

press releases

Press Release - Be careful when integrating analysis services into websites - website operators should check what they offer

To press

e-mail

Due to a large number of inquiries, complaints and control suggestions, the Saxon data protection officer points out the following:

With regard to the legal assessment of the integration of analysis services on websites and apps, the federal and state supervisory authorities have agreed on a common legal understanding in the orientation guide for providers of telemedia.<sup>1</sup> Legal opinions that were published before May 25, 2018, taking into account the legal situation, such as B. the "Notes of the HmbBfDI on the use of Google Analytics" are outdated and are no longer represented by the supervisory authorities of the federal and state governments.

According to Art. 5 Para. 1, 2 General Data Protection Regulation (GDPR), providers of telemedia are obliged to prove the legality of the processing of personal data for which they are responsible through the integration of analysis services in their offers.

In the case of several analysis services, it is already clear from their terms of use that personal data is processed to an extent that goes beyond what is necessary, or that processing also takes place for the analysis service provider's own purposes. The use of such a service would - subject to a specific examination in individual cases - based on the criteria set out in the orientation guide for providers of telemedia, exceed the scope offered by the legal basis of Article 6 (1) (f) GDPR . In these cases, the use of such services would - if at all - only be based on one of the other possible legal bases from Art. 6 Para. 1 DSGVO, such as e.g. B. an effective consent according to Art. 6 Para. 1 Letter a DSGVO, conceivable.

With regard to the requirements that effective consent must meet in accordance with Art. 6 (1) (a) GDPR, reference is made to the guidelines of the European Data Protection Board on consent<sup>2</sup> and the judgment of the European Court of Justice (ECJ) in the "Planet 49"<sup>3</sup> procedure.

For questions: Andreas Schneider, spokesman for the Saxon data protection officer, This e-mail address is being protected from spambots. To display JavaScript must be turned on!

document.getElementById('cloak51e07bb9627bfbdcf02f5f4b7a6bdc14').innerHTML = "";

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var prefix = '&#109;a' + 'i&#108;' + '&#116;o';
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var path = 'hr' + 'ef' + '=';
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var addy51e07bb9627bfbdcf02f5f4b7a6bdc14 = '&#97;ndr&#101;&#97;s.nice&#101;&#105;d&#101;r' + '&#64;';
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'&#46;' + 'd&#101;';
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var addy_text51e07bb9627bfbdcf02f5f4b7a6bdc14 = '&#97;ndr&#101;&#97;s.sch&#101;&#105;d&#101;r' + '&#64;' + 'slt' +  
'&#46;' + 's&#97;chs&#101;n' + '&#46;' +
```

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'd&#101;';document.getElementById('cloak51e07bb9627bfbdcf02f5f4b7a6bdc14').innerHTML += '<a ' + path + '\" + prefix + '  
+ addy51e07bb9627bfbdcf02f5f4b7a6bdc14 + '\>'+addy_text51e07bb9627bfbdcf02f5f4b7a6bdc14+'<\/a>';
```

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1 [https://www.datenschutzkonferenz-online.de/media/oh/20190405\\_oh\\_tmg.pdf](https://www.datenschutzkonferenz-online.de/media/oh/20190405_oh_tmg.pdf).

2 Guidelines regarding consent in accordance with Regulation 2016/679 (wp 259 rev.01), p. 4, available at:

[https://www.datenschutzkonferenz-online.de/media/wp/20180410\\_wp259\\_rev01.pdf](https://www.datenschutzkonferenz-online.de/media/wp/20180410_wp259_rev01.pdf).

3 CJEU, judgment of 1 October 2019, Case C-673/17 "Planet 49", available at:

[http://curia.europa.eu/juris/document/document.jsf?text=&docid=218462&pageIndex=0&doclang  
=DE&mode=lst&dir=&occ=first&part=1&cid=497860](http://curia.europa.eu/juris/document/document.jsf?text=&docid=218462&pageIndex=0&doclang=DE&mode=lst&dir=&occ=first&part=1&cid=497860).

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