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Data protectionists adopt the Hambach declaration on artificial intelligence Kugelman, the 97th conference of the independent data protection authorities of the federal and state governments (DSK) met on April 3rd and 4th, 2019 at Hambach Castle. The historic location of the struggle for freedom was chosen to illustrate the will of the German data protection supervisory authorities to stand up for effective protection of fundamental rights and to make their contribution to securing freedom in the digital world.

State President Hendrik Hering welcomed the participants and highlighted the connection between democracy and data protection. He highlighted:

“Parliaments and data protection commissioners are allies when it comes to protecting the self-determination of citizens in a democratic society. Independent and professional data protection is essential. It is essential to ensure both transparency where possible and privacy and confidentiality where needed.”

Hambach Declaration on Artificial Intelligence One focus of the conference was the discussion of artificial intelligence (AI). The German data protection supervisory authorities have passed the Hambach Declaration on Artificial Intelligence. She cites as an example the use of AI systems in medicine, especially in diagnosis, in language assistance and in the evaluation of application documents in the selection of applicants. Seven requirements are derived from the applicable data protection law, which must already be complied with today. The use of AI systems must be comprehensible and explainable, contain the principle of data minimization, avoid discrimination and require technical and organizational standards. The data protection supervisory authorities want to accompany the development and call on science, politics and users to control the development of AI in terms of data protection. In essence, it is about the fact that in the end people and not machines decide about people.

Brexit – Precautions by the supervisory authorities for an unregulated exit of Great Britain from the EU The DSK has discussed the consequences of an unregulated Brexit. Already on March 8, 2019, she passed a resolution that refers to the legal obligations of those responsible in the event of an unregulated departure. In the event of an unregulated exit, the United Kingdom is to be regarded as a third country within the meaning of the General Data Protection Regulation and data transfers there are to be secured separately accordingly. In the absence of such safeguards, data processing could be suspended and fines imposed.

Hacker attack - guidelines for providers
In response to the hacker attack on politicians and public figures in January 2019, data protection officials adopted a guide "Requirements for operators of online services to secure access". It recommends state-of-the-art access security measures for online services. These relate to specifications for the structure, transmission, storage and use of passwords as well as how to deal with attacks and failed login attempts.

Applicability of the Telemedia Act for non-public bodies
As a supplement to the position statement of the data protection conference of April 26, 2018 regarding the applicability of the Telemedia Act for non-public bodies from the entry into force of the General Data Protection Regulation, an orientation guide was adopted. The orientation guide deals with the validity of the Telemedia Act within the framework of the effectiveness of the General Data Protection Regulation and points out that the weighing of interests within the scope of Article 6 Paragraph 1 lit. f of the General Data Protection Regulation should be related to the specific individual case. In particular, it uses examples to substantiate the balancing of interests when using tracking tools.

Position paper on biometric analysis
The number of analyzes of video recordings in which facial features are recorded and evaluated, e.g. by analyzing facial expressions to draw conclusions about a person's emotional state (emotional decoding) or to measure the effectiveness of advertising and more precisely to the desired Tailoring audiences is on the rise. The data protection conference has therefore drawn up a position paper in which the relevant procedures are legally evaluated and recommendations for design are derived.

Facebook fan pages – joint responsibility
After the judgment of the European Court of Justice on Facebook fan pages, the DSK issued a decision on the (further) operation of Facebook fan pages. This makes it clear that fan page operators must guarantee the legality of the data processing for which they are jointly responsible and must be able to demonstrate compliance with the principles of processing (Article 5 (1) GDPR). The DSK underlines the data protection responsibility of both Facebook and the fan page operator and expects them to fulfill their responsibility accordingly.

Further information:
Hambach Declaration (German/English)
Brexit
Orientation for online service providers
Orientation for telemediaposition paper on biometricspositioning on Facebook fan pages
Resolution on the interpretation of the term "certain areas of scientific research" according to Recital 33 of the General Data Protection Regulation
Resolution on the liability of companies for data protection violations by their employees

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