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Register Modernization Act jeopardizes the right to informational self-determination – Kugelmann:

Personality profiles must not be used (Tax ID) as a central classification feature in public administration to facilitate data exchange between authorities. After the Bundestag had already adopted the law at the end of January, the final consultation in the Bundesrat is now planned.

The data protection conference had already expressed considerable constitutional concerns in 2019 and 2020. The creation of such a uniform and cross-administrative personal identifier - also in connection with a corresponding infrastructure for data exchange - poses the risk of abusive linking of personal data and the creation of comprehensive personality profiles.

The State Commissioner for Data Protection and Freedom of Information (LfDI) Rhineland-Palatinate, Professor Dieter Kugelmann, says: "If the law is implemented in the present form, government agencies could create an extremely revealing personality profile of their citizens. This opens up possibilities for misuse, for example by individual, external people or due to hacker attacks. In times of the pandemic and the rapidly advancing digitization, however, it must be about creating trust and not stirring up fears. The central goal must be that the administration works quickly, effectively and in accordance with data protection. The alternative are area-specific solutions." The Federal Constitutional Court has imposed narrow limits on the introduction of personal identification numbers, which are disregarded in the present draft law. A look at the scope of application of the planned regulation shows the potential for possible misuse. The tax ID is to be included as an additional classification feature in over 50 registers. In this way, for example, data from the population register could be compared with data from the register of insured persons of the health insurance companies and the register for supplementary help with living expenses and combined into a personality profile. The technical and organizational safeguards provided for in the draft law are not sufficient to effectively prevent such a profile being formed. Although these ensure that only authorized authorities transmit the necessary data in end-to-end encrypted form, they do not offer sufficient protection against abusive merging of data on a person from different registers. In addition, the law dispenses with these safeguards for a not inconsiderable part of the transmissions. In addition, the security and transparency measures of the draft law should also extend to the tax area, in which the new general personal identifier will also be used from now on. The extensive use of the tax ID as a uniform personal identifier also contradicts its original function for purely tax-related matters. Only because of this purpose could it be regarded

as constitutional.

In contrast, the data protection conference had called for "sector-specific" personal identification numbers that are data protection-compliant and at the same time practical because, on the one hand, they make a unilateral state comparison significantly more difficult and, on the other hand, they clearly identify a natural person. This model has been successfully practiced in Austria for many years and could also be introduced in Germany with reasonable effort, as was explained by several experts in the Bundestag hearing on December 14, 2020. This is particularly important in times of extensive digitization of state processing to base these on structures that ensure that the right to informational self-determination is reliably guaranteed even if the framework conditions change.

The data protection conference is again appealing to the legislator to refrain from the planned redesign of the tax ID as a cross-register personal identifier. Further information:- DSK resolution of September 12, 2019 DSK resolution of August 26, 2020 on the Register Modernization Act

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