

Attachment to the press release for the 2021 annual report of Berliner

Commissioner for data protection and freedom of information - selected topics

The report of the Berlin Commissioner for Data Protection and Freedom of Information (BlnBDI) for the year

2021 contains a wide range of data protection issues across all

areas of life. The following selected examples are intended to give an impression of the variety of

Communicate topics that the supervisory authority has dealt with in the past year:

The year 2021 in numbers

In 2021, the Berlin data protection officer received a total of 5,671 submissions

affected one. That's a new high - so many complaints and requests for advice

never reached the authorities before. The focus was on the content

Pandemic-related issues, but also companies from the payment services sector

and housing industry, the election campaign for the Bundestag elections and incidents with the police (chap.

19.2, pp. 188-190 and chap. 20, pp. 200-206).

There was also a new high for data breach reports. Reported in the reporting period

Companies and authorities a total of 1,163 cases of data breaches at Berliner

Data Protection Officer. The agency has issued 212 warnings, two warnings and one order

communicated to private and public bodies. It also imposed 61 fines in

A total of 133,350.00 euros (chap. 20, pp. 200-206).

Effects of the Corona Pandemic

Again, data protection issues in connection with the

Pandemic control is the dominant topic. In this way, the data protection officer reached many

Complaints about the vaccination management of the State of Berlin. To make an appointment in the

Vaccination centers had to have a contractual relationship with a private company

enter. The responsible Senate administration has the information from the data protection officer on this

integration of the company in accordance with data protection regulations has so far been ignored (chap. 1.3, pp. 30-34).

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Many complaints were also directed against data processing by corona test centers where there have been a number of data breaches. In these cases, the BlnBDI has recommendations and Demands regarding the technical and organizational measures to be taken pronounced. In addition, the data protection officer also has ex officio investigations initiated at a larger number of test centers in order to use service providers outside of the European Economic Area (Chapter 1.4, pp. 34-38).

To combat the pandemic, the legislature had obliged various bodies to keep records of the presence of guests in their rooms. Especially in the early days of the pandemic there were many paper lists for this. The data protection officer imposed fines in three cases due to the misappropriation of the collected data by employees (chap. 13.1, p. 138).

Established as an electronic system for attendance documentation and contact tracing is an application sponsored by many federal states that contains numerous legal and technical had defects. The data protection authority held intensive discussions to rectify the identified problems Shortcomings with the Berlin-based operator, which are explained in detail in the annual report. At the same time, vast amounts of data were collected by the operator of the system described, without that the health authorities have access to this data. Therefore, the

data protection authorities to instead use the more data-efficient and effective corona

to set a warning app - but without being heard directly (chap. 1.5, pp. 38-42).

To efficiently care for people who are ill with Corona and to follow up on them

The SORMAS software is to be used in the health authorities for contacts. The

Data protection officers accompanied the introduction and worked out together with others

Supervisory authorities Recommendations and information to the developers and operators of the

Systems (chap. 6.1, pp. 85-87).

International traffic

As a result of the Schrems II decision of the European Court of Justice, the authority dealt with it

in 2021 intensively with the transfer of personal data to third countries. As part of

In a Germany-wide campaign, the BlnBDI carried out a semi-automated preliminary check of 900

Berlin companies with regard to possible data exports. It was found that

numerous companies have not implemented the basic requirements themselves (chap.

1.1, pp. 16-22).

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Education

From a data protection perspective, the reform passed in September 2021 was a positive development

of the Berlin School Act. A significant innovation concerns the processing of personal data

Data from students and teachers when using digital learning materials in the classroom. Here followed

the House of Representatives the proposals of the data protection officer and created a

Legal basis for data processing. As a result, no consents to

use of video conferences and the Berlin learning space. A choice for the

Digital teaching and learning materials that schools are eligible for should be approved by the Senate Department

created (chap. 1.2, pp. 22-30).

interior

For the first time, the BlnBDI raised two complaints against the Berlin police in one proceeding.

The reason for this was the lack of willingness to cooperate and a blatantly illegal one Data transmission by the police. The Berlin police had unredacted files to a court sent, which gave a lawyer access to the applicant's data as part of an inspection of files received from counter-demonstrations (chap. 3.1, pp. 50-55).

The data protection officer regularly becomes aware of cases in which police officers Abusing access to police databases to obtain information from family members, friends, or ask neighbours. In the reporting period, the BlnBDI initiated fifteen proceedings against Police officers: initiated and eleven fines already issued (chapter 13.2, pp. 138-140).

Traffic

In the area of transport, the data protection officer dealt with with a complaint about Information claims in the video surveillance of the S-Bahn Berlin. A passenger had the S-Bahn Berlin asked what data about his person during a train journey by means of the train installed video camera. The S-Bahn Berlin refused the information. The

The data protection officer has asked the company to develop a procedure for how video data can be correctly reported in the future (chap. 12.2, pp. 135-137).

The data protection officer has also requested improvements from the BVG. after the Authority had repeatedly pointed out data protection violations in the mobility app "Jelbi". the new version of the app planned for 2022, according to the BVG, meets the data protection requirements (chap. 11.1, pp. 128-129). The data protection officer also sees significant risks in the BVG plans for an app-based check-in/check-out system, which is currently being tested located. When using such systems, compared to buying conventional tickets, a

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Multiple personal data of the passengers processed - in this specific case also by Third Party Service Providers in the United States. The supervisory authority has these and other objections to the BVG asserted and is in intensive exchange with the company (chap. 11.2, p. 129-131).

Tracking on websites

Many complaints reached the BlnBDI again for tracking on websites, i.e. the

Tracking of individual behavior on the Internet with cookies and other technologies. The

Those responsible took the information letter from the authority as an opportunity, both optical and functional

make changes to their websites. In many cases, however, only a few of the

identified deficiencies eliminated, so that there is still a need for action. Here checks the

data protection officer the initiation of order and fine procedures (chap. 14.1, p. 145-

147).

Elections and Parliament

The BlnBDI also received numerous complaints from citizens about the elections. In focus

the processing of data of citizens entitled to vote for the purposes of the

election advertising. In some cases, the data protection authority found violations of data protection laws

regulations identified. In some cases, it was not clear from the election advertisements who was responsible for the

is responsible for data processing (chap. 3.6, pp. 61-65).

Before the elections, a data breach in the app intended for the doorstep campaign

"CDU Connect" uncovered, with the sensitive data of 20,000 supporters and about

100,000 home visits were recorded. When evaluating the secured data showed

that, contrary to earlier assurances, these were significantly more extensive. The elevation and

the storage of this data for years was not permitted (chap. 15.1, pp. 155-157).

On the other hand, the new legal basis for deletion moratoria for

parliamentary committees of inquiry. These are dependent on authorities

Make files accessible, the content of which is relevant for the clarification of the respective facts.

In order to prevent the deletion of files, deletion moratoria can be enacted. The

The data protection officer closely followed the legislative process (Section 18.1, pp. 183-185).

Privacy at work

The case of a company in which a list of sensitive

Information was kept on all employees during the probationary period. The ones from the management commissioned list included sensitive health data and information about political

Attitudes, such as interest in founding a works council. In the meantime she has

fine proceedings initiated by the data protection officer (chap. 8.1, pp. 102-104).

economy and finance

Extensive evaluations of data were also the focus of the following case: A

Berliner Bank announced that in future they will target their customers with product advertising based on their payments and their internet behavior. For this purpose, almost all data about which the

Bank has, to be evaluated. In contrast to the bank, the data protection officer is the

Believes that the consent of those affected is necessary for this (Chapter 10.1, pp. 118-120).

Again and again, the data protection officer receives complaints about things that have been imposed

consents. In one case, a bank informed its customers by telephone about how to

in the future paid by credit card on the Internet. At the end of the service call, those affected were

asked if they would agree to being advertised by phone in the future. The

The data protection officer warned the bank because a service call may not be used to

to obtain consent to telephone advertising (chap. 10.3, pp. 121-122).

Freedom of Information

As the supervisory authority for freedom of information in the state of Berlin, the BlnBDI last year

Closely monitored the draft law for a new transparency law. The bill failed

finally i.a. due to the proliferation of area exceptions created by the

Freedom of Information Officers had also been widely criticized. However, it was decided

the Lobby Register Act, which provides for a public register at the House of Representatives in which the

substantive participation of external parties in legislative processes should be entered.

Unfortunately, however, the law does not provide for fines for failure to report

(Chap. 17.2.1, pp. 169-171).

Even 22 years after the Freedom of Information Act came into force, the administrations continue to
Access to official information is often insufficient. This is illustrated by the increase of 132
percent of the complaints that the BlnBDI as the arbitration board for freedom of information in the year
received in 2021. The annual report describes the problems based on several individual cases (chap.
17.2.3, pp. 172-182).