

The Bavarian State Commissioner

for data protection

The Hessian representative for

Privacy and Freedom of Information

Microsoft Office 365: Assessment of data protection

conference too undifferentiated – improvements

nonetheless required

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Stuttgart, Munich, Ansbach, Wiesbaden, Saarbrücken

The conference of the independent data protection supervisory authorities of the federal and state governments

(Data Protection Conference) has the assessment of its working group administration for order processing

processing at Microsoft Office 365 from July 15th, 2020

taken. The working group was “based on the use of the Microsoft Office 365 product

lying Online Service Terms (OST) as well as the privacy policy for Microsoft

Online services (Data Processing Addendum / DPA) - each as of: January 2020”. The

Paper comes to the conclusion that on the basis of the documents mentioned, no data protection

right use of Microsoft Office 365 is possible.

The decision of the data protection conference was made with a narrow majority of 9 votes

with 8 votes against. Those who spoke against the unrestricted approval included the

State Commissioner for Data Protection in Baden-Württemberg, Bavaria, Hesse and Saarland

and the President of the Bavarian State Office for Data Protection Supervision, which is responsible for

Microsoft Germany GmbH is responsible.

The data protection supervisory authorities of Baden-Württemberg, Bavaria, Hesse and Saarland

make it clear that they, too, can make significant data protection improvements with Microsoft Office 365

see potential for improvement, especially with a view to the most recent decision by the European

Court of Justice on international data transfers of July 16, 2020 (C-311/18 – Schrems II). She

therefore support the objectives of the working group in principle, insofar as they have starting points

for data protection improvements of the Microsoft Office 365 product. His

However, they cannot share the overall assessment because they are too undifferentiated

fails. In addition, the working group on administration based its assessment on

stipulations, which Microsoft has already revised twice in the meantime.

Finally, the findings of the European Court of Justice on the requirements

changes of the General Data Protection Regulation to international data transfers are taken into account

become.

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Against this background, the data protection supervisory authorities of Baden-Württemberg, Bay-

erns, Hesse and Saarland the assessment of the working group administration from 15 July

2020 as a relevant working basis, but not yet considered ready for a decision. The

This is all the more true as Microsoft has not yet had a formal hearing on the ratings

of the working group on administration, how to ensure a fair, constitutional process

heard.

The five data protection supervisory authorities welcome all the more that the data protection conference

unanimously set up a working group, which was led by the state representative for

data protection in Brandenburg and the Bavarian State Office for Data Protection Supervision in a timely manner

to start talks with the manufacturer.

dr Stefan Brink, Prof. Dr. Thomas Petri, Michael Will, Prof. Dr. Michael Ronellenfitsch and Moni-

ka Grethel: "We agree with the entire data protection conference that the legal

certainties in dealing with data protection law with Microsoft Office 365 are corrected in a timely manner

must. It would be good if the newly established working group respected the conference

Rule of law principles that the manufacturer will soon be launching its Microsoft Office 365 product

and improve it sustainably in terms of data protection law. In a constructive dialogue with Micro

soft have to be discussed in particular the standards that are based on the latest

Jurisdiction of the European Court of Justice must be observed in the case of third-country transfers."

dr Stefan Brink

State representative for data protection and freedom of information in Baden-Württemberg

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Bavarian State Commissioner for Data Protection

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