

The distribution and use of so-called dashcams in road traffic have increased significantly in recent times. The cameras are used by citizens in their vehicles in order to be able to document the course of accidents, but also other situations such as cases of coercion or damage to the vehicle using video material. In many cases, the recordings are handed over to the police as evidence. There is a need for clarification in view of the lack of a uniform nationwide implementation of data protection law and open legal questions. With regard to the requirements for the legal operation of a dashcam, the data protection supervisory authorities of the federal and state governments are currently working on a corresponding guide. Until there is a final vote by the supervisory authorities, some basic aspects should be considered when using dashcams.

The Federal Court of Justice (BGH) confirmed in a decision last year (judgment of May 15, 2018, VI ZR 233/17) that the operation of a dashcam that permanently records the public street space without a specific reason violates applicable law. Nevertheless, he regards corresponding recordings as evidence as admissible. Insofar as this type of operation almost exclusively records road users who are not involved in an accident or another dangerous situation at any time, this is not necessary to protect the interests of the vehicle driver in preserving evidence and for this reason alone is not lawful according to the provisions of the General Data Protection Regulation. In the case of continuous operation of a dashcam without cause, the right of bystander road users to the protection of their personal data in accordance with Article 8 of the Charter of Fundamental Rights of the European Union prevails. The data protection supervisory authorities can impose severe fines in the event of a violation of the General Data Protection Regulation.

Instead of permanent dashcam recordings without cause, camera systems can be considered that constantly overwrite the recordings made and only in the event of an accident through special motion sensors enable short video sequences related to the specific event to be permanently stored before and after an accident. Data protection through technological design can then be guaranteed by pixelation of people and automated deletion without the intervention of the user. In this way, these so-called crash cams do not store personal data of uninvolved persons permanently and without cause and protect their interests with appropriate data protection precautions. At the same time, the vehicle owner can use the technology to protect himself in the event of damage.

Johannes Caspar, Hamburg's representative for data protection and freedom of information: "In terms of data protection,

technical solutions must be used that protect the right to the protection of personal data, as is the case with the use of crash cams that only save on an event-related basis. In this respect, the legitimate interests of vehicle owners do not necessarily have to collide with data protection law.”

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