

Second statement on the use of Microsoft Office 365 in Hessian schools

08/02/2019

After the talks with Microsoft, the Hessian Commissioner for Data Protection and Freedom of Information decided to temporarily tolerate the use of Office 365 in Hessian schools under certain conditions and subject to further tests.

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1. According to Section 13 (1) of the Hessian Data Protection and Freedom of Information Act (HDSIG) of March 3rd, 2018 (GVBl. I p. 82), the Hessian Commissioner for Data Protection and Freedom of Information (HBDI) monitors public and non-public bodies and their Processors the application of data protection regulations, in particular the HDSIG and Regulation (EU) No. 2016/679 (General Data Protection Regulation - DS-GVO). Public bodies are the authorities, the organs of the administration of justice and other public-law institutions of the state, the municipalities and districts or other legal entities under public law subject to their supervision and their associations regardless of their legal form. This also includes the Hessian schools. The use of Office 365 is necessarily associated with the processing of personal data. The HBDI therefore has to check the admissibility of the use of Office 365 in Hessian schools under data protection law.
2. As part of this review, a large number of legal and technical questions had to be clarified, and coordination with the other state supervisory authorities also had to take place. I will not anticipate the opinions of the competent specialist committees of the conference of data protection officers of the federal and state governments, but I reserve the right to independently review the use of Office 365 in Hessian schools.
3. This review is proving to be extraordinarily complex and time-consuming, so that it cannot be finally completed, not even when school is about to start in Hesse. This means that the admissibility of using Office 365 has not yet been finally clarified at the present time. In my statement of July 9th, 2019, I drew the conclusion from this and explained that according to the status of the reviews, the use of Office 365 in Hessian schools cannot be tolerated. Since then, intensive discussions have taken place with Microsoft about the data protection conformity of the Office 365 school application, which led to a changed assessment of data protection law and which invalidated a significant proportion of the concerns. This enables me, taking into account the principle of proportionality, to modify my statement of July 9th, 2019 to the effect that a) the use of the Office 365

cloud application in version 1904 or later (Office365 ProPlus, Office365 Online and Office365 Apps) by schools who have already acquired this will be tolerated until further notice; b) the same applies to schools where the acquisition is secured by budgetary law. The toleration is based on considerations of trust. Schools that intend to acquire it can also refer to the However, we bear the financial risk if further review leads to the inadmissibility of using Office 365 in Hessian schools. Confidence considerations are irrelevant here.

4. Schools must temporarily stop sending any kind of diagnostic data. In due course, the HBDI will make further specifications regarding the parameters that are to be implemented as a basis for using the cloud. Microsoft will provide schools with instructions on how to do this.

5. I will carry out further checks over the next few months and coordinate closely with the committees of the data protection supervisory authorities in order to be able to come to a data protection assessment for the school sector.

Left: First statement from 07/09/2019

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