

652.302.4

speech of

Berlin Commissioner for Data Protection and Freedom of Information

on the new Berlin Data Protection Act

on May 31, 2018 in the plenum of the Berlin House of Representatives

Dear Mr President,

Ladies and gentlemen,

thank you very much for being here today for the Berlin data protection

Adaptation and Implementation Act can comment.

Since last Friday, the General Data Protection Regulation has been

applicable law throughout Europe. The previous patchwork quilt in the

data protection law is to be brought to an end. This is a real

epochal step.

In doing so, the European legislator has done exactly what many

been missed for years: he bravely, with great steadfastness

activity and against vehement pressure from lobbyists for strengthening

of a fundamental civil right. With that he has one

sent a powerful signal that the European Union more

than a pure economic community, namely also a

community with shared ethical beliefs. citizen

ers and citizens should not be defenseless against the global spread

be at the mercy of digitization, so the rights of people should

in Europe and the associated European

authorities to be significantly strengthened. This bold step is

incidentally, to a large extent to the European Parliament

owe!

It is a pity that the Berlin legislature took this bold step
not taken up, but joined the ranks of those
has, through small-scale special regulations and overstretching
of opening clauses ultimately the goal of European harmonization
torpedo.

Friedrichstr. 219

10969 Berlin

Visitor entrance:

Puttkamer Str. 16-18

Telephone: (030) 13889-0

Fax: (030) 215 50 50

mailbox@datenschutz-berlin.de

office hours

daily 10 a.m. - 3 p.m., Thurs. 10 a.m. - 6 p.m

(or by appointment)

reachability

U6: Kochstr.

Bus: M29, 248

Internet

<https://datenschutz-berlin.de>

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What a chance it would have been for the German capital
countries to take the lead in defending the rights of citizens
want to strengthen citizens who see data protection as a necessary
comprehending digitalization, not as its competitor
renz. What a powerful sign could have been made

the smart city that Berlin wants to become, in a comprehensive sense
ne including the best possible protection of privacy
to understand citizens.

Instead, the law contains profound restrictions on the
Human rights, which are also not covered by compensation schemes
be balanced, as required by the General Data Protection Regulation
sees. My repeated references to the violation of European law

Unfortunately, a number of regulations were
not taken into account in essential points.

Let me illustrate this with a few examples:

1. The information and information rights of citizens

this law in contradiction to the European

ical provisions cut at essential points. Out of-

future rights should e.g. B. not only be restricted

may, if through the provision of information the prosecution of

Criminal offenses or the security of the country would be jeopardized as it is

stipulate the European regulations. Rather, the

refusal of future even with comparatively insignificant

Fine proceedings may be permissible, such as for stopping in

no parking – Restricting a fundamental right in favor of prosecution

of administrative offenses? – That has to do with the specifications of

nothing more to do with European regulations!

2. Certain decisions about an information

refusal not even by the independent data protection

be verifiable by supervision, namely whenever individual

Senate members refuse to provide information on the grounds that

that a potential threat to federal security or of countries exist. In these cases, those affected will not have any possibility, themselves or at least on behalf of others to be checked by the data protection supervisory authority whether and for which purposes your data is processed and whether this done lawfully.

3. Yes, even more: Whole areas are governed by the law of subject to an independent data protection control

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such as data processing at the Court of Auditors.

Even the information rights of those affected against the Court of Auditors are completely excluded; so there is no longer any control authority for the data processing there and legal recourse is also closed to those affected. One there is no such privilege for the Federal Court of Auditors nor for the majority of the state audit offices and is contrary to European law in this form.

When it comes to the question of what powers we have as the supreme, independent are granted by the state authority, it is about securing a fundamental right. And there is no need to fear that the supervisory authority exceeds its powers, because Of course, every decision of my authority is at any time reviewable by the courts. This is how our rule of law sees it before.

It is therefore extremely unfortunate that the law authorities only very limited sanctions and remedial

transfers authority in the public domain.

It strikes me as a fatal signal to the citizens

to be that of all things with the restriction of those affected

rights – the foundation of informational self-determination

tion – the limits set by the European legislator

has to be clearly exceeded.

4. In the field of European directives applicable to the police and judiciary

applies, are not effective, contrary to the European specifications

Powers planned for my agency. In the European

Measures are listed in the guideline which improve the level for conceivable

impose bare powers. The Berlin legislature is taking

this law does not mention any of that. And that, although how

said, every measure of data protection supervision judicial

is verifiable!

5. A regulation is also incompatible with European law

to the so-called data protection impact assessment, which is always

must be supplied if data processing involves high risks for specific

affected people exist. According to the planned Berlin

Despite all security measures, a

Risky data processing under certain circumstances

which may already be permitted before the required examination has expired,

although the European regulation expressly does not

sees. With this one accepts with one's eyes that such

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real risks, although the procedures are highly probable

are unlikely to be allowed. And we all know that

In our digitized world, data once collected is hardly
the catch.

Ladies and gentlemen, this is not about peanuts and
not only opposed to the protection of basic human rights
the big internet companies.

State institutions also process a large number, sometimes very
sensitive personal data. And also in this area is
incorrect handling of data not only poses a risk to
individually, but for our society as a whole. Just think
to the incidents of denied accreditations of journalists
and journalists at the G20 summit, who expressed this in impressive
se have shown. It should not be forgotten that a
essential motor for the adoption of the data protection

Basic regulation just the one uncovered by Edward Snowden
Data abuse by public authorities was.

As I said, it could have been a powerful sign.

Sweeping your own door requires openness and courage. I

long that no more protection of fundamental rights should be dared. That

The law discussed here today is stuck in the past. The-

very modern and progressive city – the Berliners

- would have deserved better.

Thanks very much!