




# Baden-Württemberg

THE COMMISSIONER FOR DATA PROTECTION AND FREEDOM OF INFORMATION

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





 Fine proceedings for violation of Articles 5, 6, 17 of the GDPR due to publication of personal data on the internet without consent and non-compliance with the erasure request

## Decision

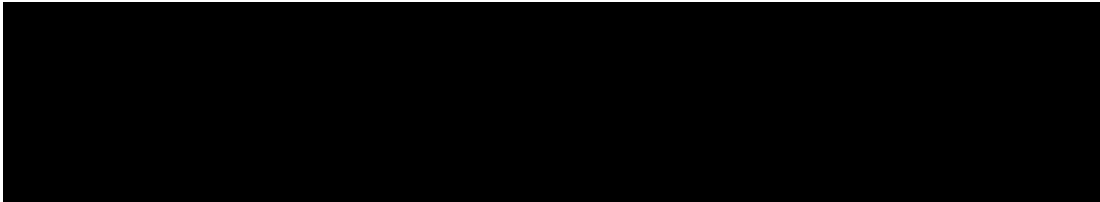
The fine proceedings shall be terminated in accordance with Section 47(1)(1) of the Act on regulatory offences.

## Findings:

I.

, an association for the protection of the marine environment, conducted in 2010 a "Petition to stop the consumption of whale meat in the Faroe Islands". Supporters were able to sign the petition online, giving their name and country, and leave a comment. A total of 57,281 people signed the petition, which was published on the Internet at  with the names of the supporters. On the other hand, representatives of the Faroe Islands were given a printout of the petition together with the signatures. The petition was closed on 26 July 2010.

On 16 July 2015, [REDACTED] from the United Kingdom, who had signed the petition online, contacted the managing sole shareholder of the entity with the request that her signature, which was still available under [REDACTED] and thus freely accessible via the internet, be removed from the list of signatures. In addition to the name of the complainant, the names of all signatories to the petition were available via the following links:



In addition, the previously listed Internet pages were indexed at Google, so that a Google search of a person listed there also listed the Internet page with the petition as a search result. Accordingly, in a Google search for the complainant, the page [REDACTED] was linked as fourth hit at Google.

The complainant's request was not complied with by [REDACTED] with the explanation that the complete list of signatures had already been removed from the website years ago. On 29 April 2019, the complainant again turned to [REDACTED] with the same request, which was rejected with the same reasoning as before. In fact, however, the relevant link was still accessible, as an entry of the link in a web browser would have revealed.

Subsequently, the complainant lodged a complaint with the UK supervisory authority, which initiated IMI Article 56 proceedings on 26 August 2019 (IMI no. 74456.1) due to the company's registered office in Baden-Württemberg. The Baden-Württemberg DPA accepted to handle the case as LSA. In the course of the hearing by the LSA, [REDACTED] again - erroneously - stated that the signature list had already been deleted and the erasure request had thus been fulfilled.

As a result, the LSA initiated fine proceedings against [REDACTED] on suspicion of violation of the requirement to storage limitation pursuant to Article 5(1)(e) of the GDPR as well as violation of the obligation to erasure pursuant to Article 17(1) of the GDPR, and heard [REDACTED] on this matter in a letter dated 16 November 2020. In addition to the list of signatures relating to the complainant, the subject of the fine proceedings was also a list of signatures published under

██ dated 1 May 2008 with the names and places of residence of 1,294 persons, which had already been closed on 30 April 2008 and handed over to a representative of the Federal Government in Berlin.

In a letter dated 24 November 2020, ██████████ stated that the list of signatures from 1 May 2008 should not be deleted, as the underlying campaign had not yet ended due to lack of success. Furthermore, they stated that the signature list from 2010 concerning the complainant had already been deleted ten years ago, although there had been no corresponding confirmation from ██████████. Accordingly, they stated that the signature list was also not available on the website. Screenshots of the provider were submitted as proof, which in fact only showed the editor of the navigation bar of the homepage of ██████████

In a letter dated 15 January 2021, ██████████ was once again informed of the legal situation and the continuing obligation to erasure. ██████████ was given a final opportunity to delete the signature lists, together with the announcement of a chargeable erasure order and a final decision in the fine proceedings.

Subsequently, ██████████ demonstrably deleted the corresponding signature lists from its homepage, so that a Google search for the complainant no longer refers to the ██████████ homepage and the signature list there *[Please find the respective screenshots in the relevant documents]*.

## II.

The fine proceedings shall be terminated for reasons of expediency pursuant to Section 47(1)(1) of the Act on regulatory offences.

It is true that ██████████ at least negligently violated Article 5(1)(e), Article 6(1) and Article 17(1) of the GDPR by publishing the names of the data subjects on the homepage years after the signature campaigns had ended without their consent and by not deleting them despite a request to do so.

The corresponding violation is, in principle, also serious, as a large number of persons were affected by the unlawful publication, the corresponding publication lasted

for a period of ten resp. twelve years and [REDACTED] did not comply with the request for erasure even despite repeated requests by the complainant and the LSA.

Nevertheless, it is possible to refrain from imposing a fine in exceptional cases. First of all, it must be seen that [REDACTED] is a non-profit and thus not commercially active company which, apart from the managing sole shareholder, has no employees and is dependent on donations for its non-profit activities, which in 2020 amounted to only 10,603.00 Euros up to the time of the statement of 24 November 2020. In addition, [REDACTED] did not act intentionally, but on the contrary, due to a lack of technical expertise, was convinced that the signature list had already been deleted and had thus complied with the complainant's request for erasure. Finally, [REDACTED] restored the lawful state by fulfilling the complainant's request for erasure, albeit with a delay of several years and at the repeated request of the LSA.

In view of the nature of fines as a remedial measure, as an exception, punishing [REDACTED] by imposing a fine does not appear necessary, so that the fine proceedings are terminated for reasons of expediency. However, in case [REDACTED] will violate data protection regulations again, they will have to expect the imposition of a fine, which will then not be insignificant.

[...]