

06.10.2020

European Court of Justice confirms ban on nationwide data retention - Kugelmann: Data retention without cause is like an undead that keeps appearing and haunting us in violation of fundamental rights

The European Court of Justice (ECJ) today confirmed in a judgment that data retention without cause is contrary to fundamental rights. Professor Dieter Kugelmann, the state commissioner for data protection and freedom of information in Rhineland-Palatinate, comments on this. "With today's judgment, the ECJ confirms its previous line and reinforces the view of data protection officers," says Kugelmann. "Across the board, permanent data retention is not compatible with telecommunications secrecy and the right to informational self-determination. Today's judgment dealt with individual regulations on data retention in France, Belgium and Great Britain, but the renewed case law allows conclusions to be drawn for Germany. The present, However, suspended federal law must be re-examined based on the criteria presented today. In any case, it is clear that a broad, blanket retention of personal data is not compatible with our Constitution and European Union law. It is to be hoped that no further attempts will be made in the future to introduce data retention in Germany without cause. The nationwide data retention appears more and more like an undead: He keeps appearing and haunting us in violation of fundamental rights." Kugelmann emphasizes: "The basic statements of the judgment are so far only in a press release, the text of the judgment has not yet been published: In an initial assessment, however, the ECJ seems to strike a good balance between freedom and security. In addition to the clear rejection of permanent data retention, it defines very narrow limits within which a temporary, event-related storage of telecommunications data is possible. When a country's national security is under serious threat, governments may enact data retention on a temporary or arguably localized basis. In any case, it must be ensured that a court or an independent authority reviews these storage orders and that their decision is then binding on the government. In the coming months, we data protectionists will keep a close eye on whether and which new draft legislation in Germany on data retention will come up on the table."

[return](#)