

PRESS RELEASE

The Hamburg representative for

Privacy and Freedom of Information

August 16, 2021

Senate Chancellery formally warned against using "Zoom".

The Hamburg Commissioner for Data Protection and Freedom of Information (HmbBfDI)

Senate Chancellery of the Free and Hanseatic City of Hamburg (FHH) officially warned the video conferencing solution by Zoom Inc. in the so-called on-demand version. This violates the privacy

General Regulation (GDPR), since such use involves the transmission of personal data

connected to the United States. There is insufficient protection for such data in this third country.

This has already been confirmed by the European Court of Justice in the Schrems II decision

a year

(C-311/18)

established and the one applicable until then

"Privacy Shield" as

Basis of transmission overridden. A data transfer is therefore only possible under very narrow conditions

Prerequisites are possible that are not possible with the planned use of zoom by the Senate Chancellery

present. The data of government employees and external parties to the call are transferred to this

way exposed to the danger of unprovoked state mass surveillance in the USA, against

which do not have sufficient legal protection.

The European Data Protection Committee has formulated guidelines to protect personal data in the

To be able to transmit to a third country such as the USA in accordance with the GDPR. He sets this standard

HmbBfDI in the economy as well as in public administration. The Senate Chancellery

Documents submitted on the use of Zoom indicate that these standards are not

be respected. Other legal bases such as the consent of all data subjects are also here

not relevant.

The Senate Chancellery - as the authority responsible for digitization issues in the FHH - informed the HmbBfDI early on about corresponding plans, but was not there afterwards ready to respond to the concerns that have been repeatedly expressed. Also the initiation of a formal Proceedings through a hearing of the Senate Chancellery on June 17, 2021 did not lead to a rethink. It documents were not submitted to the HmbBfDI either within the set period or afterwards or Arguments communicated that allowed a different legal assessment. The formal warning according to Art. 58 Paragraph 2 lit. a GDPR is therefore a logical step.

In addition Ulrich Kühn, the acting Hamburg representative for privacy and

Freedom of information: "Public bodies are particularly committed to compliance with the law bound. It is therefore more than unfortunate that such a formal step has taken place

The Hamburg Commissioner for Data Protection and Freedom of Information

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had to. At the FHH, all employees have access to a proven and, with regard to the third country transmission unproblematic video conferencing tool available. Dataport as central The service provider 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 on an additional and legally highly problematic system exists."

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Additional information:

- The EDPB's specifications for data transfers to third countries can be found here:

[https://edpb.europa.eu/system/files/2021-](https://edpb.europa.eu/system/files/2021-06/edpb_recommendations_202001vo.2.0_supplementarymeasurestransferstools_en.pdf)

[06/edpb_recommendations_202001vo.2.0_supplementarymeasurestransferstools_en.pdf](https://edpb.europa.eu/system/files/2021-06/edpb_recommendations_202001vo.2.0_supplementarymeasurestransferstools_en.pdf)