

## Data protection supervisory authority prohibits city of Tübingen from list of "conspicuous" asylum seekers - First data protection order issued to a municipality

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The State Commissioner for Data Protection and Freedom of Information

Baden-Württemberg Dr. Stefan Brink prohibits the city of Tübingen from using police data for a list of "conspicuous" asylum seekers.

With the formal prohibition order, LfDI Brink is putting a temporary end to the dispute that has been dragging on for a year and a half about the legality of a "list of conspicuous persons" kept by the city administration.

The list of data from asylum seekers who allegedly attracted attention due to certain behavior, mostly crimes of brutality, is intended to serve as the main justification of the city to protect city officials from attacks by this group of people. The city of Tübingen calls this list management "structured data exchange" - which, according to the findings of the LfDI, is carried out illegally.

The point is that the list kept internally is mainly fed by information that the police provide to the municipal foreigners' registration office on the basis of legal requirements for foreigners. The inclusion in the list takes place without the public prosecutor's office or a court having already dealt with the accusation and having confirmed it in a constitutional procedure.

However, this data transmitted by the police is subject to a strict statutory earmarking. They may only be used for legal measures relating to foreign nationals – and not for other administrative purposes. A change in this processing purpose, as is done here, by using the data in the manner of a "blacklist" in order to warn third parties if necessary, has nothing to do with the original purpose under aliens law. In terms of data protection law, such changed purposes require an express legal basis. This is missing. In addition, the city was unable to prove, either in individual cases or in general, that the people recorded actually posed a specific danger to officials. In addition, drawing up such "lists of dangerous persons" on the basis of a mere suspicion that has not been checked under the rule of law also violates the rights of foreign fellow citizens.

"The clarification of this data protection issue, which the criticized data processing raises, turned out to be extremely difficult," says the state data protection officer Brink. Rarely has he noticed such an unwillingness on the part of an authority to answer his inquiries comprehensively in his control practice, as in this case. Requested documents were only released months later, and in some cases promised files are still missing. Even in a clarifying discussion on site, the legal basis for this use of data could not be presented.

"I assume that the city will now abide by the law," says Brink. "After more than two years of the European General Data Protection Regulation (GDPR) being in force for the first time, I have now made use of the authority to prohibit illegal data processing by a municipality. That seemed to me to be necessary and appropriate in the present case."

If you have any questions, you can reach us on the telephone number 0711/615 541-23 and at [pressestelle@lfdi.bwl.de](mailto:pressestelle@lfdi.bwl.de).

Further information on data protection and freedom of information can be found on the Internet at [www.baden-wuerttemberg.datenschutz.de](http://www.baden-wuerttemberg.datenschutz.de) or at [www.datenschutz.de](http://www.datenschutz.de).

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