

LATHAM & WATKINS<sup>LLP</sup>

# Global Privacy & Security Compliance Law Blog

Commentary on Global Privacy and Security Issues of Today

## German Court: CJEU Must Clarify Whether GDPR Provides Materiality Threshold

By Latham &amp; Watkins LLP on February 24, 2021

Posted in [GDPR](#)***The decision means the CJEU will need to clarify the framework for GDPR damages claims.***By [Tim Wybitul](#), [Dr. Christoph Baus](#), and [Dr. Isabelle Brams](#)

The German Federal Constitutional Court has ruled that the Court of Justice of the European Union (CJEU) needs to clarify if the General Data Protection Regulation (GDPR) provides for a materiality threshold for GDPR damage claims. The decision overturns a judgment of the Goslar Local Court of 27 September 2019 regarding the unlawful sending of an advertising email.



The fact that the Federal Constitutional Court took the insignificant case of a single unlawful advertising email as an opportunity to clarify the CJEU's prerogative of interpreting the GDPR is a notable and surprising development.

See Latham's full analysis [here](#).

© 2021, Latham &amp; Watkins LLP

**BELJING, BOSTON, BRUSSELS, CHICAGO, DUBAI, DÜSSELDORF, FRANKFURT, HAMBURG, HONG KONG, HOUSTON, LONDON, LOS ANGELES, MADRID, MILAN, MOSCOW, MUNICH, NEW JERSEY, NEW YORK, ORANGE COUNTY, PARIS, RIYADH\*, SAN DIEGO, SAN FRANCISCO, SEOUL, SHANGHAI, SILICON VALLEY, SINGAPORE, TOKYO AND WASHINGTON, D.C. \* IN COOPERATION WITH THE LAW OFFICE OF SALMAN M. AL-SUDAIRI**

---

The purpose of this communication is to foster an open dialogue and not to establish firm policies or best practices. Needless to say, this is not a substitute for legal advice or reading the rules and regulations we have summarized. In any particular case, you should consult with lawyers at the firm with the most experience on the topic. Depending on your specific situation, answers other than those outlined in this blog may be appropriate. Your use of this blog site alone creates no attorney client relationship between you and Latham & Watkins LLP. Do not include confidential information in comments or other feedback or messages left on the Global Privacy & Security Compliance Law Blog Blog, as these are neither confidential nor secure methods of communicating with attorneys.

Portions of this blog may constitute attorney advertising. Any testimonial or endorsement on this profile does not constitute a guarantee, warranty, or prediction regarding the outcome of your legal matter. Prior results do not guarantee a similar outcome. Results depend upon a variety of factors unique to each representation.

Latham & Watkins operates worldwide as a limited liability partnership organized under the laws of the State of Delaware (USA) with affiliated limited liability partnerships conducting the practice in France, Italy, Singapore, and the United Kingdom and as an affiliated partnership conducting the practices in Hong Kong and Japan. Latham & Watkins operates in South Korea as a Foreign Legal Consultant Office. Latham & Watkins works in cooperation with the Law Office of Salman M. Al-Sudairi in the Kingdom of Saudi Arabia.

STRATEGY, DESIGN, MARKETING & SUPPORT BY **LEXBLOG**