

press release

Indicative assessment of

Microsoft 365 Privacy Conference

Erfurt, November 26, 2022

The TLfDI, Dr. Lutz Hasse, points to the trend-setting evaluation of the data

Protection Conference (DSK) towards Microsoft 365:

1. The DSK accepts the report of the DSK working group "Microsoft-Online-services" and its summary.

2. The DSK provides with reference to the summary of the report states that the proof of those responsible, Microsoft 365 data protection to operate in a legally compliant manner, on the basis of the Microsoft provided "Data protection addendum of September 15, 2022".

can be. As long as the necessary transparency about the

Processing of personal data from order processing for

Microsoft's own purposes not established and their legality

is not proven, this proof cannot be provided.

3. For an in-depth evaluation of the discussion results, the DSK provides the attached summary of the working group results available
tion

Here is a brief explanation: The assessment of the data protection conference is turning

not directly to Microsoft, but to those responsible and states that these

Microsoft 365 cannot be used in compliance with data protection law. Why? The Ver-

According to Art. 5 Para. 2 DS-GVO, those responsible must be able to prove that Microsoft

365 can be used transparently and lawfully. But they can't

as long as Microsoft, according to its own records, has personal information (from

whom?) for their own purposes (which ones?) and no further comments about this

gave power. An example: If a school management as responsible cannot inform the parents and the teaching staff whether when using data of children or teachers are processed by Microsoft 365 and if so, for what purposes, then the parents and teachers cannot informed (see Art. 4 No. 11 DS-GVO) consent and the corresponding information The principal cannot fulfill his obligations (Art. 13 GDPR). nevertheless

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Consent given would be ineffective and therefore there would be no legal basis for the responsible school management (see Art. 6 Para. 1 DS-GVO), the data with Microsoft 365 to be allowed to process. In addition, against this background, the person responsible do not instruct the processor (Microsoft) to use the data in a specific way to process or not to process, as long as Microsoft reserves the right To process data for own purposes - a violation of Art. 28 DS-GVO. Added come the questions of data transfer to the USA.

dr Lutz Hasse: "First of all, I am pleased with the positive response at the data protection renz. My supervisory authority will now - like the other data protection supervisory authorities -

also – with those responsible in the public and non-public area

seek contact to discuss a proportionate implementation of this legal situation.

Here, temporal aspects and alternative paths are the subject of discussion

be."

dr Lutz Hasse

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