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European Data Protection Board adopts guidelines for the interpretation of Art. 6 Para. 1 b GDPR

With the "Guidelines for the processing of personal data on the basis of Article 6 Paragraph 1 b GDPR in the context of online services" adopted yesterday, the European Data Protection Board limits the possibility for companies to process user data on the legal basis "performance of a contract " to support.

The Federal Commissioner for Data Protection and Freedom of Information, Ulrich Kelber, expressly welcomes the acceptance of the guidelines: The GDPR rightly sets strict requirements for the admissibility of consent. It is unacceptable for companies, such as social network providers, to get around this by including data processing that actually has nothing to do with the provision of an online service in the text of the contract. The guidelines that have now been adopted make such an approach significantly more difficult and thus strengthen the self-determination of citizens in terms of data protection law.

According to Art. 6 Para. 1 b GDPR, the processing of personal data is permitted insofar as it is necessary for the fulfillment of the contract. The new guidelines make it clear that the assessment of whether data processing is necessary for the performance of a contract does not depend solely on what is agreed in the contract. Rather, an evaluative decision is necessary, taking into account the data protection principles laid down in Art. 5 GDPR, such as economy, fairness and transparency. For example, data processing for the purposes of personal online advertising cannot be based on the legal basis "performance of a contract".

Interested parties will be able to comment on the paper in a public consultation over the next few weeks.

contact finder

Here you can find out in just a few clicks who is responsible for your inquiry or complaint about data protection.

public bodies

The term public body not only includes the traditional administrative authorities, but also courts, parliaments and public foundations. This also includes social insurance, such as health insurance.

company

Private companies are mostly supervised by state authorities, but there are some exceptions. Private organizations such as clubs and associations also fall into this category.

Press, radio, church

Special responsibilities apply in these areas. Churches and public broadcasters have e.g. B. via their own data protection officers. The federal and state supervisory authorities are not responsible for other organizations either.