

Law to protect the digital administration was overdue - criticism of the lack of judicial approval

Adoption of the NDIG

The State Commissioner for Data Protection Lower Saxony (LfD) welcomes the passing of the law for the promotion and protection of digital administration (NDIG) and criticizes it at the same time.

"This law was long overdue. Because a stable and secure IT environment is an important prerequisite for data protection," says Dr. Christoph Lahmann, deputy of the LfD. "Cyber criminal attack scenarios are constantly changing. That is why network operators have to constantly reassess the risks of an attack and be able to use modern analysis techniques." The NDIG creates the legal basis for this use and thus finally ensures that the protection of the public network in Lower Saxony is brought up to the state of the art can be.

At the same time, Lahmann criticizes the fact that not a single change proposed by the LfD has found its way into the final text of the law: "Modern analysis techniques can lead to significant interference with the right to informational self-determination and telecommunications secrecy. Not only employees of public authorities can be affected by this, but also every private person who communicates with a public authority."

In the legislative process, the LfD had therefore demanded, among other things, that only a judge be allowed to order the manual evaluation of data streams. However, the NDIG now stipulates that every head of authority responsible for network operation can order the evaluation. All he needs is the consent of an employee of the same authority who is qualified to hold judicial office. "This means that there is no independent control of this measure, which is very questionable in view of its massive interference with fundamental rights," says Lahmann.

On the other hand, it is positive that the law prohibits analyzing the meaning of communication content. This means that an encrypted message can be opened to search for a Trojan, for example, but it cannot be evaluated word for word.

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