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By PwC Deutschland | 11 March 2024

No right to erase personal data from the Associations Register

The Cologne Higher Regional Court decided on 3 May 2023 that a former chairman of the board of a registered association has no right to have his personal data deleted from the Associations Register.

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The data subject was chairman of the association's board of directors until 28 December 2004 and applied in January 2023 for his date of birth and the duration of his board activity to be deleted from the association register or at least for the processing to be restricted. He referred to the General Data Protection Regulation (GDPR), in particular Articles 17, 18 and 21, which provide for the right to erasure, restriction of processing and objection to the processing of personal data.

The court emphasized that the processing of the personal data in the Associations Register is necessary to comply with a legal obligation according to §§ 3, 11 of the Regulation on the Associations Register (VRV). The VRV prescribes that the full name and date of birth of the board member, as well as the date of the beginning and the end of his activity in the association, must be published in the Associations Register. These data serve to identify the board member unambiguously and to protect the legal transactions with the association.

The court stated that the General Data Protection Regulation (GDPR), contrary to the opinion of the data subject, does not override these national regulations, but allows for exceptions and leeway for national regulatory content.The court referred to the Articles 111 and 154 of the GDPR, which provide for the possibility of a longer storage of personal data in public registers for the protection of legal transactions.

Conclusion:

The decision of the Higher Regional Court of Cologne clarifies that the GDPR does not lead to a general deletion or restriction of the processing of personal data in association registers or other types of registers. The GDPR allows for national regulations that prescribe the publication and storage of personal data in public registers for the protection of legal transactions. Former board members must expect that their names and dates of birth will continue to be recorded and accessible in the association register, even after they have left their position.

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Keywords

Data Protection, Personal data