

statement in Parliament

Draft of the new police law overshoots the mark

Lower Saxony's State Commissioner for Data Protection (LfD), Barbara Thiel, sharply criticized the draft of the new police law in the Lower Saxony state parliament's internal affairs committee. During her hearing, Thiel said the draft's aim was apparently to give the police all conceivable measures against so-called terrorist threats. But he overshoots the mark.

Freedom rights curtailed beyond recognition

"Under the guise of fighting international terrorism, the proposed regulations curtail the civil liberties beyond recognition," said Thiel. "The draft law does not begin to show why such tightening is necessary. None of the individual new monitoring measures is justified in detail. This applies in particular to the measures of electronic ankle bracelets, source telecommunications surveillance (TKÜ) and online searches. Rather, I have the impression that all constitutional opportunities to strengthen internal security should be exhausted by hook or by crook without adequately taking civil liberties into account." At the expense of freedom, for example, the draft law lowers the intervention threshold for police measures in many places. The term "imminent danger" is not mentioned literally. However, for example, the ordering of an electronic tag or an online search should not only be possible when there is a specific risk situation, but in advance.

State trojans endanger cyber security

With regard to TKÜ sources and online searches, Thiel also pointed out a contradiction that the use of so-called state Trojans entails. On the one hand, the state is making considerable efforts to protect the official IT landscape from cyber attacks. On the other hand, he must deliberately keep security gaps open in order to be able to use state Trojans unnoticed. This contradictory behavior alone speaks against the use of these instruments.

Criticism of the expansion of video surveillance

Thiel also clearly criticized the plan to massively expand video surveillance. Image recordings by the police should be permitted in the future for every possible crime. Until now, they were only allowed in places where serious criminal offenses were to be expected.

In video surveillance, real-time observation of what is happening should always take precedence over mere image recording. Only with real-time observation can immediate help be organized and a criminal offense prevented.

Police data processing is against European law

Thiel was also surprised that the draft law failed to transfer the European data protection requirements into Lower Saxony law. The state commissioner referred, among other things, to the JI guideline that has been in force since May 6, 2018. This is intended to protect citizens when security authorities process personal data in the prevention, investigation or prosecution of criminal offenses.

"There is still an urgent need for legislative action here," said Thiel. "As long as the specialist law is not adapted, the police data processing will run according to the old rules and these have been in breach of European law since May 6, 2018."

Legal basis for bodycams with additional requirements

From the point of view of data protection, Thiel rated the fact that the draft law contains some of the legal bases for various measures that she had been demanding for a long time as encouraging. These include video surveillance of public road traffic to control the flow of traffic or the use of so-called bodycams to protect police officers from physical attacks. However, there is still a need for supplementation with these.

The data protection officer missed regulations on the independent evaluation of the data and the maximum storage period.

Thiel even rated the use of the cameras in pre-recording mode as unconstitutional. With this function, a maximum of 30 seconds is continuously recorded in a separate memory, which is repeatedly overwritten. If the police officer activates the recording, the 30-second recording before activation is then also saved permanently. "This means that a large number of innocent citizens are being recorded covertly," says Thiel. "The collection and processing of data is beyond any possibility of control."

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