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Higher Administrative Court assists state data protection officer - verdict on scope of examination for complaints

The Higher Administrative Court (OVG) Koblenz confirmed the legal opinion of the state officer for data protection and freedom of information (LfDI) Rhineland-Palatinate in a judgment a certain result, judged the Koblenz judges. A citizen had sued the LfDI in the first instance before the Koblenz administrative court and lost. He then appealed to the OVG Koblenz, which has now made a judgment on the scope of the examination for complaints (Art. 57 Para. 1 lit. f, Art. 77 General Data Protection Regulation, DS-GVO) (Az.: 10 A 10613/20 .OVG). The OVG Koblenz emphasized in its judgment that the LfDI was obliged to "deal with the complaint" and to "investigate the subject matter of the complaint" and to "inform the complainant about the result". "The petitioner is not entitled to a decision with a specific content or to a specific decision in his case," the verdict says. If the complainant does not agree with the decision, he is entitled to two things: He can seek a judicial review of the LfDI decision. However, since the right to lodge a complaint is a right similar to that of a petition, it can only be reviewed to a limited extent by the court. The court does not assess whether the supervisory authority made a materially correct decision - also because the LfDI is entitled to discretionary powers. Secondly, under stricter conditions, the complainant has the option, in accordance with Art. 79 GDPR, to take adversarial action directly against the person responsible who, in his opinion, has committed a data protection violation. The state data protection officer Professor Dieter Kugelmann says: "As the data protection supervisory authority, we examine in detail Complaints carefully. If I and my employees come to the conclusion that there has not been a data breach, we will inform the complainant and explain why we are proceeding in this way. The judgment of the OVG Koblenz is important, as it regularly happens that complainants exercise their right to take legal action against our decisions. With the Koblenz court decision, there is now greater legal clarity. We want and have to process complaints, but we have leeway to make an appropriate decision."

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