

02.10.2020

press release

The conference of the independent data protection supervisory authorities of the federal and state governments (data protection conference) took note of the assessment of its working group on order processing for Microsoft Office 365 from July 15, 2020. Microsoft Office 365: assessment of the data protection conference too undifferentiated - improvements nonetheless

The conference of the independent data protection supervisory authorities of the federal and state governments (data protection conference) took note of the assessment of its working group on order processing for Microsoft Office 365 from July 15, 2020 with a majority of approval. The working group had checked "the Online Service Terms (OST) on which the use of the Microsoft Office 365 product is based, as well as the data protection regulations for Microsoft online services (Data Processing Addendum / DPA) - each as of: January 2020". The paper comes to the conclusion that on the basis of the documents mentioned, no data protection-compliant use of Microsoft Office 365 is possible. The decision of the data protection conference was made with a narrow majority of 9 votes with 8 votes against. The state commissioners for data protection in Baden-Württemberg, Bavaria, Hesse and Saarland as well as the President of the Bavarian state office for data protection supervision, which is responsible for Microsoft Deutschland GmbH, spoke out against the unrestricted approval. The data protection supervisory authorities of Baden-Württemberg, Bavaria, Hesse and Saarland make it clear that they also see significant potential for improvement in data protection law with Microsoft Office 365, especially with a view to the most recent decision of the European Court of Justice on international data transfers of July 16, 2020 (C-311/18 - Schrems II). They therefore support the objectives of the working group in principle, insofar as it formulates starting points for improvements in data protection law for the Microsoft Office 365 product. However, they cannot share his overall rating because it is too undifferentiated. In addition, the management working group made its assessment based on contractual provisions that Microsoft has already revised twice in the meantime. Finally, the findings of the European Court of Justice on the requirements of the General Data Protection Regulation for international data transfers have not yet been taken into account. Against this background, the data protection supervisory authorities of Baden-Württemberg, Bavaria, Hesse and Saarland have admittedly accepted the assessment of the Working Group on Administration of July 15, 2020 as relevant working basis, but not yet considered ready for a decision. This is all the more true as there has not yet been a formal hearing from Microsoft on the

assessments of the working group on administration, as is part of a fair, rule of law procedure Lead management of the Brandenburg State Commissioner for Data Protection and the Bavarian State Office for Data Protection Supervision should promptly start talks with the manufacturer.Dr. Stefan Brink, Prof. Dr. Thomas Petri, Michael Will, Prof. Dr. Michael Ronellenfitsch and Monika Grethel: “We agree with the entire data protection conference that the legal uncertainties in dealing with data protection law with Microsoft Office 365 must be resolved promptly. It would be good if the newly established working group of the conference, while respecting the principles of the rule of law, achieved that the manufacturer would soon and sustainably improve its Microsoft Office 365 product in terms of data protection law. In a constructive dialogue with Microsoft, the standards that must be observed in the case of third-country transfers according to the latest case law of the European Court of Justice must be discussed in particular.”Dr. Stefan Brink State Commissioner for Data Protection and Freedom of Information Baden-WürttembergProf. dr Thomas Petri Bavarian State Commissioner for Data ProtectionMichael Will President of the Bavarian State Office for Data Protection SupervisionProf. dr Michael Ronellenfitsch Hessian Commissioner for Data Protection and Freedom of InformationMonika Grethel State Commissioner for Data Protection and Freedom of Information in Saarland

return

Associated files

Press release from October 2nd, 2020 – Stuttgart, Munich, Ansbach, Wiesbaden, Saarbrücken

Microsoft Office 365: Evaluation of the data protection conference too undifferentiated - improvements are nevertheless required

350KB