



# Baden-Württemberg

THE COMMISSIONER FOR DATA PROTECTION AND FREEDOM OF INFORMATION

LfDI Baden-Württemberg · P.O. Box 10 29 32 · D-70025 Stuttgart

[REDACTED]

File No. R 1257/35

[...]

## Complaint of [REDACTED], R 1257/35

Dear Madam or Sir,

Having examined the facts of the case we get back to you regarding the complaint under the above-mentioned Ref. no.

### **I. The course of the procedure**

The Baden-Wuerttemberg DPA (hereinafter: BW DPA) launched an investigation based on the complaint of [REDACTED] (hereinafter: the Complainant) pursuant to Article 57(1)(f) of the General Data Protection Regulation (hereinafter: GDPR).

In July 2019, the Complainant lodged a complaint with the Data Protection Authority of DE/Hesse, in which he presented that he had been traveling with a tour group and that the first hotel in Riga ([REDACTED]) did not ask for an individual entry in a registration form, but this had to be entered with all personal data (including date of birth and passport number) in a collective form. This allowed all travelers to see the data of all the other guests. The tour guide said that this was common practice. However, such registration forms were not used for the other overnight stays.

The DPA DE/Hesse submitted the complaint to our DPA (DE/BW), after the Latvian DPA stated that the controller as per Article 4(7) GDPR regarding such processing would not be the hotel group ([REDACTED]), but the tour agency, being the distributor of the tourist declaration list. The tour agency is [REDACTED] [REDACTED] DE/BW.



DE/BW DPA reiterates that data must be stored in such a way that unauthorized persons - including other guests - cannot access the data of the individual registered guests. The completed paper forms, for example, must therefore not be left lying around openly on the counter and should be kept securely locked away at the end of the working day. It must also be prevented that other guests see the data of the pre-registered persons from the group.

Making the data of pre-registered persons from the tourist group available and visible to the subsequent guests by using a collective registration list **constitutes a violation** of the important principle of integrity and confidentiality as defined in Art. 5 GDPR. According to Art. 5(1)(f) GDPR, personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (Art. 32 GDPR). According to Art. 5(2) GDPR, the controller shall be responsible for, and be able to demonstrate compliance with, the conditions set out in Art. 5(1).

Therefore, travel agencies have to use themselves and/or to instruct their respective travel partners, e.g. hotels, to use individual forms or even electronic recording to make sure that the data processing takes place in line with Art. 5(1)(f) GDPR.

#### **IV. Legal consequences**

The DE/BW DPA establishes that [REDACTED] **breached Article 5(1)(f) in conjunction with Art. 32 GDPR as well as Art. 5(2) GDPR.**

Hence, the DE/BW DPA issues a **reprimand** to the company for the abovementioned infringements of the GDPR, based on **Article 58(2)(b) GDPR.**

The DE/BW DPA will also reiterate to the company again the fact that data processing relating to travel guests must be carried out in a way that respects the integrity and confidentiality of the guests' data and that the controller must implement measures and processes to comply with that provision, as stated above.

Due to the constellation that [REDACTED] has assured to the DE/BW DPA that it has ceased to operate as a tour agency as of October 31, 2020, the DE/BW DPA desists from making use of further corrective powers and hereby close the procedure. The DE/BW DPA also informed the complainant about these facts and did not receive an objection or other response to that from him.

## **V. Information on legal remedies**

An appeal against this decision may be filed in writing, electronically or for recording with the Administrative Court of Stuttgart, Augustenstraße 5, 70178 Stuttgart, within one month of notification pursuant to Article 78 of the General Data Protection Regulation in conjunction with Section 20(1) and (3) of the Federal Data Protection Act.