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P r e s s e release

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The new Berlin Data Protection Act – a missed opportunity

Today, Thursday, the Berlin House of Representatives has the new Berliner

Data Protection Act passed. The Berlin Commissioner for Data Protection and

Freedom of information, Maja Smoltczyk, regrets that with this law the rights of

Those affected and the powers of the data protection supervisory authority are significantly restricted.

The law does not provide for the possibility for the data protection supervisory authority, nor for fines

to impose on public bodies that do not participate in the competition. this leads to

to an unjustifiable privileging of public versus private bodies. About it

In addition, according to the will of the legislature, the supervisory authority also has no power

enforce formal orders against public authorities if

these are not followed. In the field of law enforcement and correctional authorities,

like police and prosecutors, the new law sees even a simple one

Right of objection for the Berlin Commissioner for Data Protection and Freedom of Information

instead of effective powers to issue orders. This contradicts European law

Specifications that are also effective for this sensitive public area

provide funds.

Berliners also have the information and information rights of citizens

Legislators are significantly restricted, contrary to European regulations. That's how it looks

For example, the law stipulates that those affected already have the right to information from the authorities

can be restricted if this leads to the prosecution of administrative offences,

such as illegal parking, would be at risk. This is contrary to European law, since the European

Regulation provides for a restriction of information rights only in the case of serious risks,

such as B. in the prosecution of criminal offenses or threats to national security.

In addition, the legislature has decided to remove entire areas of the Berlin administration from exempt from an independent data protection control. This applies e.g. B. for the Data processing at the Court of Auditors. Since at the same time the information rights of those affected be completely excluded from the Court of Auditors, there are none Control authority for data processing there. Such a privilege does not enjoy once the Federal Court of Auditors.

Maja Smolczyk:

“Effective data protection in the public sector is significantly restricted with this law.

The fundamental rights of the people must not only face the big Internet corporations be effectively protected. State institutions also process a large number, sometimes very sensitive personal data. In connection with the denied

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seen the consequences of incorrect handling of such data not only for individuals, but also for our democracy.

Sweeping your own door requires openness and courage. That's what this one is all about

Legislative process lacking. Instead, politicians in Berlin decided a lot

to leave things as they are and the Berlin administration of some European obligations

to keep free. An opportunity was missed. It sends the wrong signal to the citizens

and citizens whose fundamental right to data protection has been severely restricted, and the many Companies and associations of this city, ready to face the great challenge of the new Set data protection rules conscientiously."

background

The Berlin Data Protection Act specifies and supplements the regulations of the data protection Basic regulation for Berlin authorities and other public bodies in the state of Berlin.

With the law to adapt the Berlin Data Protection Act and other laws

the General Data Protection Regulation ((EU) 2016/679) and implementing the Directive ((EU) 2016/680) on the protection of natural persons with regard to the processing of personal data

by the competent authorities for the purpose of prevention, investigation, detection or

Prosecution of criminal offenses or the execution of sentences (Berlin Data Protection Adaptation and EU Implementation Act - BlnDSanpUG-EU) became the previous Berliner

Data Protection Act and other laws recast with the aim of meeting the requirements for the

to implement the European General Data Protection Regulation and the so-called JI Directive.