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Federal Administrative Court: Video surveillance in the reception area of a dental practice in Brandenburg is not permitted

On Wednesday, March 27, 2019, the Federal Administrative Court ruled on video surveillance in a dental practice in Brandenburg. The camera installed there captured the reception and waiting area, which is accessible to everyone. She transmitted what was happening on monitors in the treatment rooms in real time, but without saving the images. The state representative had instructed the dentist to align the camera in such a way that the area accessible to patients and other visitors was no longer recorded. The Federal Administrative Court confirmed the legality of this order in the current appeal proceedings.

The Federal Administrative Court clearly regarded the strict data protection requirements for the necessity of video surveillance as not being met. In particular, it did not find any indications that justify the dentist's fear that people could enter her practice to commit crimes there. Contrary to what the plaintiff assumed, video surveillance is also not necessary in order to be able to look after patients who are sitting in the waiting room after an anesthetic injection in an emergency. The lower court had already made it clear that milder means also serve these purposes - for example the use of additional staff. The Federal Administrative Court was not convinced by the plaintiff's blanket reference to significantly higher costs if she did not have a camera. Costs alone cannot justify the need for video surveillance.

According to the decision of the Federal Administrative Court, the General Data Protection Regulation, which has been in force since May 25, 2018, does not apply to the order issued by the State Commissioner before this date. The current verdict is therefore based on the old version of Section 6b of the Federal Data Protection Act. In the oral discussion, however, it already became clear that video surveillance would not be necessary even on the basis of Article 6 (1) (f) of the General Data Protection Regulation. For further details of the justification, it remains to be seen when the written judgment is available (reference number: BVerwG 6 C 2.18).

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