

Press release of the TLfDI

Education platform BW: LfDI advises due to high

data protection risks from the use of the

tested version of Microsoft Office 365

schools off

Erfurt, May 12, 2021

The Thuringian state commissioner for data protection and freedom of information

(TLfDI), Dr. Lutz Hasse, would like to thank you today for the attached press release

the State Commissioner for Data Protection and Freedom of Information Baden-Württemberg,

inform, which was published on May 7, 2021:

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Education platform BW: LfDI advises due to high data protection

Risks of using the tested version of Microsoft Office 365

Schools out - alternatives should be strengthened

Background and consequences of the recommendation

The Ministry of Education had planned it as part of the education platform for schools

a specially configured version of Microsoft 365 from the US software manufacturer

Integrate Microsoft to provide teachers, students and parents with a suitable digital

To provide infrastructure for teaching and education.

The State Commissioner for Data Protection and Freedom of Information Stefan Brink

was asked by the Ministry in a pilot project to introduce this software

to be active in an advisory capacity from mid-January to the end of March.

In this context, the LfDI tested the specifically for use in schools

configured version of the product MS 365 in a practical test. About this

The state commissioner has the necessary technology, since he has the means for his own

testing laboratory have been made available by Parliament.

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Essentially, it was checked whether the data protection impact assessment

(DPFA) of the ministry from October 2020

(press release of

State representative "LfDI accompanies the pilot project of the Ministry of Education for

Use of Microsoft Office 365 in schools")

proposed

Remedial actions to minimize the risks of Microsoft software

actually implemented and proven to be sufficient; was checked

also which data flows actually measurably took place during pilot operation,

in particular whether unwanted or not requested

Data processing, for example from telemetry, diagnostic (or otherwise

designated) data, were recognizable and

to what extent the processing

personal data of teachers and students for own purposes

Microsoft's can be determined.

As part of this audit, it was also examined whether data in third countries

flow outside the scope of the GDPR and whether through a secure

encrypted communication the possibilities of access by the

Provider or third parties could be effectively restricted.

Random samples were taken in several areas for the tests in the practical test

taken. During its consultation, the LfDI was in regular contact with

the Ministry of Education and representatives of the software and service provider.

Although the tests due to the scope and further development of the services

could not be conclusive, the results were sufficiently clear,

to make a recommendation to the Ministry of Education.

The state representative Stefan Brink assesses the risks when using the now

tested Microsoft services in the school sector as unacceptable and advises against

to use them there. The state representative also recommends that in the school sector

further strengthen existing alternatives.

“Pupils, parents and teachers want digital and

legally secure solutions for the classroom. We support that,” says Stefan Brink.

For this reason, a great deal of effort was put into the pilot project to try and clarify

about data flows, legal bases and technical measures of the provider

achieved, which, however, was not achieved satisfactorily in the end.

Those responsible - and these are the schools (cf. Article 4 No. 7 DS-GVO) - have at

chosen system does not have full control over the overall system and the US

American processors. You can after evaluating the

state representative

understand which

personal data, how and for what purposes are processed and they

cannot demonstrate that the processing is limited to what is necessary for this purpose
minimum is reduced. But they would have to do all this in order to avoid their accountability
to comply with Article 5 paragraph 2 of the GDPR. Also, for some transmissions
personal data to Microsoft - sometimes also in regions outside the EU -
sufficient
currently

Not

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no legal basis recognizable, which is required according to DS-GVO. That's true
especially for international data flows in the light of the Schrems II judgment
European Court of Justice in 2020.

For the school sector, the LfDI therefore has a high risk of violating rights
and freedoms of data subjects. This applies to the envisaged

Expanding the system to include accounts for the students all the more.

The state has a guarantor position for the students, who are usually minors
and students who are also subject to compulsory schooling and therefore the
use

In this

Depending on the constellation, the state representative assesses the risk of the software used
as unacceptably high.

cannot avoid their personal data.

LfDI Brink: "It doesn't seem entirely impossible, with other variants

the

products used in the pilot and among significantly modified ones

Conditions of use to work in the school area in a legally compliant manner. It's in the

past months, even after intensive cooperation and with a high level of

However, personnel deployment failed to find such a solution." Given

of this result it appears more than

for the

Schools responsible for data processing, also with the support of the

Ministry of culture, in the foreseeable future may be able to test the products

legally safe to use.

questionable whether it

From the point of view of the LfDI, an education platform definitely has a long way to go. she could

for example from different tools such as Big Blue Button and

Moodle, which is already being used extensively by schools across the country.

Since these are operated by the state itself, many are in the pilot project

In principle, identified risks are not included here.

The state representative will not be on his own initiative before the summer school holidays

Tests in schools with the aim of banning products

make. From the start of the new school year, however, the authority will

then pursue existing complaints vigorously. [...]"

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