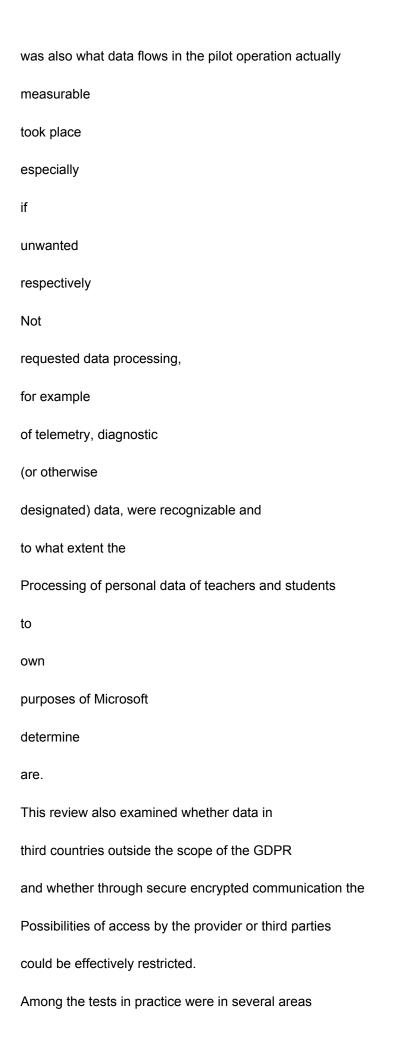
THE STATE COMMISSIONER FOR DATA PROTECTION AND FREEDOM OF INFORMATION

PRESS RELEASE
Press Office of the State Commissioner for the
Data protection and freedom of information
dr Stefan Brink
Koenigstrasse 10a
70173 Stuttgart
www.lfdi-bw.de
Cagdas Karakurt, tel: 0711-615541-23
Email: pressestelle@lfdi.bwl.de
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Education platform BW: LfDI advises due to high
data protection risks from the use of the
tested version of Microsoft Office 365 in schools
- Alternatives should be strengthened
Background and consequences of the recommendation
The Ministry of Education had
intended,
as part
the
Educational platform for schools a specially configured version
from Microsoft 365 from the US software manufacturer Microsoft
integrate to provide teachers, students and parents with a suitable digital
To provide infrastructure for teaching and education.
Of the

for
the data protection
and
the
Freedom of information Stefan Brink was asked by the ministry to
a pilot project to introduce this software from mid-January
to be active in an advisory capacity until the end of March.
In this context, the LfDI tested the specially designed for use in the
School operation configured version of the product MS 365 in one
practice test. He has the necessary technology for this
- 2 -
State representative, since him funds for his own test laboratory from
been made available to Parliament.
Essentially, it was checked whether the data protection
Ministry Impact Assessment (DPIA) October 2020
(press release
of
state representative
"LfDI
accompanied
Ministry of Education pilot project for using Microsoft
Office 365 in Schools") suggested remedial actions
Minimize the risks of Microsoft software
indeed
have been implemented and proven to be sufficient; checked

State representative



samples taken. During his consultation, the LfDI was in regular exchange with the Ministry of Education and representatives the software and service provider.

Although the tests due to the scope and

Further development of the services could not be final, so

their results were sufficiently clear to

Recommendation to be sent to the Ministry of Education.

The state representative Stefan Brink assesses the risks

Use of the now tested Microsoft services in the school sector as

unacceptably high and advise against using them there. Of the

- 3 -

State representative recommends

furthermore, the

in the school area

further strengthen existing alternatives.

"Students, parents and teachers

want digital and legally secure solutions for teaching. we

support that," says Stefan Brink. That's why with high

Deployment within the pilot project seeks clarity about

Data flows, legal bases and technical measures of the

agent to obtain what

however

not as a result

had been achieved satisfactorily.

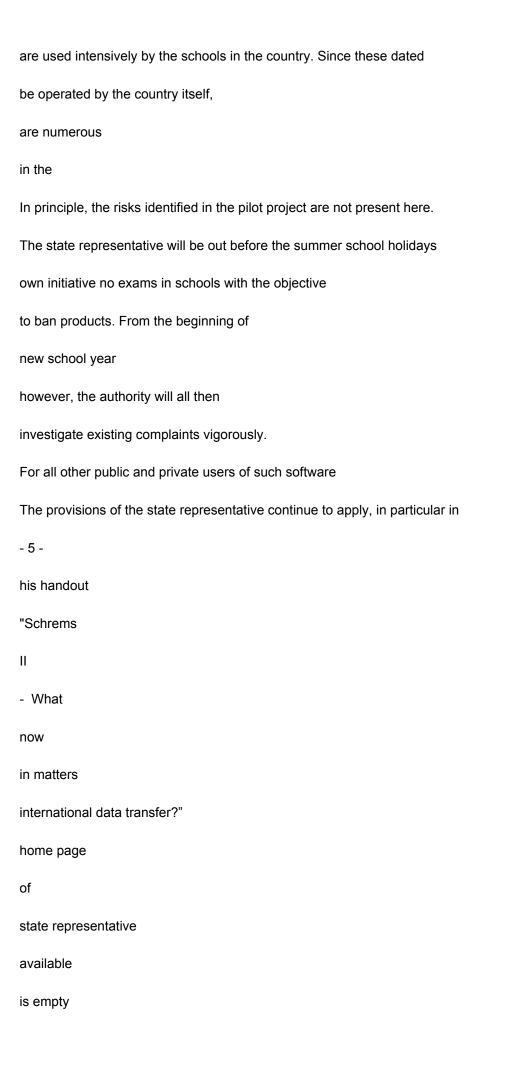
Those responsible - and these are the schools (cf. Article 4 No. 7 DS-

GMO) - do not have full control with the chosen system

the overall system
and
the US American
processor. You can after evaluating the
State representative currently not sufficiently understand,
which personal data, how and for what purposes
are processed and you cannot prove that the
Processing to the minimum necessary for this purpose
reduced
is. Alles
that would have to
you
but,
around
of their
Accountability from Article 5 Paragraph 2 DS-GVO
will. In addition, for some transmissions of personal data
Microsoft – partly also in regions outside the EU – none
Legal basis recognizable, which is required according to DS-GVO.
This applies in particular to international data flows in the light
of the Schrems II judgment of the European Court of Justice
year 2020.
For the school sector, the LfDI therefore has a high risk of
Violation of the rights and freedoms of data subjects
established. This applies to the planned expansion of the

above

System around accounts for the students all the more. The state has a guarantor position for the usually - 4 underage students who also are subject to compulsory education and therefore the use of their cannot avoid personal data. In this Constellation, the state representative assesses the risk of used software as unacceptably high. LfDI Brink: "It doesn't seem entirely out of the question, with other variants of the products used in the pilot and under significantly modified conditions of use in the to work in accordance with the law in the school area. It is in the past Months even after intensive cooperation and with high Personnel deployment but failed to find such a solution find." Given this result, it seems more than questionable whether it is the person responsible for data processing Schools, also with the support of the Ministry of Education, in foreseeable future can succeed, the tested products legally safe to use. From the point of view of the LfDI, an education platform has a lot more to offer Future. For example, it could consist of different tools like for example Big Blue Button and Moodle that already exist now



Those responsible must carry out a risk assessment with a view to

specifically processed data and understandable

deal with the legal bases of their data processing.

These legal bases differ in the public and

private sector, authorities can

basically no data on the basis of a 'legitimate interest'

process and are also in the use of consent

restricted. The LfDI emphasizes that in this consideration

blanket statements such as that software always or never

can be used in compliance with data protection regulations, too undifferentiated and not

are convincing. When using non-European providers

always to check whether there are alternatives that are one less

enable risky processing.

Further information:

The Ministry of Culture has the pilot project

initiated and the

Project subject and time frame determined. Lasted about 3 months

the practice exam. The LfDI already had various

Tests conducted, including in the context of the second

Data protection impact assessment of the Ministry of Education. This

Tests by the LfDI served, among other things, to identify possible risks

to be identified and remedial measures taken at an early stage.

After the pilot phase, the LfDI evaluated the results and

in a statement a recommendation to the

for the

Ministry responsible for education platform. The LfDI was

active in an advisory capacity in the pilot project, in this context he does not meet any orders and does not issue any prohibitions. This consulting activity is with the termination of the pilot closed. - 6 -The statement itself cannot be published at this time will. According to a publication intended participation process (here are the Ministry of Education and Microsoft to participate) will then be based on the result Publication on the LfDI homepage. Press release from the LfDI from October 30th, 2020: https://www.baden-wuerttemberg.datenschutz.de/lfdi-accompaniedpilot-project-of-the-ministry-of-culture-for-the-use-of-microsoftoffice-365-at-schools/ Handout "Schrems II - What now in terms of international Data transfer?": https://www.baden-wuerttemberg.datenschutz.de/wpcontent/uploads/2020/08/orientation-aid-what-now-aboutinternational-data-transfer.pdf