

Results of the 100th data protection conference

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Munich, November 30, 2020

The Conference of Independent Data Protection Authorities of the federal and state governments (Data Protection Conference – DSK) on November 25th and 26th, 2020 via video on their 100th meeting since its inception.

The conference dealt, among other things, with the question of data protection-compliant use of Windows 10 (version "Enterprise"), with the German EU Council Presidency initiative taken to soften end-to-end Encryption for the benefit of security authorities and Intelligence services, with the legal design of the Telecommunication inventory data inquiry, with initiatives for Centralization of data protection supervision and with the in Germany still pending implementation of the "ePrivacy" directive (RL 2002/58/EG).

In detail:

- Again, the conference dealt with both the Telemetry capabilities of Microsoft Windows 10, version "Enterprise", as well as with those through Microsoft to MS Office 365 announced improvements to the data protection. To the telemetry functions had a DSK working group in three test scenarios before found that those responsible when using the Enterprise version use the "Security" telemetry level

and contractual, technical or organizational

need to ensure that no transmission

Your personal rights - our mission

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The Bavarian State Commissioner for Data Protection informed

personal telemetry data to Microsoft

takes place. With regard to MS Office 365, the DSK

stay in touch with Microsoft. By both

objects, the DSK attaches importance to the

Taking into account the judgment of the European

Court of Justice on the transfer of personal data

to third countries of July 16, 2020 (C-311/18) ("Schrems II").

- Clearly the DSK rejects demands for access

Security authorities and secret services on the

encrypted communication in messenger services and

of private communication. In a letter dated 25

November 2020 resolution indicates that

that the hollowing out of encryption solutions, such as

them in the Council of the European Union in the draft resolution

No. 12143/1/20 of November 6, 2020 "Security through

Encryption and security despite encryption"

is suggested would be counterproductive and through

Criminals and terrorists are easily bypassed

could. A safe and trustworthy

Encryption, on the other hand, is an essential requirement

for resilient digitization in business and

Administration. companies have to face up to

can protect economic espionage. citizens

Citizens must use it safely and with integrity

digital administrative services can trust.

Encryption is also a key tool for the

Data transfer to unsafe third countries. The "Schrems

II" judgment of the European Court of Justice has that again

made clear.

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In the interests of legal certainty, the DSK is also appealing

a further resolution to the federal legislature,

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The Bavarian State Commissioner for Data Protection informed

finally the specifications of the Federal Constitutional Court of

May 2020 to design the manual

to implement inventory data disclosure procedures. That

Court had recognized that both the transmission of

Data through telecom service providers as well

retrieval by authorized bodies (e.g.

public prosecutor's offices) in each case a proportionate and

require a standard-clear basis ("double-door model").

The current version of § 113

Telecommunications Act and the retrieval standards

Pages of recipient circles are sufficient for these

requirements not. The conference calls for

Federal and state legislators are enforcing the manual

Information procedures for security authorities and
Intelligence services conform to the constitution as quickly as possible
to design.

- The Conference also calls on the legislator to
finally the ePrivacy Directive of the European
Communities from 2002 (RL 2002/58/EG)
fully and in accordance with the data protection
Basic Regulation of 2018 into German law
implement. According to Art. 5 Para. 3 ePrivacy Directive required
there is an active informed consent of the user in
Principle particularly when the person responsible
“Cookies” sets. website operators and other stakeholders,
who use their services in relation to, among other things, “cookies”
lawfully, need legal clarity
and security.

The DSK also clearly opposes claims
a centralization of data protection supervision in non-
public area.

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Other topics of the 100th DSK included the
Improving cooperation in the European
Data Protection Board (EDPB) and the future functioning of the
DSK.

Prof. Dr. Thomas Petri

The Bavarian State Commissioner for Data Protection controls the Bavarian

public bodies compliance with data protection regulations. It's from Bavarian

Elected to the state parliament, independent and not bound by instructions from anyone.