

Automated license plate search KESY - no real data deletion so far

The police headquarters in Brandenburg has now commented on the complaint about automatic license plate recognition in recording mode. After an initial evaluation and two on-site inspection visits, the state commissioner comes to the conclusion that the police are still a long way from eliminating the data protection violations that were the subject of the complaint.

On a positive note, the police contacted 35 public prosecutor's offices in 13 countries as well as the Federal Public Prosecutor's Office in order to achieve a reduction in the stock of number plate data stored. The authorities asked should say whether they still need the number plate data stored there for the investigations – then the Brandenburg police would make them available to them. However, as long as all feedback has not yet been received, she will not be able to delete the data that is no longer required.

Furthermore, the police headquarters stated on the one hand that they had deleted the data on the KESY server. Specifically, however, these are only those that were collected up to June 19, 2019. The authority was unable to provide proof of the deletion on the server – for example in the form of a technical log. On the other hand, the police headquarters had previously transferred the entire database that had accumulated up to June 19, 2019 to other storage media in order to be able to transmit the required data to the requested public prosecutor's office. Dagmar Hartge:

"For the many uninvolved motorists, the actions of the police means that the interference with their data protection rights will continue for the time being. Your data is still there – but now on magnetic tapes and no longer on a server. An actual deletion looks different."

In addition, the police are continuing the proceedings almost unchanged on the basis of an order from the public prosecutor. The data has been fully stored since June 20, 2019. The police headquarters designates technical and organizational measures that it intends to implement. Without more detailed information, it is currently not possible to assess whether these will be sufficient to meet the data protection requirements. With regard to the right to information for the persons affected by the data storage, the police headquarters refers to the outcome of a complaint procedure pending at the constitutional court of the state of Brandenburg. However, it is unclear when or whether a decision will be made there that will have a concrete impact on the police procedure. In this respect, it is urgently necessary for the police to develop their own concept in order to protect the rights of those affected through transparency.

Irrespective of this, the State Commissioner maintains her doubts as to whether the provision of Section 100h Paragraph 1 Sentence 1 No. 2 of the Code of Criminal Procedure, as assumed by the police, represents a sufficient legal basis for the use of automated license plate recognition in recording mode.

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