



Data Protection Moot Court (DPMC) Case

Variant 1: Data Subject Teams

6 September 2023

Green Incentives

Karl Simmons is the sole proprietor and manager of *Karl's Butchery Ltd.*, a butcher shop on the outskirts of the town of Woodville (47,000 inhabitants) in the Republic of Randomistan. *Karl's Butchery* is a family-owned business. Founded by Karl's father, who passed away a few years ago, it will one day be passed on to Karl's son, Tim.

Currently, the only employees of *Karl's Butchery* are Karl himself, his wife Linda, and Tim and his wife Sarah. Tim and Sarah are take care of marketing, especially on social media.

Overall, business is going well. Contrary to the supermarkets in Woodville, *Karl's Butchery* does not get its meat from factory farming but personally sources it from local farmers who keep their livestock on the green pastures of the mountains surrounding Woodville. Besides that, Karl has an official hunting license issued by the municipal council of Woodville that allows him to shoot boars and deer in the local forests, and sell their meat in his butcher shop. Following Tim and Sarah's advice, Karl has also started to offer a variety of meat substitute products, which are mostly based on soy, wheat, or milk protein. These products are extremely popular with younger customers and, to Karl's surprise, raised the butcher shop's overall profit by an estimated 6.8 % in 2022. Next to private customers, *Karl's Butchery* delivers meat to local fine restaurants and, in the summer, even to AIDA cruise ships anchoring in the ports of the coastal town of Seaville, 200 kilometers away.

Nevertheless, rising energy costs are a headache and in 2022 led to an additional expense of €28,000. The outlook for 2023 seems even worse. Hence, Karl decides to have photovoltaic panels installed on the roof of his butcher shop. After some quick research, Karl learns that these panels are in high demand, with delivery times of at least seven months. Fortunately, the municipality of Woodville recently started to offer public funding for sustainable business investments, including energy production units with low carbon emissions. Apparently, the municipality even has an exclusive contract with a Chinese manufacturer of photovoltaic panels that allows for shipment of these panels within 6 weeks. Karl is eager to apply for funding.

The subsection "Woodville Goes Green!" of www.woodville.gv.rd (the municipality's official website) reads as follows:

"Woodville Goes Green!"

We are proud to announce that the municipal council has again decided to support green investments in our beautiful town of Woodville. Whether you want to get new insulation for that tattered warehouse, replace your sales teams' stinky BMWs with smooth electric BYDs, or unseal those ugly concrete parking lots of your store – you name it, we fund it (as long as it meets our funding criteria ;)). Any company that has been established in Woodville for more than 2 years can apply – no matter what business you are in!

We are especially happy to announce that we managed to get exclusive contracts with some providers of green technology, such as BYD and Chen's Photovoltaic Ltd. These partners have guaranteed to deliver their products in less than six weeks if the contract has been established via "Woodville Goes Green!".

Below are an online form and two hyperlinks. One to a **decree of the municipal council (Attachment 1)** and one to a **privacy policy (Attachment 2)**. On 27.05.2023, Karl truthfully enters the following data into the form:

Name of company/entrepreneur	<i>Karl's Butchery Ltd</i>
Email	office@karlsbutchery.rd
Legal form	Limited Company
Commercial register no. (if any)	H789.2330f
Shareholders (if any)	A) Karl Simmons
	13.11.1966
	Townstreet 22
	1234 Woodville
	100%
	B) NONE
	C) NONE
...	
Business line (please select)	Food Processing and Sales (Retail)
Year of establishment	1959
Envisaged investment (please select)	Photovoltaic Panels and Inverter
Estimated costs:	€ 27,500
I herewith confirm to have read the funding criteria and the privacy policy	Yes

In the final step of the process, Karl places his electronic signature as requested and hits “send request”.

On 05.06.2023, Karl receives the following email from greenfunding@woodville.gv.rd. The email is signed by Charlotte Winter, who works for the municipality and happens to be in the same tennis club as Karl and his family:

Hi Karl,

This is Charlotte. Template message incoming ;)

Thank you for your funding request – we appreciate that you want to be part of Woodville’s mission to become Randomistan’s first carbon neutral town.

Taking into account the information you provided us with, publicly available information, and GYON’s sustainability score for your business, we regret to inform you that we have to turn down your request this year. But keep your eyes open: “Woodville Goes Green!” will continue in 2024!

Kind regards,

Charlotte Winter

on behalf of the municipal council of Woodville

Karl, who has not read the boring paperwork, has no idea what a “GYON’s sustainability score” is supposed to be, so he searches for it online. He quickly finds the website www.gyon.rd which shows a search mask with the text “ Enter name of business”. He types in “Karl’s Butchery” and, to his dismay, finds the following article:

Karl’s Butchery Ltd.

Summary:

SME based in Woodville. Butcher shop and food retail.
 GYON score: **234/600** (overall non-sustainable; <17% chance of becoming sustainable within next 10 years).

Details:

Address:	Townstreet 22, 1234 Woodville
Business Lines:	Butchery, Meat Processing, Food Processing, Food Retail
Ownership Structure:	Family owned, shareholder-managing director
Supply Chain Rating:	3/10 (self-collector, combustion engine vehicle)
Waste Management:	5/10 (highly perishable goods, subject to high hygiene standards)
Public Appearance:	4/10 (semi-progressive, potential greenwashing)
Accessibility by Public Transport:	5/10 (mediocre connection, favors individual transport)
Overall Customer Report Rating:	6/10 (based on 427 customer reports; see below)

All information and values displayed above are the result of calculations based on publicly available data and customer reports via the GYON app. GYON takes no decisions based on this information but provides it free of charge according to our terms and conditions. All liability is excluded.

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Customer Comments (Most recent):

Anne: 3/10: "I can't believe they use a freaking SUV to get their meat. Hello, it's 2023!!"

Richard: 6/10: "Best spare ribs in town, but seem to throw away a lot of meat by the end of the day."

Kenneth: 7/10: "I'd go there more often if I had a car. It's kind of a hassle with only a bus and no tram line there."

Sharon: 1/10: "Would give zero points if possible. The owner is an asshole who kills cute deer!"

Maurice: 6/10: "Improved a lot in the last years. Love their new veggie line. Not sure if they are for real though. At least on Insta they were boasting about striking a deal with AIDA Cruises and selling meat to those dickheads."

Berta: 10/10: "Finally a butcher that's not stuck in the 1950s. Almost everything comes from local farmers, and even their vegetarian products are not this highly processed junk but real quality goods, mostly even from organic farming."

Karl is very upset. This whole thing is definitely bad for business. As Karl has always been a bit insecure about everything that has to do with computers and the internet, he asks Tim to find out what on earth GYON think they are doing. On 07.06.2023, Tim sends the following email to support@gyon.rd:

Dear Sir or Madam,

We are very unhappy with the incorrect information regarding Karl's Butchery Ltd. displayed on your website. Karl's Butchery Ltd. is a family-owned butcher shop run by my father, Mr. Karl Simmons, who is an honest businessman. We are suffering reputational damage due to the things you say about us online, and apparently, we didn't get public funding because of you. Please delete everything you have on us; otherwise, we will have to take legal action!

Sincerely,

Tim Simmons

On 12.06.2023, Tim receives the following reply from support@gyon.rd:

Dear Mr. Simmons,

Thank you for your email. All information displayed on our website regarding your company comes from publicly available sources or has been reported by customers of your company via the GYON app. Green Yay or Nay (GYON) is a not-for-profit organization funded by donations or public funding. We do not make any money from assigning

sustainability scores, but we do it to stop greenwashing and to ensure that only businesses that are actually climate-friendly and sustainable are perceived as such.

We do not process any data on individuals and, after consulting with our legal department, see no grounds for deleting any information on your company. If your company has suffered any disadvantage due to the use of information provided by GYON, we kindly ask you to contact the source of such disadvantage.

Kind regards,

The GYON team

On the same day, Karl manages to get Charlotte Winter on the phone and asks her why his funding request has been denied. Charlotte explains to him that the municipal council is very keen on relying on public domain data to ensure a transparent selection process for this year's "Woodville goes Green!" campaign. As Karl has certainly heard, there was quite a scandal in 2022 after an investigative journalist discovered that the mayor's son had been given € 240.000 of the "Woodville goes Green!" money to renovate the town's soccer stadium. So, this year, the council hired an IT company to set up a system that automatically checks the commercial register and the information provided by GYON to then suggest which project to fund. The council wants to support climate-friendly business models, so those that have a bad GYON score usually don't make it far in the selection process. Charlotte has been told to provide no other information than what's available online, so she says sorry and that she hopes to see Karl and his family at the tennis club on the weekend.

Frustrated, Karl hangs up. He is well aware that butchery is not the most climate-friendly business. Sarah and Tim have been moping about that for a while now. They were the ones pushing him to sell vegetarian stuff. Recently, Tim also showed him a study that shows that eating meat from local game produces extraordinarily low carbon emissions, and therefore, made Karl promise to hunt more. So, Karl has little understanding of why he should be denied public funding because of a shady score calculated by reports of some Gen Z starry-eyed idealists, especially if the funding would help him become more climate friendly.

Karl comes to your law firm and asks you to take all necessary legal steps to make the municipality of Woodville reconsider its decision. He also wants to make sure that they do not use information from GYON anymore. When you inform him about the expense risk of a lawsuit with the competent court, Karl agrees to lodge a complaint with the DPA of Randomistan.

Please note the following:

- Assume that the municipality's decree is generally in line with EU law and the national law of Randomistan and that the municipality has the power to pass such a decree.
- Under the law of Randomistan, decisions by a municipal council in matters of public funding and procurement can be appealed with the Procurement Senate for a fee of € 50. The Senate's decisions can be challenged before the State Administrative Court, with an average expense risk of € 1,500.
- There is no privacy policy that describes how GYON processes the information displayed on www.gyon.rd. They claim not to process any personal data and only provide a privacy policy that regards visits of the website. It contains no information relevant to the case at hand. Equally, the terms and conditions of GYON only concern the relationship between GYON and the users of their information and contain no relevant information.
- The case brought to you must be reviewed based on the GDPR, and your complaint must be drafted in accordance with Article 77 GDPR.
- You can use (upcoming) EU legislation to support any legal argument you bring, but be aware of the competence of the DPA of Randomistan, which only has the tasks and powers assigned under Articles 57 and 58 GDPR.
- In any case, make sure to comply with point 8 of the [Rule Book](#).

ATTACHMENT 1**Decree of the municipal council of the Republic of Randomistan****Municipal Council Decree 65/2023****Woodville, 09.01.2023****"Woodville Goes Green!" 2023***Article 1 – Purpose*

Woodville continues its agenda to become Randomistan's first carbon-neutral town. For that purpose, public funding of green investments by local businesses shall be provided with a total of € 9 Million from the municipality's budget for infrastructure and energy for 2023.

Article 2 – Subject of Funding

- (1) The municipality funds any kind of voluntary green investment, i.e., investments that aim at reducing carbon emissions, improving local air quality, or unsealing cemented areas.
- (2) A business can only apply for funding for one project. Mandatory investments are not subject to this decree.
- (3) The minimum funding per business is € 8,000; the maximum is € 50,000, depending on the planned investment and the kind of business (see Article 4).

Article 3 – Supported Businesses

- (1) Businesses that have been established within the perimeter of Woodville for more than two years can apply.
- (2) Businesses with multiple establishments can apply as long as the envisaged investment primarily concerns one or more establishments within the perimeter of Woodville.
- (3) Businesses currently subject to insolvency proceedings are excluded.

Article 4 – Application and Selection

- (1) Applications are open until 30.10.2023. Any funding request will be decided on within 2 months.
- (2) Businesses have to fill out an application form provided on the municipality's website. The municipality will conduct an automatic preselection based on the information provided by the applicant, publicly available official information on the business (commercial register, insolvency register), and publicly available information on www.gyon.rd.
- (3) Businesses not excluded in the preselection process will be presented to the municipality's infrastructure and energy committee, which will decide on the allocation of the funding among the most promising envisaged investments by these businesses.
- (4) The municipality can request additional information on the envisaged investment or on the business as such at any time and set a reasonable deadline no shorter than ten days for the business to reply.
- (5) The details of the funding and the amount funded are subject to an agreement between the selected business and the municipality.

ATTACHMENT 2**Privacy policy for the “Woodville Goes Green!” campaign**

This privacy policy explains which data we (the municipality of Woodville) collect in the context of Woodville goes green!” funding campaign, how your data is processed, and what rights you have in connection with this data processing.

Contact Details: The municipality of Woodville is the sole controller for any data processing described in this privacy policy. Contact: Town Square, 1234 Woodville, Randomistan, greenfunding@woodville.gv.rd. Our DPO can be reached at dpo@woodville.gv.rd.

Collected Data: We collect information on your business, such as the field of business, commercial registry number, contact details, information on shareholders, information on the envisaged project, and information on the overall sustainability of your business. Some of this information may qualify as personal data within the meaning of EU Regulation 2016/679.

Purpose and Legal Basis: We process your personal data for the purposes of selecting and funding green investments in Woodville; this includes the closure and fulfilment of the funding agreement between selected businesses and us. The legal basis for processing complies with our legal obligations under Municipal Council Decree 65/2023, the public interest in the reduction of carbon emissions, which includes the legitimate interests of the inhabitants of Woodville, and the steps necessary to enter into a funding contract with your business and the performance of the funding contract. Without your data, we might not be able to enter into a funding agreement.

Sources and Recipients: We collect data via the online form on our website, the commercial register and the insolvency register of Randomistan and from Green Yay or Nay Association, Shore Alley 142, 1234 Woodville, www.gyon.rd. All data processing happens within the municipality of Woodville, so there are no third-party data recipients or data transfers to third countries.

Storage Period/Criteria: Data regarding unsuccessful funding requests is deleted after 3 months. Data regarding successful funding requests is stored for 7 years after the fulfilment of the funding agreement.

Your Rights: You have the right to request access to and rectification or erasure of your personal data or restriction of processing or to object to processing as well as the right to data portability. Please send any requests to greenfunding@woodville.gv.rd.

Competent Data Protection Authority: You have the right to lodge a complaint with the data protection authority if you consider that the processing of your personal data by us infringes data protection law. The competent data protection authority in Randomistan is the Randomistianian Data Authority (RDA), Dataprotectionstreet 1, 679 Randomia, Randomistan.