berlin data protection officer in each individual case discretionary criteria such as those in Art. 83 para.

2 DS-GVO. In particular, the concrete flowed into the evaluation

circumstances regarding the type, severity and duration of the respective violation. Furthermore, the

Consequences of each violation and the measures taken by those responsible

have been taken into account in order to avert or mitigate the consequences of the violation.

On April 1, 2019, the Delivery Hero brands Lieferheld, Pizza.de and foodora vom

taken over by the Dutch group Takeway.com. The procedure

underlying violations were all committed prior to this acquisition. The new

The owner has accepted the fine notices and has not appealed. Opposite of

The supervisory authority stated that Takeaway attaches the greatest importance to compliance with data protection law

to lay. The procedure was taken as an opportunity, the processes again

to check thoroughly.

As early as March 2019, the Berlin Commissioner for Data Protection and Freedom of Information

a first considerable fine according to the standards of the DS-GVO in the amount of 50,000 euros

against the online bank N26. The young company had for the purposes of

money laundering prevention the names of former customers in black

list, regardless of whether they were actually suspected of money laundering.

N26 also accepted the fine and vis-à-vis the Berlin data protection officer

announced a series of measures to address previous organizational shortcomings

eliminate them and thereby improve the protection of their customers' data.

In particular, the company pledged to expand its staff in the area of data protection

increase and train.

Overall, the Berlin Commissioner for Data Protection and Freedom of Information since the new

Legal situation 27 fines according to the GDPR and two fines according to the new Berlin

enacted data protection law.

Maja Smolczyk

"For a long time, the topic of data protection was neglected in many companies,

although it is a particularly important fundamental right in the digital age. The GDPR works

against that. The companies mentioned are willing to process

deficiencies are now evident. I hope these fines spread to others

companies have a warning effect. Who works with personal data, needs a functioning data protection management system. That not only helps fines too avoid, but also strengthens the trust and satisfaction of the customers. Donut

For companies that are still in the start-up phase, I recommend our twice

Visit monthly start-up consultation hours to discuss data protection

to clarify questions at an early stage.”