

Automatic license plate search: data protection officer complains about the lack of support from the Brandenburg police headquarters

The Brandenburg Data Protection Commissioner today raised a complaint with the Brandenburg State Police Headquarters. The reason for this is the lack of support from the authority in the context of a data protection check of the system for automated number plate searches (KESY) - the police headquarters refuses the data protection supervisory authority access to court decisions or orders from the public prosecutor's office.

The trigger for the data protection check was initially the question of the legality of the transmission of the registration data on the vehicle of a suspect in the missing person case "Rebecca" to the Berlin police. According to the Brandenburg police, the data was passed on following the decision of a Berlin district court. With regard to the recording mode of the cameras, from which the data originated, the police initially argued that this was actually used permanently due to a large number of limited but overlapping court decisions for longer-term observation from all over Germany. However, a report by the Ministry of the Interior and Municipal Affairs that has since been submitted shows that a court order has been issued in connection with a case that the Frankfurt (Oder) public prosecutor's office has been conducting since 2017. This has been extended to the present and serves as the basis for storing license plates in recording mode.

Against this background, employees of the state commissioners carried out an on-site inspection at the police headquarters on July 24, 2019 and demanded, among other things, insight into the Berlin decision on data transmission and the documentation on the order for surveillance and the recording mode. The presidency refused, citing investigations that had not yet been completed and the lack of consent from the responsible public prosecutor's office. On July 30, 2019, the data protection officer asked the police headquarters in writing to allow her access to the documents. A week later, the police authorities also wrote in writing that they had asked the Berlin public prosecutor's office to decide on this request. Because of the observation decision, she should contact the prosecutor's office in Frankfurt (Oder). Dagmar Hartge:

The police of the state of Brandenburg is responsible under data protection law for carrying out the automated number plate search. She is therefore legally obliged to support me in the fulfillment of my tasks in the context of an examination. This also includes the publication of court orders or orders from the public prosecutor's office that are contained in police processes. By refusing its support, the police headquarters is obstructing full data protection control.

The procedural powers of the public prosecutor are irrelevant for data protection supervision. In particular, there is no provision that would make the scope of data protection control by police authorities subject to coordination with the public prosecutor's office. Incidentally, the police headquarters has not named such a legal basis.

The complaint is linked to the recommendation to submit the withheld resolutions and orders immediately. The data protection officer is also asking the police headquarters in Brandenburg to submit a statement with the missing information on the legal reasoning of the authority. The State Commissioner is not entitled to any further legal powers in relation to the police authorities in the event of a refusal to hand over documents.

The on-site data protection check should also provide information as to whether, for example, the distribution of access authorizations or the documentation of logging and data deletion is carried out in a data protection-compliant manner. The state representative has received all the information on these and other aspects; the evaluation is still ongoing.

ID number 08/2019

Date 08/20/2019

Responsible: Sven Müller, Poststelle@LDA.Brandenburg.de

ID number 08/2019

Date 08/20/2019

Responsible: Sven Müller, Poststelle@LDA.Brandenburg.de