

Bonn/Berlin, March 22, 2021

Press release 6/2021

BfDI criticizes the amendment to the Federal Police Act

The Federal Commissioner for Data Protection and Freedom of Information (BfDI), Professor Ulrich Kelber, considers the planned new version of the Federal Police Act to be constitutionally questionable: the powers of the Federal Police are to be expanded and aligned with the possibilities of the Federal Criminal Police Office. This fails to recognize that the Federal Police is a special police force with a limited range of tasks. It is intended to protect train stations, airports and the national border. In the future, the federal police should be able to preventively monitor the telecommunications of citizens. This also applies to cases without a concrete initial suspicion. In view of the depth of such an encroachment on fundamental rights, the threshold would be set much too low. In addition, the federal police should be able to use what is known as a "source TKÜ", which can ultimately be used to infiltrate and spy on smartphones and laptops. The problem with this is that security gaps have to be exploited in a targeted manner. This lowers the security level for all digital communication devices. Finally, the federal police should also be given the opportunity for a "real" online search.

The power of the federal police to carry out identification measures such as taking fingerprints or taking photos of a person is to be extended with the new draft to cases of crimes that have not yet been committed. Here, too, the question arises as to whether the encroachment threshold provided for in the draft law will stand up to a possible review by the constitutional court. The European guidelines on the main supervisory powers of the data protection authorities are only partially implemented in the draft. This places unnecessary hurdles on the BfDI for exercising its data protection control. This is particularly problematic because elsewhere the previously planned preliminary data protection check and advice by the so-called establishment orders has been deleted without replacement:

That damages the rule of law. Due to the inadequate implementation of my powers in national law, I consider infringement proceedings by the EU Commission against the Federal Republic of Germany to be possible.

The BfDI issued a written statement to the German Bundestag on the amendment to the Federal Police Act.

contact finder

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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.