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Annual Report 2018

The Berlin Commissioner for Data Protection and Freedom of Information, Maja Smolczyk, is today their annual report for 2018.

2018 was a highly eventful year in terms of data protection. The

The General Data Protection Regulation (GDPR) came into effect and raised a host of new questions on. In its annual report, the Berlin data protection officer explains how this is changing

The number of complaints in the state of Berlin has developed in the last year and which topics the Berliners have been particularly moved.

main topics

The number of complaints has increased at the Berlin data protection authority since it came into effect of the GDPR almost quadrupled (Chapter 1.2, p. 19). On the one hand, this is due to the increased public attention and the associated sensitization of citizens citizen for the issue.

On the other hand, however, the responsibilities of the Berlin data protection authority expanded enormously by the new European law. What is new, among other things, is that the authority not only processed complaints against Berlin companies and authorities. After

GDPR, all those affected have the right to contact "their" supervisory authority,

regardless of where the company against which the complaint is directed is based. This

innovation makes it enormously easier for people to effectively enforce their right to data protection,

because they no longer have to deal with the data protection authorities of others in a foreign language

turn countries. The Berlin data protection officer now checks every incoming

Complaint whether they have sole jurisdiction, lead authority or concerned authority

processed in cooperation with other European supervisory authorities. In any case stays

She is the contact person for the complainant throughout the entire process

Person (Chapter 1.1, p. 17).

A lot has also changed for companies and other data-processing bodies.

Extended reporting requirements for so-called data breaches have led to an increase in

Breakdown reports almost fourteen times since the GDPR came into effect

comparison to the corresponding period of the previous year. The Berlin data protection officer

was in this connection with hacker attacks, the loss of USB sticks as well as with

accidentally used open e-mail distribution lists (Chapter 1.3, p. 23).

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Since the GDPR came into effect, companies have been able to apply for a data protection seal in order to

to document to the outside world that they take data protection very seriously. Such seals

can be issued by private certification bodies whose activities include the Berliner

Data protection officer approves and monitors (chapter 1.4, p. 28).

In addition to general developments, the annual report also deals with specific legal issues that

keep coming up in connection with the GDPR. Among other things, it is clarified

that – contrary to what is often shown – there is not always one for personally addressed advertising

consent required. Since the GDPR does not have any special regulations for the admissibility of

contains advertising, there is uncertainty in this area. In order to create clarity, the

Berlin's data protection officer summarizes the most important aspects of this in their annual report

Group of topics broken down (Chapter 1.5, p. 35).

A ruling by the European Court of Justice in June 2018 was of great importance

the highest European court clear that the operators of so-called

Fanpages on Facebook shared responsibility for the social network

Processing of the personal data of the visitors to their pages

carry. Anyone who operates such a page for their own purposes on Facebook can

since then no longer behind the social network in terms of handling user data

"hide". The Berlin Commissioner for Data Protection and Freedom of Information has a number

of hearing procedures against public authorities, political parties and companies

headquarters in Berlin, which operate a fan page on Facebook (Chapter 1.7, p. 44).

Further topics of the annual report on data protection

Even beyond the DS-GVO, the public moved a number of data protection-related issues

Questions. Known cases of misuse of Berlin police databases

prompted the Berlin data protection officer to conduct several regulatory investigations

to carry out and to work towards the elimination of grievances.

The data protection clarification of a serious case in which a police officer

misused information to send threatening letters to people from the

writing a left-wing autonomous scene still drags on (chapter 3.1, p. 55).

Also with regard to the accreditations for journalists in the run-up to the

At the G20 summit in Hamburg in July 2017, the Berlin data protection officer became active. The

Findings of the Federal Criminal Police Office, which at the time had led to 32

Journalists whose accreditation was withdrawn were based on data provided by

state police authorities in the interstate information system INPOL

were hired. When examining the corresponding storage practice of the Berlin police

significant deficiencies were found (Chapter 3.4, p. 60).

The Berlin fire department appointed the Berlin data protection officer to examine a consulted on the new procedure. The planned first responder app "Katretter" should Alert first responders in close proximity to emergency call locations and can thus save lives. Since the Berlin data protection officer was involved at an early stage of the project data protection requirements, in particular for the storage practice of location data and to voluntarily take part in at an early stage, so that an introduction is enough nothing stands in the way from a data protection point of view (chapter 3.5, p. 62).

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The pilot project for the use of "intelligent" Video surveillance at Südkreuz train station. In the first project phase, the tried and tested Technology does not convincingly demonstrate their intelligence. The second phase of the project, which Planned for 2019, the Berlin data protection officer will provide supervisory support (Chapter 4.4, p. 75).

Other questions that have touched Berliners in their everyday lives, concerned data protection in day-care centres. Requests for advice and complaints reach the supervisory authority, particularly often concern the use of new technologies, such as e.g. B. Apps with which the children's drop-off and pick-up times are recorded electronically, and the Dealing with photo and video recordings in day-care center everyday life. The "Privacy Policy with image, video and sound recordings - what should be considered in the day-care center?", which the Berlin data protection officer in cooperation with the Senate Department for Education, Youth and Family has received a great response (Chapter 5.4, p. 88).

As with data processing in day-care centers, circumstances involving medical data from Concern patients, often for concern and uncertainty. In this area was the introduction of an electronic health record for the administration of patient data using an app, a topic that the data protection supervisory authority is examining thoroughly took. The main focus was on aspects of data security (Chapter 6.3, p.

98).

During an ex officio review of the clinical cancer registry in Berlin-

Brandenburg, the supervisory authority determined that even after two years of operation of the

Register no concept for the deletion of data existed. That had in the

Practice has led to sensitive data being stored for significantly longer than is permissible

(Chapter 6.8, p. 105).

In the health sector, a nursing service also caused a stir, who inexperienced a

Most of the sensitive data of the persons to be cared for in international cloud

service providers without ensuring that the necessary confidentiality

The prerequisites for this existed (Chapter 6.7, p. 104).

In the area of employee data protection, the Berlin data protection officer warned

Senate Administration, which allows a rejected applicant not only access to the

own, but also in the application documents of all competitors

and competitors had granted (chapter 8.4, p.119).

Time and time again, people turn to the data protection officer because companies

where you request information about your data stored there, ask them to

initially identified with a copy of an ID card. However, such evidence is only

necessary in exceptional cases and irrelevant data should always be blacked out

(Chapter 9.2, p. 124).

Two impressive case studies illustrate how people through no fault of their own

ended up illegally in the so-called warning databases of insurance companies and banks.

Such entries can be serious for those affected if they subsequently

insurance contracts can no longer be concluded or can only be concluded under poor conditions

or they are denied opening a bank account. In such a case, the Berliner

Data protection officers issued a relevant fine (Chapter 9.7 and 9.8, p. 130-131).

It was gratifying that last year the start-up consultation hours of the Berliner
was very enthusiastically received by the data protection officer. Consultation appointments were the norm
fully booked three months in advance. The annual report shows which topics
Keep young companies in the city busy (Chapter 9.4, p. 126).

One question that caused a lot of concern and inquiries from the regulator was whether

Photographers and journalists of their work under the GDPR

could still pursue without having to fear existence-threatening fines. Because of

A regulation in the Berlin Data Protection Act can answer this question for Berlin photographers

photographers are approved. The Art Copyright Act continues to apply to them if they

produce and use photographic material in the course of their professional activity (chapter 12.4, p.
151).

Online rating portals are very popular. The Berlin representative for

In an examination of the platform www.richterscore.de, data protection worked towards the fact that this now

is operated in compliance with data protection without endangering the fundamental right to freedom of expression
(Chapter 12.5, p. 152).

The Berliners also dealt with a few questions relating to political parties

Data Protection Officer in the past year. The annual report explains why

the Berlin NPD requested personal data in connection with one of

delete the map of facilities for asylum seekers prepared by the party (chapter 10.1, p.

133), whereas the "Neutral School" initiative of the Berlin AfD parliamentary group is not the

Berlin data protection supervisory authority (chapter 10.3, p. 135).

It also examined and answered the question, which was much discussed last year, whether

political parties were allowed to use data from Deutsche Post for their election campaigns

(Chapter 10.2, p. 134).

Freedom of Information

In the area of freedom of information, the Berlin Information Freedom Commissioner sat down in the

last year especially for more transparency in administration when using

Algorithms and artificial intelligence. Although the use of such technologies can

Bring about increases in efficiency and facilitate or simplify the evaluation of large amounts of data.

enable in the first place. However, the administration bears a great deal of responsibility for their commitment to make lawful in connection with official decision-making.

In this context, respect for human dignity and

prohibition of discrimination. In terms of freedom of information, the algorithms used must

and AI procedures are made transparent so that citizens, but also the

management itself can understand how the decisions were made. in one

the position paper co-initiated by the Berlin Freedom of Information Commissioner

Prerequisites and obligations of public bodies for use in accordance with fundamental rights

such methods are shown (chapter 13.1, p. 155).

The annual report is available on the website of the Berlin Commissioner for Data Protection and

Freedom of information available at www.datenschutz-berlin.de.