

State commissioner demands: End the pilot operation of Section Control immediately

According to the decision of the Federal Constitutional Court

The Lower Saxony State Commissioner for Data Protection (LfD) is calling on the Lower Saxony Ministry of the Interior to shut down the system for section speed monitoring (Section Control) on the B 6 immediately. The reason for this are the decisions of the Federal Constitutional Court on the license plate reader published yesterday.

"The basis for the pilot operation has disappeared with yesterday's decisions. Because the Federal Constitutional Court has fundamentally changed its legal view of the question of when there is an encroachment on fundamental rights. The legislator must now create an express legal basis for section control. Only then can the system be switched on again," says Christoph Lahmann, deputy state data protection officer.

Missing is also an encroachment on fundamental rights

In a decision from 2008, the Federal Constitutional Court had assumed that there was no encroachment on fundamental rights if license plates were collected but then immediately deleted without a trace, provided there was no abnormality (so-called non-hit). The court has now expressly changed its legal view and ruled that the recording of all car registration numbers without exception for control purposes always constitutes data collection and thus an encroachment on the fundamental right to informational self-determination of those affected.

In the case of Section Control, not only the number plate but also other personal data such as direction of travel, location and time are recorded by the entrance camera at the beginning of the section of road. This data is stored in order to use the exit camera to determine whether the driver has overspeeded or not. If the system detects a speeding violation, a third camera records the driver so that a fine can be imposed. If there was no violation, the data will be deleted without a trace.

"Section Control also processes personal data in the case of no hits, i.e. if there is no speed violation. It has been clear since yesterday that this is also unconstitutional in trial operation," said Lahmann.

As long as the legislature does not create a legal basis, Section Control remains unconstitutional

The new Police and Regulatory Authorities Act, which is currently being discussed in the Lower Saxony state parliament, provides an express legal basis in Section 32 (6) for data processing within the scope of section controls for speed enforcement. "If the state parliament passes this law, the way for section control will be free again," said the deputy state commissioner.

