

State data protection officer prohibits AfD portal

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The State Commissioner for Data Protection and Freedom of Information today banned the AfD state association's "Neutral School" reporting portal. The text passages published there, in which students are asked to report alleged violations of the neutrality requirement, must be removed by September 20, 2019, otherwise a fine may be imposed.

"It must not be the case that teachers are intimidated by such a portal in their teaching activities," explains the head of the authority, Heinz Müller. "That is exactly what the data protection regulations that apply here say. It goes without saying that it is the task of the teachers to stand up for democracy, the Basic Law and the human dignity guaranteed therein. They shouldn't be afraid of being bothered by self-appointed AfD watchdogs."

Contrary to what was stated in its press release of September 2, 2019, the state association of the AfD not only collects the personal data of the students who write a report on its portal, but also collects the political opinions of the reported teachers in a very targeted manner. However, as a special category of personal data, political opinion enjoys special legal protection.

In its statement, the AfD state association bases the data processing on its legitimate interest under Article 6 paragraph 1 letter f DS-GVO. "This fails to recognize," says Müller, "that the processing of data from which political opinions emerge is generally prohibited under Article 9 Paragraph 1 DS-GVO." Such processing is only exceptional, under the conditions of Article 9 Paragraph 2 GDPR, allowed. But they are not given here.

The state association of the AfD does obtain the express consent of the authors of a report to the "use of their data for the purposes of the work of the AfD Mecklenburg-Western Pomerania". However, this declaration of consent is far too vague and therefore ineffective. With regard to the registered teachers, processing based on consent is ruled out from the outset. "The AfD regional association has not been able to prove the legality of the data processing for which it is responsible," says Müller.

"A ban was therefore appropriate."

With a view to the rights of those affected, Müller adds: "By the way, anyone can request information from the AfD state association according to Article 15 DS-GVO as to whether data relating to them is being processed. An informal letter is enough!"

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