

Data Protection Officer: Automatic license plate searches on Brandenburg motorways are not permitted

As a result of their comprehensive examination of the automatic license plate recognition (KESY) by the police of the state of Brandenburg, the state commissioner considers its use in recording mode to be inadmissible. She complained about the violations of data protection law to the police headquarters in Brandenburg. In particular, she found that the provision of Section 100h Paragraph 1 Sentence 1 No. 2 of the Code of Criminal Procedure used by the police for the use of automated license plate recognition does not represent a sufficient legal basis. Dagmar Hartge:

“Due to the permanent operation of the recording mode, predominantly uninvolved people who pass the recording devices on the monitored road sections are affected. The collection and storage of this data constitutes an inadmissible interference with their right to informational self-determination.”

Even if the provision mentioned were viewed as a suitable legal basis for the use of the procedure in recording mode, serious data protection deficiencies can be identified. The observation decisions of the public prosecutor's office did not describe the use of the KESY number plate recognition system in recording mode as a specific technical means. The police also did not ask for a corresponding clarification, but decided on the scope of the data processing themselves. In doing so, she violated the principle of data economy and the principle of necessity under data protection law. In addition, from the point of view of the state commissioners, the police are obliged to check the license plate data collected over months or years to see whether it is necessary to store it for pending proceedings and to delete the data that is no longer required. The storage of data that is no longer required is not permitted. A missing but required separation of the data collected and stored for the respective investigations in the software used also makes immediate deletion more difficult. The main reason for this problem is not least the large number of procedures running in parallel. Finally, the police failed to grant access rights to the stored number plate data based on strict necessity criteria. Only those people who absolutely need it may have access to such data.

In the meantime, the police have taken measures to only activate the recording mode in cases where there is a sufficiently specific order from the public prosecutor's office. It has also reduced the number of usage authorizations. However, the license plate data that has already been collected remains stored; this does not eliminate the alleged violation of data protection law. At the same time, the state commissioner therefore issued a warning in the event that the procedure with the deficiencies complained about is continued.

ID number 01/2020

Date 06.01.2020

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