

Press release of the conference of the independent data protection supervisory authorities of the federal and state governments from January 25th, 2022

Expert Opinion on U.S. Surveillance Laws

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The German data protection supervisory authorities today published the results of an external report on the scope of certain access rights granted by US security authorities. It shows that numerous constellations in which US service providers are involved in data processing can be problematic in terms of data protection law.

Prof. Ulrich Kelber, Federal Commissioner for Data Protection and Freedom of Information and Acting Chairman of the Conference of Data Protection Commissioners of the Federation and the States (DSK) says about the classification of the report: "The results of the commissioned, independent report control important aspects for the analysis of the legal relationships in the USA. The independent data protection supervisory authorities will now discuss how the results will feed into supervisory and advisory practice."

In the "Schrems II" judgment, the European Court of Justice (ECJ) had, in the context of examining the EU-U.S. Privacy Shields has examined the legal situation in the USA in detail with regard to whether there is an adequate level of protection in the USA for personal data transmitted there from the EU. In practice, however, there are still open questions for the bodies that export the data. According to the "Schrems II" judgment and the recommendations of the European Data Protection Board based on it, data exporters must check whether the legal situation and practice of the recipient country can affect the data protection guarantees of their specific transmission.

Under the leadership of the Berlin Commissioner for Data Protection and Freedom of Information, a task force of the data protection supervisory authorities had Professor Stephen I. Vladeck, University of Texas, Austin, an expert in US secret

service law, with the assessment of additional questions that frequently recur in supervisory practice instructed.

The report is published in full text together with a description of its main findings

<https://www.datenschutzkonferenz-online.de/vladeck>.

Further information on the data protection conference:

www.datenschutzkonferenz-online.de

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