

Data Protection Law

Introduction

HD Dr. Martin S. Haase

WITH SPECIAL HIGHLIGHTS

Data Protection Law

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HD Dr. Martin S. Haase

ETHICS

ECONOMY

Living Human

**TECH-
NOLOGY**

PRIVACY

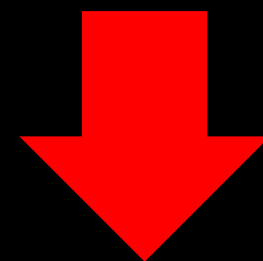
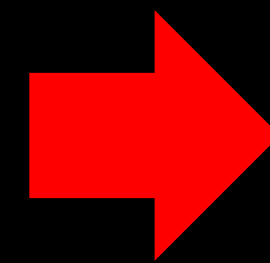
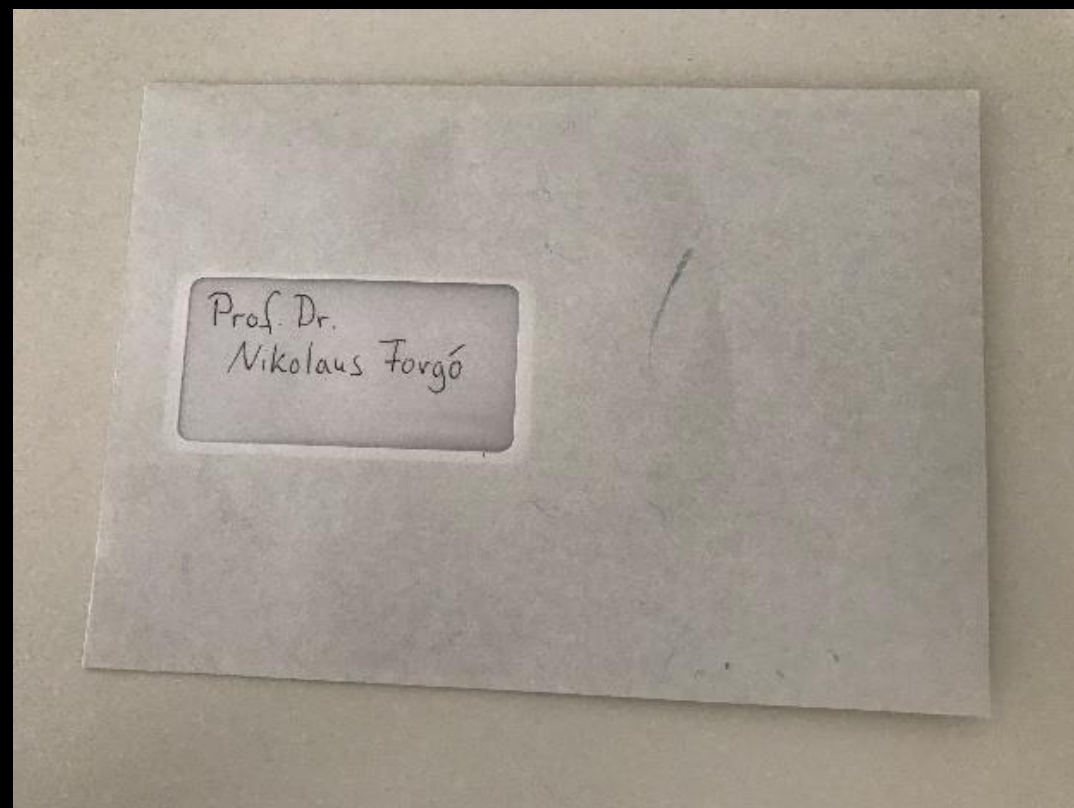
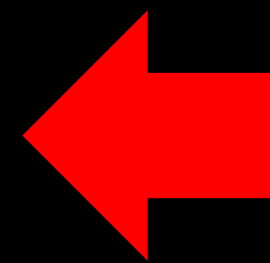
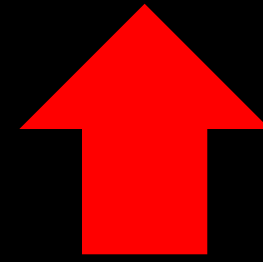
LAW

**PROTECTION OF
NATURAL PERSONS
WITH REGARD TO THE
PROCESSING OF
PERSONAL DATA**

**PERSONAL
FREEDOM**

Living Human

PRIVACY



PRIVACY

Attention!

You are leaving
the area of
your privacy!

BUT

Don't worry!



accompanies you!

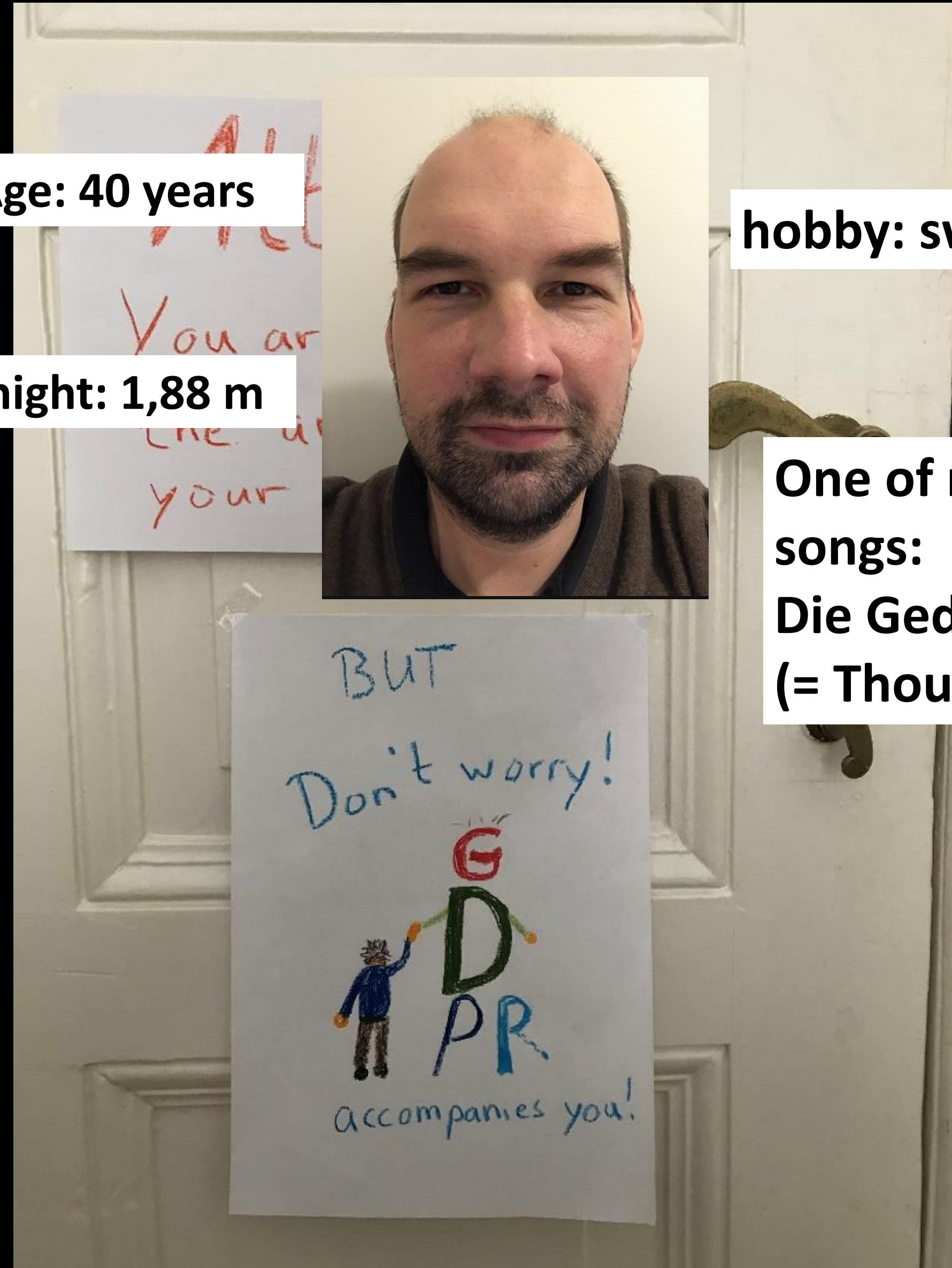
**PROTECTION OF
NATURAL PERSONS
WITH REGARD TO THE PROCESSING OF
PERSONAL DATA**

Age: 40 years

hobby: swimming

Body height: 1,88 m

**One of my favourite
songs:
Die Gedanken sind frei
(= Thoughts are free)**



**Three little stories
to explain the background of
the protection of natural persons
with regard
to the processing of personal data**

(1)

Die Gedanken sind frei

FIRST HIGHLIGHT

Die Gedanken sind frei,
wer kann sie erraten,
sie fliegen vorbei
wie nächtliche Schatten.
Kein Mensch kann sie wissen,
kein Jäger erschießen,
es bleibt dabei:
die Gedanken sind frei.

(...)

Und sperrt man mich ein
im finsternen Kerker,
das alles sind rein
vergebliche Werke;
denn meine Gedanken
zerreißen die Schranken
und Mauern entzwei:
die Gedanken sind frei.

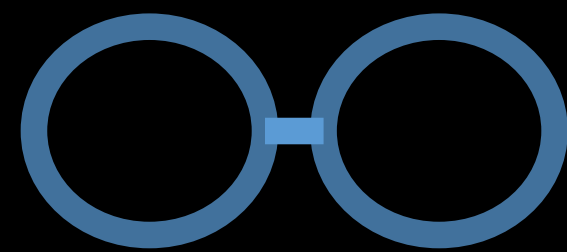
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Thoughts are free,
who can guess them,
they flee past
like nighttime shadows.
No one can know them,
no hunter can shoot it dead
It remains:
The thoughts are free!

(...)

And if someone locks me
in the dark prison,
All that is absolutely
wasted work.
Because my thoughts
pull the barriers to pieces
and walls in two,
the thoughts are free!
(source: <https://lyricstranslate.com>)

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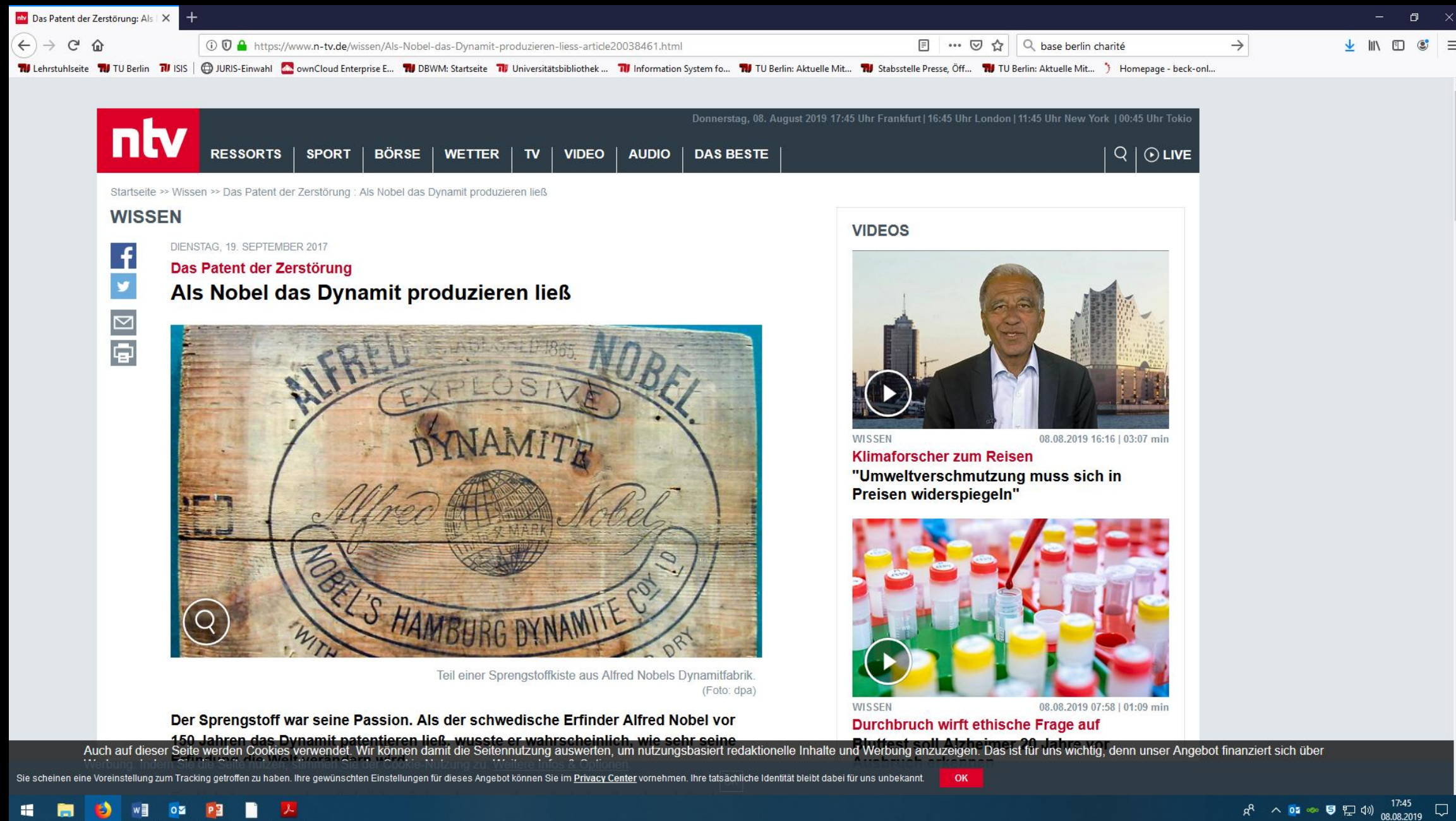
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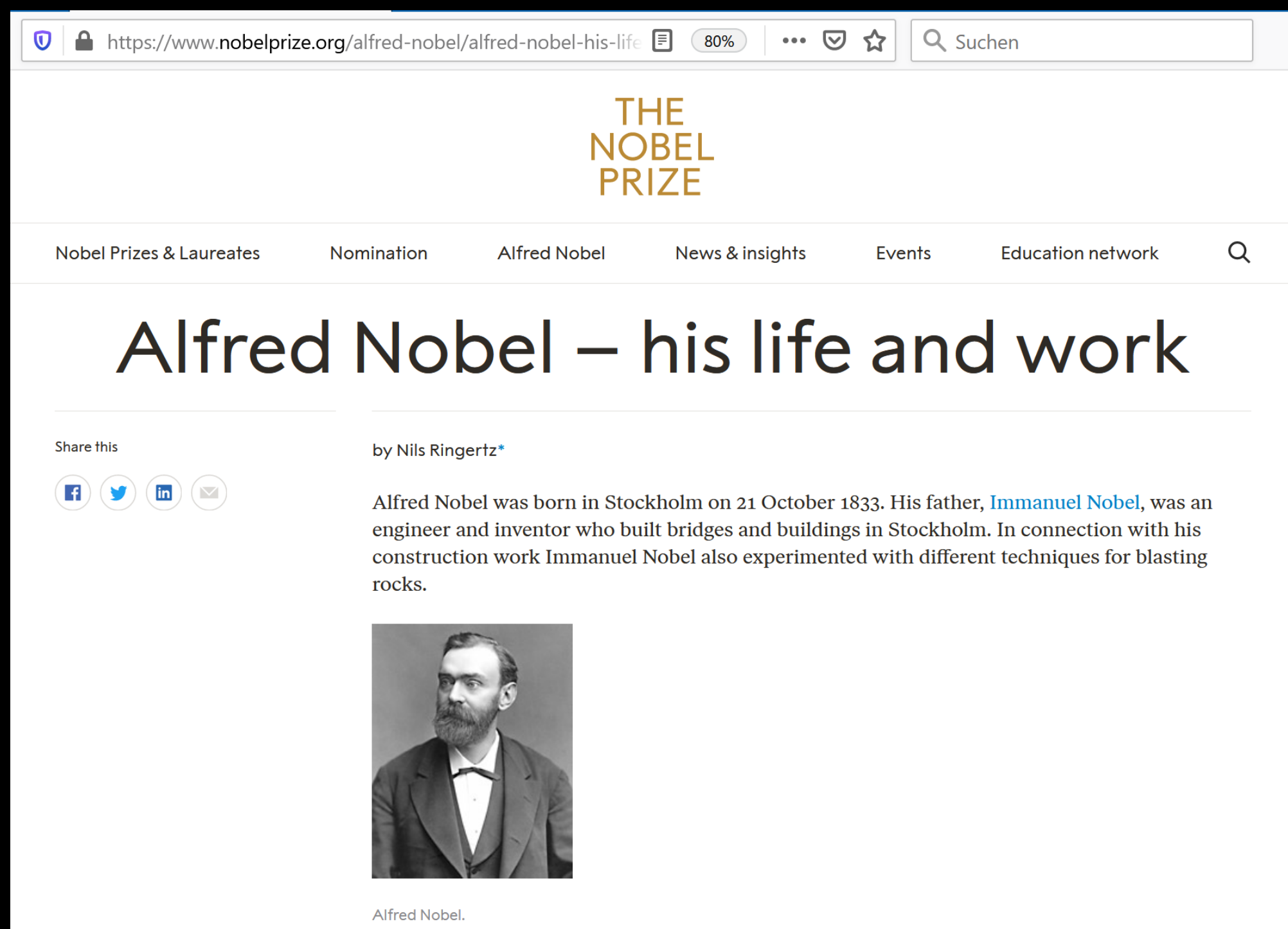


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**“My dynamite will sooner lead
to peace than a thousand world
conventions. As soon as men will
find that in one instant, whole
armies can be utterly destroyed,
they surely will abide by golden
peace.”**

*As quoted in The Military Quotation Book
(2002) by James Charlton, p. 114.*

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→ one-sided view?

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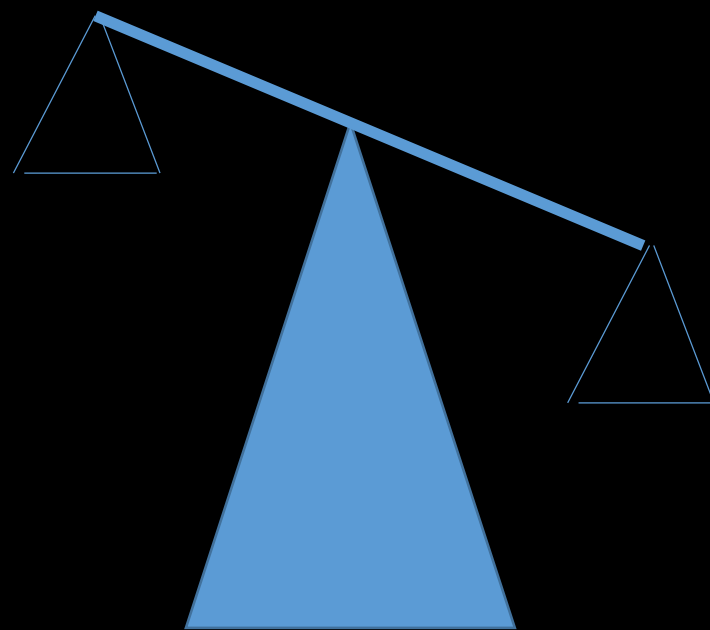
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Jurisprudence is often compared to a scale



balancing interests

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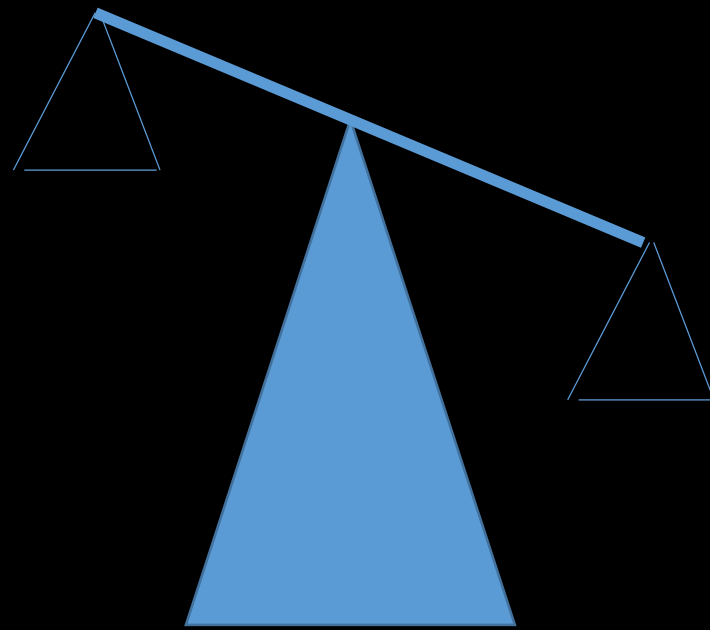
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Jurisprudence is often compared to a scale

building of
streets,
tunnels, ...

demolition
of buildings



risk of
accidents

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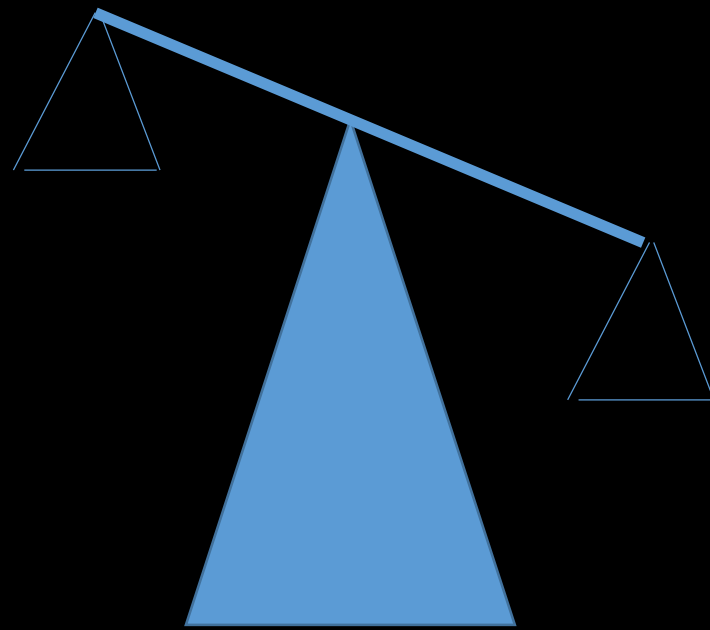
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**One task of the law is to enable or promote
positive effects and to avoid or reduce negative
consequences.**

**example:
Explosives Act,
Weapons Act**

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(2)

free thoughts

↔ free will

↔ free formation of will

↔ free exercise of the will

↔ personal freedom

?

**What is the risk and danger of the
processing of information?**

Thoughts are free

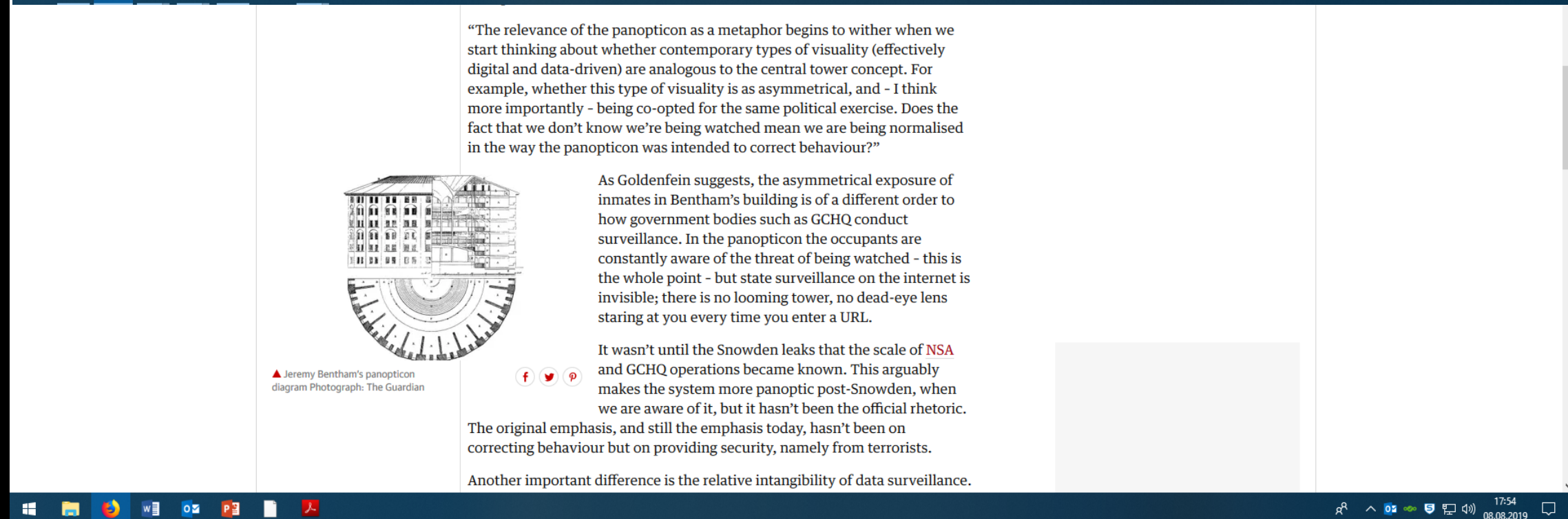
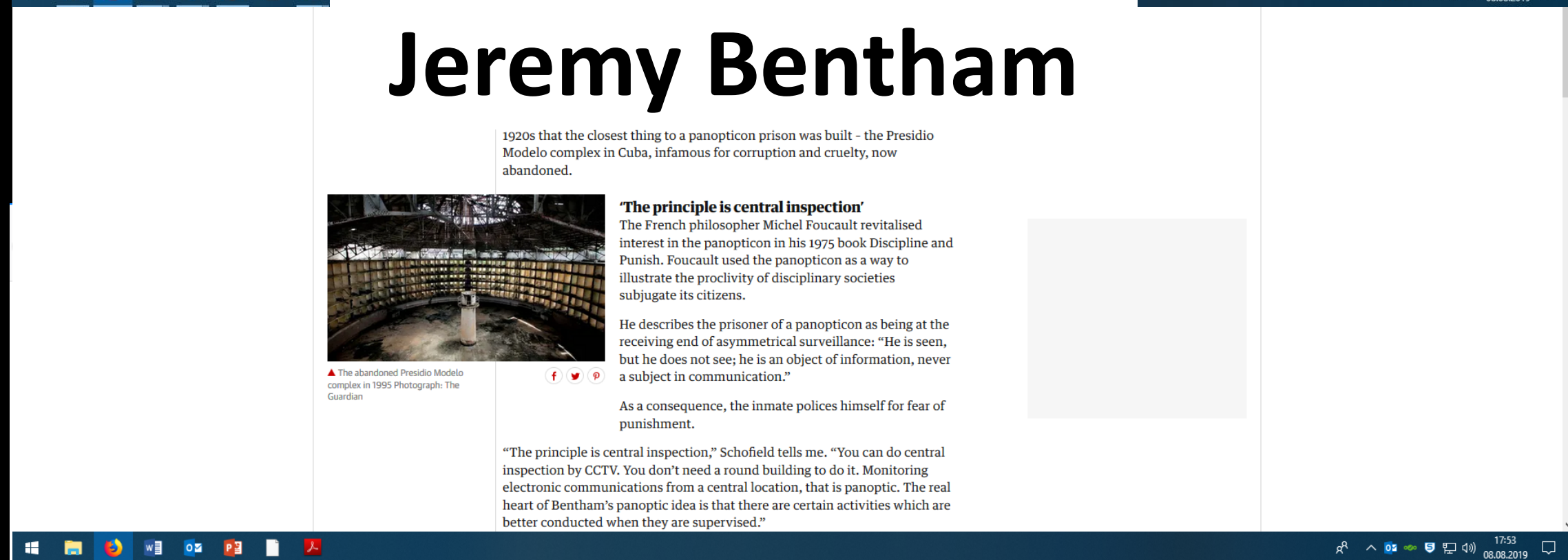
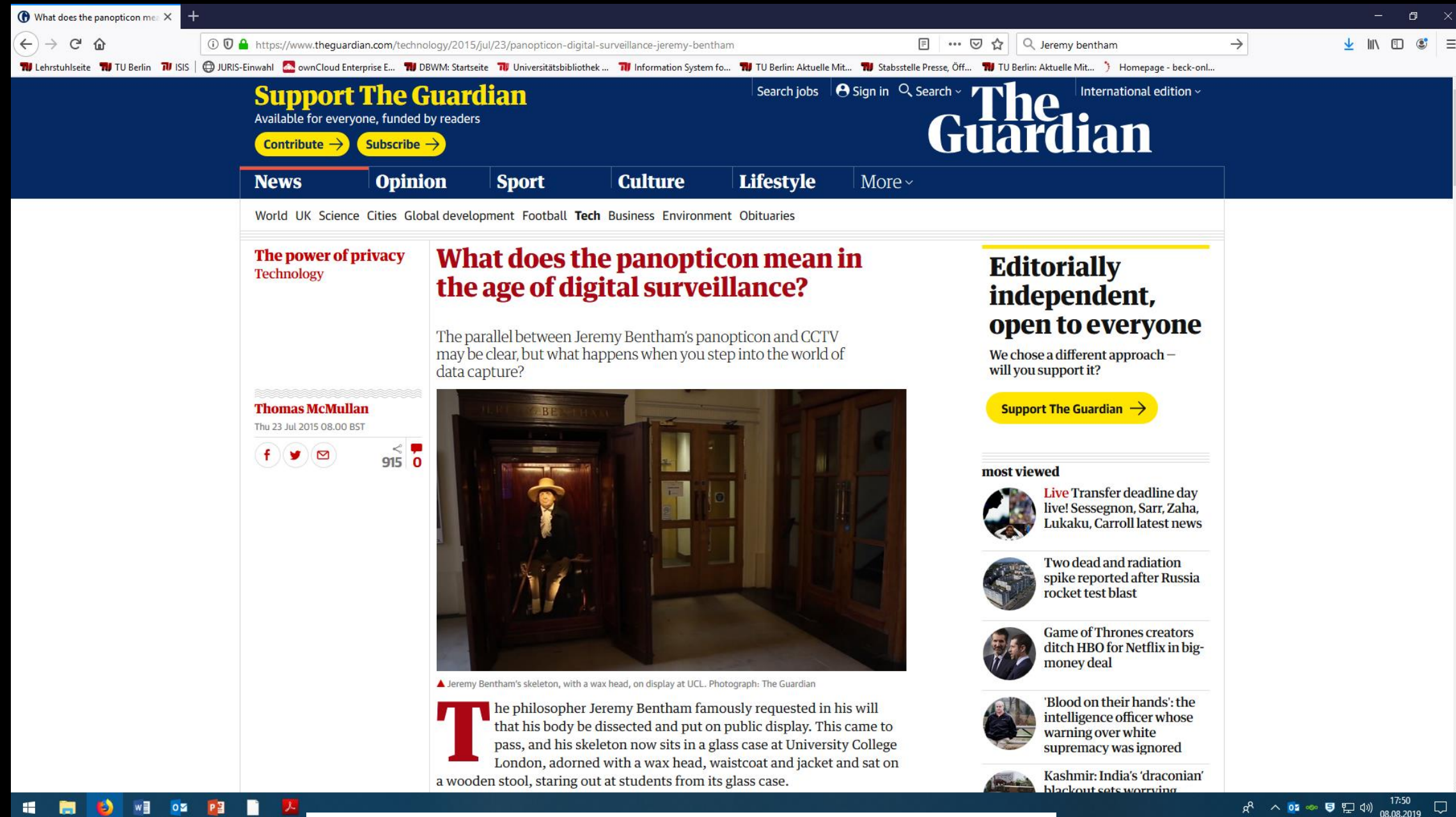
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<https://www.theguardian.com/technology/2015/jul/23/panopticon-digital-surveillance-jeremy-bentham>

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→ The (non-transparent) processing of
personal data can restrict personal
freedom

(3)

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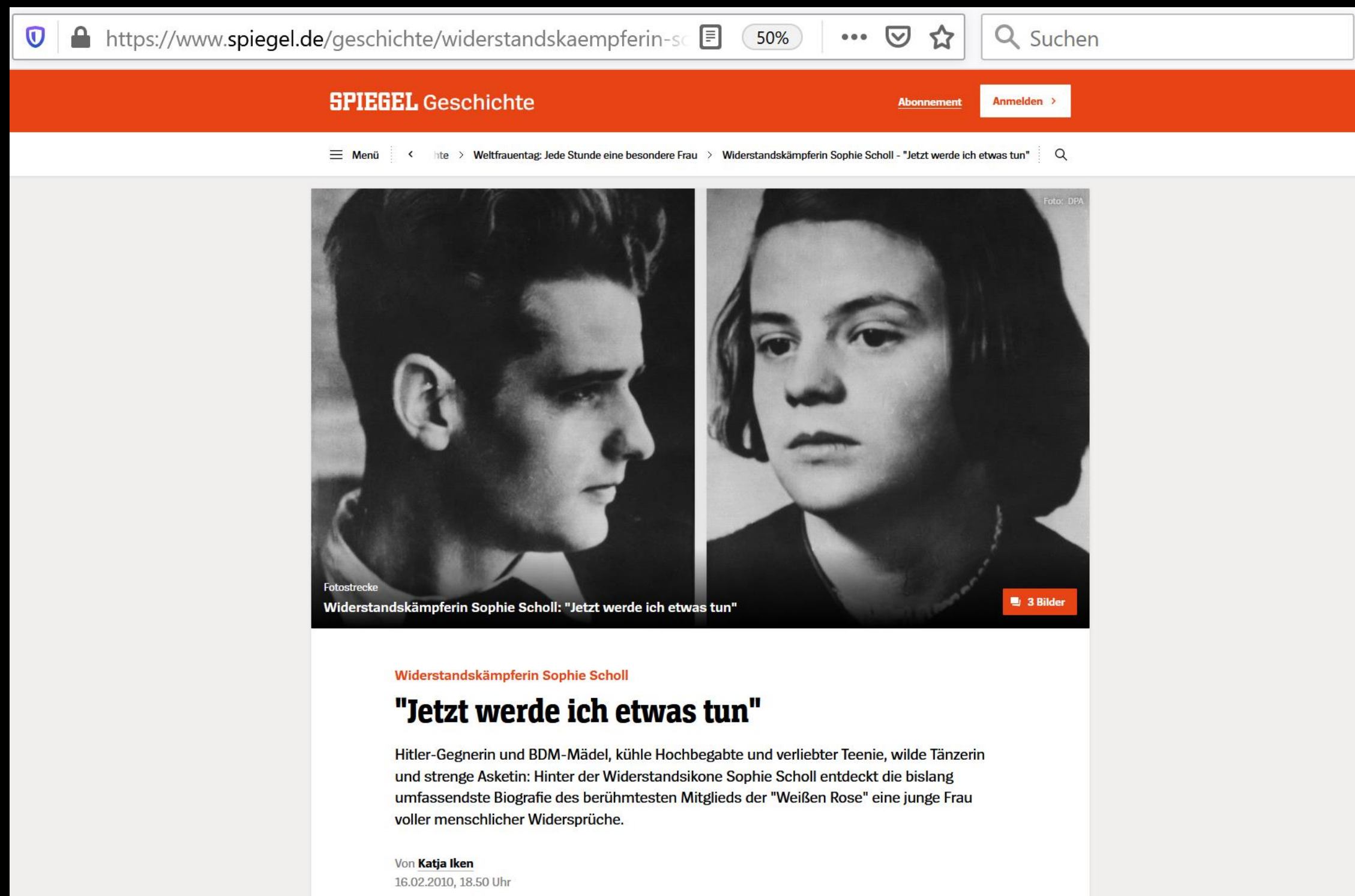
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25



Sophie Scholl belonged to the resistance group "The White Rose" during the Third Reich. It is reported that she sang the song "Thoughts are free" for her father when he was in prison.

Deutscher Bundestag
9. Wahlperiode

Drucksache 9/1350

Sachgebiet 29

Beschlußempfehlung

des Ausschusses nach Artikel 77 des Grundgesetzes
(Vermittlungsausschuß)

1983

zu dem Gesetz über eine Volks-, Berufs-, Wohnungs- und Arbeitsstättenzählung
(Volkszählungsgesetz 1983)

— Drucksachen 9/451, 9/1068, 9/1228 —

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(Vermittlungsausschuß)

The Federal Constitutional Court said:

NO

zu dem Gesetz über eine Volks-, Berufs-, Wohnungs- und Arbeitsstättenzählung
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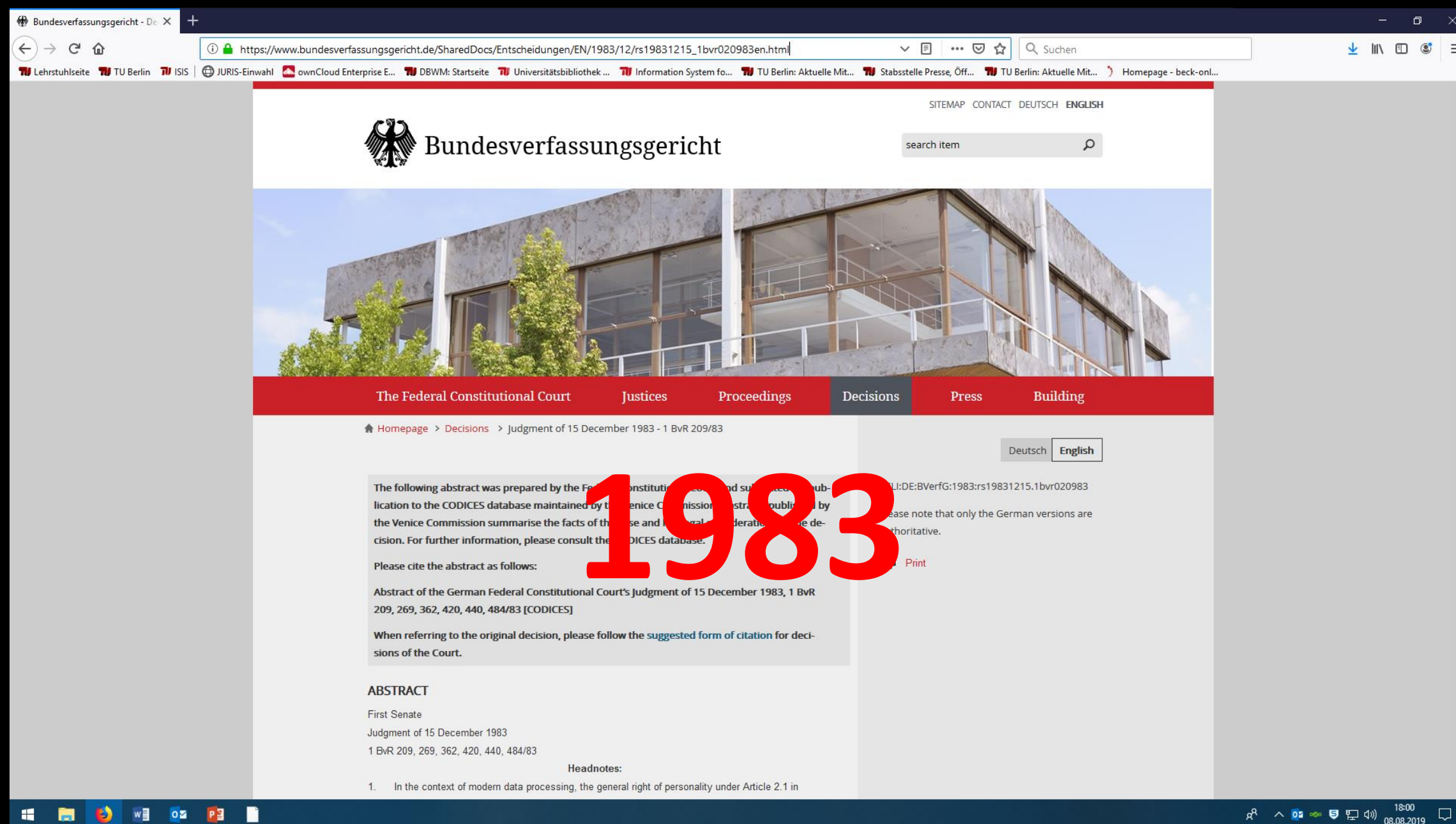
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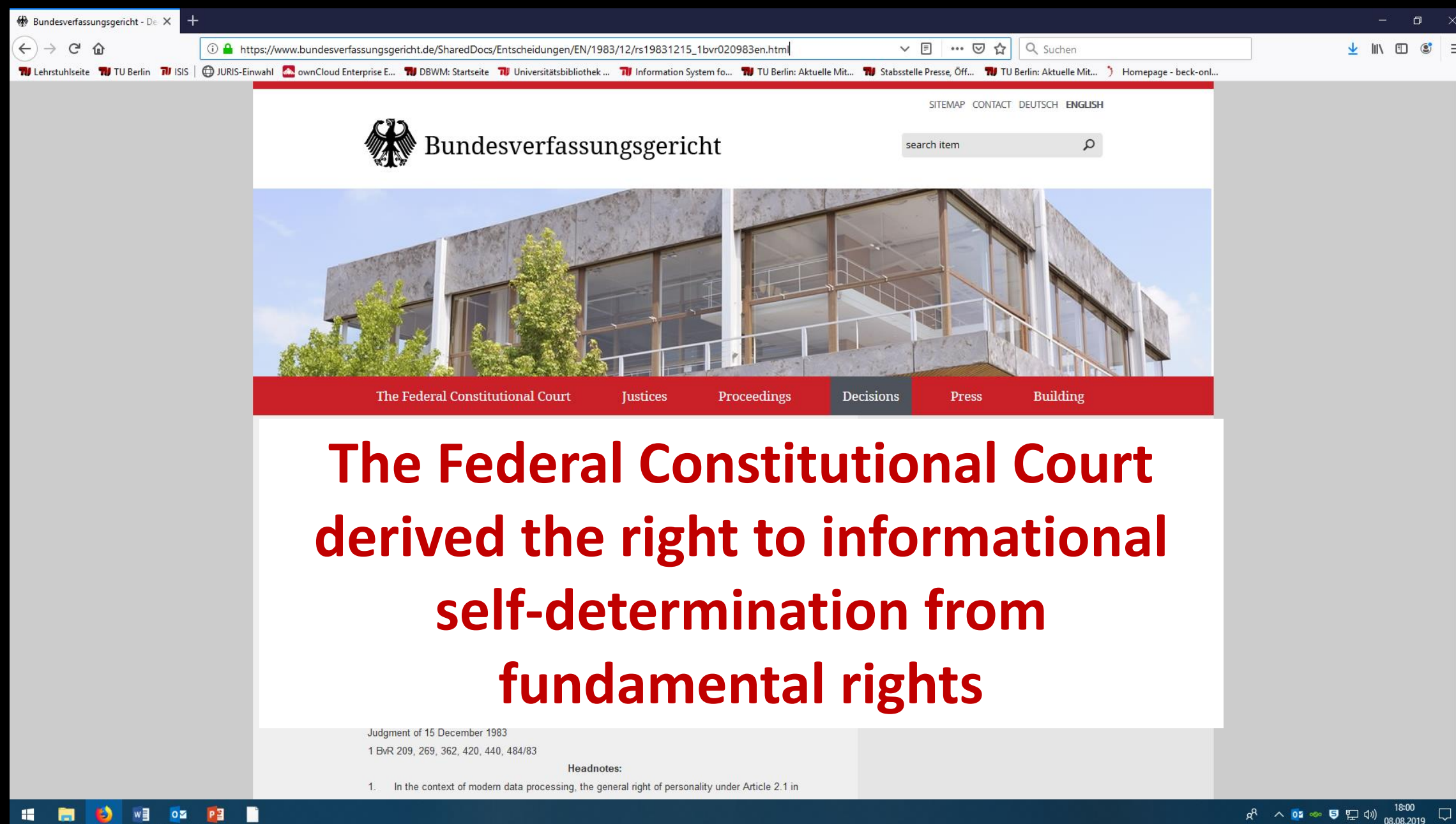
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"Anyone who is not able to survey with sufficient certainty what information concerning him is known in certain areas of his social environment, and who is not able to estimate to some extent the knowledge of possible communication partners, may be substantially inhibited in his freedom to plan or decide on the basis of his own self-determination. A social order and a legal order enabling it in which citizens can no longer know who, what, when, on what occasion knows about them would be incompatible with the right to informational self-determination..."

(German Federal Constitutional Court's Judgment of 15 December 1983, 1 BvR 209, 269, 362, 420, 440, 484/83)

**Protection of privacy, private life and personal freedom
Art. 1 Abs. 1 i.V.m. Art. 2 Abs. 1 GG**



Right of Informational Self-Determination



There is no trivial date

**Every individual shall decide on its own
about the collecting, using and processing
of his/her personal data**

THIRD HIGHLIGHT

„Strangers in the Light“

- 1) Privacy protects special spheres, places or situations of humans.
- 2) The protection with regard to personal data goes further.
- 3) Personal data is every information relating to an identified or identifiable natural person.
- 4) Law is balancing interests (ex. dynamite).
- 5) One important task of the law is to enable or promote positive effects and to avoid or reduce negative consequences.
- 6) The (non-transparent) processing of personal data can restrict personal freedom (ex.: Panopticon, Census).
- 7) According to the Federal Constitutional Court, there is no trivial information.
- 8) Everyone shall have the right to decide on its own about the collecting, using and processing of his/her personal data.