

State data protection officer again calls for an immediate stop in the transmission of corona health data to the police

Decree on data transmission by health authorities

Despite clear criticism from the State Commissioner for Data Protection (LfD) Lower Saxony, Barbara Thiel, the Lower Saxony Ministry for Social Affairs, Health and Equality continues to adhere to a decree instructing the health authorities to collect data from corona patients and their contact persons who are in quarantine to the police.

"It is unacceptable and unacceptable that the Lower Saxony Ministry of Health did not follow my request to withdraw the decree, but instead issued another confirming decree to the health authorities last Friday," says Thiel.

With the decree of March 31, the health authorities were instructed by the Ministry of Health to transmit the addresses of people who were in quarantine at home after a positive test for Corona to the police. After it became known on April 3rd, the LfD Lower Saxony asked the Ministry of Health to withdraw the decree, since there is no legal basis for the general transmission of this sensitive health data.

Instead of following this request, the ministry issued another confirming decree to the health authorities shortly afterwards. In doing so, it relies on the Infection Protection Act and the Lower Saxony Police and Regulatory Authorities Act, since no findings were transmitted, only the addresses of the people in quarantine. In addition, it considers the facts of the justifying emergency to be fulfilled.

No basis for the transmission of health data

"I expressly do not share this legal opinion. Of course, the transmitted data is sensitive health data. The data is processed on the basis of the Infection Protection Act with the aim of preventing the spread of communicable diseases. However, the Infection Protection Act does not include a subject-specific authorization to transmit data to the police control centers," Thiel clarifies.

In addition, the conditions of the justifying state of emergency are not given for all persons whose data is transmitted to the police in general.

"Apparently the ministry itself has recognized that it is undeniably health data. After all, the new decree mentions 'patients'," says Thiel. "A complaint we received from a health authority shows that the explosiveness and illegality of the decree have already been recognized by the physicians."

Lower Saxony's Ministry of Health undermines the trust of the citizens

Thiel also criticizes the approach of the Lower Saxony Ministry of Health with regard to the planned apps for identifying contact persons of corona patients: "With this decree, the Ministry of Health is making current efforts at federal level more difficult. It is doubtful whether citizens are voluntarily willing to share their location data if sensitive health data is transmitted to the police in Lower Saxony without a legal basis current contact bans, Thiel continued.

"I therefore repeat my order to the Ministry of Health with all vehemence. The current, illegal and stored data transmission must be stopped immediately," says Thiel.

Finally, the Lower Saxony LfD clarifies that although it is possible to issue orders to authorities or ministries, these cannot be enforced because the state legislature deliberately refrained from granting it more far-reaching and thus also effective powers vis-à-vis public authorities.

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