

Senate Chancellery formally warned

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zoom

The Hamburg Commissioner for Data Protection and Freedom of Information (HmbBfDI) has officially warned the Senate Chancellery of the Free and Hanseatic City of Hamburg (FHH) against using the video conferencing solution from Zoom Inc. in the so-called on-demand version. This violates the General Data Protection Regulation (GDPR) as such use involves the transfer of personal data to the United States. There is insufficient protection for such data in this third country. This was established by the European Court of Justice in the Schrems II decision more than a year ago (C-311/18) and the Privacy Shield that had been in force up to that point was overridden as the basis for transmission. A data transfer is therefore only possible under very strict conditions, which do not exist with the planned use of Zoom by the Senate Chancellery. In this way, the data of officials and external parties are exposed to the risk of mass surveillance by the state in the USA without cause, against which there are no adequate legal protection options.

The European Data Protection Committee has formulated guidelines for the transfer of personal data to a third country such as the USA in accordance with the GDPR. The HmbBfDI uses this standard in business and public administration. The documents presented by the Senate Chancellery on the use of Zoom show that these standards are not being met. Other legal bases such as the consent of all those affected are also not relevant here.

The Senate Chancellery - as the authority responsible for digitization issues in the FHH - informed the HmbBfDI about corresponding plans at an early stage, but was subsequently unwilling to address the concerns repeatedly expressed. Even the initiation of a formal procedure by hearing the Senate Chancellery on June 17, 2021 did not lead to a change in thinking. No documents were submitted to the HmbBfDI within the set period or afterwards, nor were any arguments communicated that would allow a different legal assessment. The formal warning according to Art. 58 Para. 2 lit. a GDPR is therefore a logical step.

Ulrich Kühn, Hamburg's acting commissioner for data protection and freedom of information: "Public authorities are particularly bound to comply with the law. It is therefore more than regrettable that such a formal step had to be taken. At the FHH, all employees have access to a proven video conferencing tool that is unproblematic with regard to transmission to third countries. As a central service provider, Dataport also provides additional video conferencing systems in its own data centers. These are used successfully in other countries such as Schleswig-Holstein. It is therefore incomprehensible why the Senate Chancellery insists on an additional and legally highly problematic system."

Additional information:

[EDPB guidelines on data transfers to third countries \(PDF\)](#)

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