

Annex to the press release:

Important topics of the report of the Berlin Commissioner for Data protection and freedom of information for the year 2020

As in previous years, the plan presented today for 2020 also includes submitted the annual report of the Berlin Commissioner for Data Protection and Information tion freedom (BlnBDI) Topics across all areas of life. The consequences- The selected topics are intended to give an impression of the variety fold of the facts, with which the supervisory authority in relation to last year:

The year 2020 in numbers

Of the approx. 400 submissions that are made monthly to the Berlin representative for data protection and freedom of information, a large part concerned the pandemic-related shift of various areas of life to the digital, the affected almost all citizens. The the- digital teaching and video conferencing services are taking up a lot of space. Size The rules for contact tracing also attracted attention.

The annual report contains clear statistics on complaints arise, the procedures followed and the measures taken (Chapter 20.6, pp. 262-263 and chap. 21, pp. 274-279).

A total of 925 cases of data breaches were reported to the Berlin Data Protection commissioned by companies and authorities last year reports. The supervisory authority received reports from the medical sector. But also in other sensitive areas such as that of Unions and banks, the volume was large (chap. 18.1, p. 238 – 240).

With every reported data breach, the authorities sometimes have to do a lot of work  
verify that those responsible for eliminating the identified  
implement necessary measures. Which this specifically  
can be, the annual report shows clearly on the basis of the heavy  
Malware infestation at the Berlin Court of Appeal (Chapter 18.2, pp. 240-243).

#### Effects of the Corona Pandemic

The dominant theme of the 2020 reporting year was the consequences of the  
corona pandemic. The BlnBDI sat down on both Berliners and  
advocate the numerous measures at national and European level  
to fight the pandemic in accordance with data protection  
develop. The annual report explains this using the example of the  
Creation of the Corona-Warn-App, a study by the Charité to record  
symptoms and how to use contact tracing lists. white  
More important issues are fever measurements in shops and the enforcement  
increase in the obligation to wear masks in schools and in local transport (chap. 1.1, p. 19 –  
33).

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The instructions from the BlnBDI on data protection

compliant use of video conferencing systems. In addition to direct

She did not publish any advice from those responsible and providers

only general recommendations for users, but also the results

extensive legal and technical examination of various

those common services, to deal with the countless inquiries about this

to provide guidance on the topic. Meanwhile, many providers in close

Exchanges with the authority responded and quite a number of originally

existing technical and legal deficiencies eliminated, so now

some privacy-friendly products are available (chap. 1.3, p.

41-46).

In the Berlin schools, too, lessons had to be canceled from one day to the next

to others at a distance, with students and teachers

te was confronted with years of omissions in digitization

were. The annual report explains how the BlnBDI committed itself to this in the reporting year

that children and young people in digital lessons can be carefree and

can learn unobserved, without them being aware of the company

Look at your shoulder (chap. 1.4, pp. 46-54).

However, the BlnBDI encountered significant deficits in digitization

not only in the education sector, but also in other areas of

administration. The BlnBDI campaigned to slow down the pace of large-scale digitization to accelerate development projects while protecting data protection from the start to think along. Important projects such as the "digital application" with which Administrative services are now largely provided electronically can be implemented last year (Chapter 2, p. 61 – 64).

The aftermath also had enormous effects on the Berlin economy  
Plaintiff named "Schrems II" decision of the European court of justice The court overturned the so-called "EU-US Privacy Shield", this has so far been the legal basis for the transmission of personal data Data in the USA was valid. It made it clear that personal data can only be transmitted to the USA under very strict conditions allowed to. The BlnBDI welcomed the verdict and stood by those responsible in Berlin with regard to the consequences in an advisory capacity (chap. 1.3, pp. 34 - 40).  
police

For several years, the BlnBDI has been checking personal pulled data in police databases that are related to right-wing extremist death threats. The persistent denial the police to support the supervisory authority in its work she formally objected to last year. (Chap. 3.1, p. 65 – 67).

Based on a submission, the supervisory authority also checked whether and to what extent the Berlin police in their work ethnic personalities recorded in their files. She found that the ethnicity was often recorded even if this was for the police work would not have been necessary. Also this inadmissible Processing of particularly sensitive personal data has

pending (chap. 3.5, p. 76 -- 79).

On the other hand, the introduction of a citizens' and police officers in the state of Berlin as an external ombudsman who

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control all processes independently in the interest of the citizens target. The legislator has the data protection concerns of the BlnBDI with regard to the original draft law and is now more into account (Chapter 3.3, pp. 70-73).

#### Education & Family

Sensitive information was also the subject of a complaint against the Procedure for Awarding a Scholarship. In the application process which the candidates are asked to provide information about their religion and to make their origin. The BlnBDI presented the result of their examination states that such data may only be requested on a mandatory basis if it is essential for the application process. This was at the

This is not the case with the existing scholarship program (chap. 16.2, pp. 218 – 220).

The supervisory authority repeatedly dealt with inquiries as to when and under which conditions film and photo shoots in day-care centers facilities are made and to whom they may be passed on.

In order to meet the high need for advice, the BlnBDI has in common the brochure with the Senate Department for Education, Youth and Family "Data protection for image, sound and video recordings. What's in the in the day-care center?" in a fundamentally revised version 2nd edition published (chap. 4.2, p. 91).

#### Privacy at work

In the area of employee data protection, the BlnBDI dealt with

among other things with the so-called 360-degree feedback at the workplace is being used in more and more young companies in particular. Included the work performance of employees is no longer only determined by superiors te, but by several colleagues from both higher and lower ranks rated lower positions. Although this potentially enables more precise assessment of the work performance of employees. the opposite However, there is a risk that the processing of personal data data is inadmissibly expanded. In the annual report, the supervisory authority under what conditions such a system may be permitted can (chap. 8.1, pp. 124 – 126).

## Reside

The data protection officer had to intervene, for example, in the event of a Property management, which increasingly uses digital keys in a property used cards instead of physical keys. Such systems poses significant threats to the privacy of tenants comprehensive presence profiles can be created for them. The BlnBDI found that the digital data processing for the tenancy is not is necessary and such systems are therefore only used voluntarily (Chap. 9.3, pp. 135 - 137).

## economy and finance

The issue of identity abuse when ordering gen on the internet. It is still evident that online dealers with conspicuous abilities that indicate possible fraud are not sufficient

Provide control mechanisms to prevent identity abuse.

In addition, those affected are often asked to clarify such fraudulent cases more difficult because they are given information about the unlawful

positions are often refused. The BlnBDI works persistently on Berlin-  
a company to make their ordering and dunning procedures more risk-aware  
(Chap. 10.1, pp. 148 - 150).

The question of how far the statutory right to information about the processing  
processing of one's own data is always a reason for complaints.

A particular point of contention is whether it is sufficient if responsible persons  
only the categories of recipients of personal data  
name - i.e. banks, authorities or service providers, or whether

Rather, all recipients are specifically named

Need to become. In the case of a complaint against a bank, the BlnBDI decided  
that those responsible in principle inform the data subject in addition to the general  
in categories also indicate the specific recipients of data  
must (chap. 11.2, pp. 174 – 175).

The processing of  
data from collection agencies, above all the question of when receivables  
payments may be reported to credit bureaus. Basically can  
creditors debt collection companies without the consent of the  
persons concerned with the assertion of their claims  
generate and transmit the necessary personal data

(Chap. 10.6, p. 159). As an example, the annual report explains a case in  
which S-Bahn Berlin GmbH processes the personal data of a driver  
guest who was found without a valid ticket to an in-  
cash collection company (chap. 12.2, pp. 178 - 180).

A complaints procedure against a banking institution was not quite so commonplace.

Example: A customer complained to the BlnBDI because his bank repeatedly

had his credit card blocked and he suspected identity theft.

After intervention by the supervisory authority, the bank determined that the nasty blocking by the employee of a technical service provider had been caused to settle a family quarrel in this way.

gene wanted. The case shows: illegal manipulation of Banksys-temen are threatened not only by attacks from outside, but also from within (Chap. 11.3, p. 176).

Equally unusual was the case of one complainant about whom a credit agency a total of 14 different dates of birth and 26 postal had stored lic addresses. This led to a company men wanted to collect the debts of a namesake from him. the up

The supervisory authority examined the case and admonished the credit agency, only factually process correct data. She obligated the company to help technical and organizational measures to ensure that improper Current data can be corrected or deleted immediately (chap. 12.5, p. 184 – 185).

Traffic

The BlnBDI also dealt with the data protection implications effects of the corona pandemic on people with low incomes.

Due to the closure of the Citizens' Registration Offices, no new en Berlin passes issued, which, for example, serve as proof of arrival entitlement to the discounted social ticket for bus and train are required.

Instead, in the event of a check, those affected had to present the original of the decision on the receipt of social benefits. There such a notification contains a large number of sensitive data, the



supervisory authority approached the responsible bodies in order to  
to discuss more protection-friendly alternatives (section 12.1, p. 177).

video surveillance

In a pilot phase, Deutsche Bahn wanted to use its test station in southern  
kreuz camera systems for the automated detection of hazardous  
test situations. The systems from three different providers should  
typical hazardous situations, such as people lying on the ground,  
objects or entering certain zones on the platform,  
know and report to the staff in the video control center. In fact,  
which generates so many false alarms or fails to recognize situations that  
the results of the test operation raise serious doubts about the data protection  
legal admissibility of their use (chap. 13.2, p.  
187-190).

Tracking on websites

A very important topic was again the increasing tracking, i.e. the  
Tracking of individual behavior on the Internet. In the meantime  
it is less about cases in which no attempt was made in the first place

Consent of website visitors to analyze their online  
conduct, but to ensure the effectiveness of the consent  
by so-called cookie banners. Website visitors are often  
chers through clever design of the consent banners  
seduced by quick consent, really informed without their consent  
and to have given it voluntarily, as actually required. offered

In view of the growing problems for privacy, those in  
questions not only to us, but also to them

Courts will certainly be busy for a while (chap. 15.1, p. 198 -

203).

legislation

After the legislator has extended the implementation period for the adjustments to the

Berlin state law to the requirements of the European data protection

Basic Regulation had exceeded more than two years, the now

more adjustments that have been made, there are still sensitive gaps. Just in

Significant shortcomings can be identified in the area of data protection supervision.

The reformed Berlin Data Protection Act does not only restrict that

Citizens' right to information about the personal data processed

processed data to certain authorities. The parliamentarians

They also continue to withdraw their own work from any data protection

Control. There is still a lack of effective enforcement in the police sector

executive powers provided for by European law. The ones from

Expert committee for this legislative period announced evaluation of

Berlin Data Protection Act is still a long time coming (Chapter 17.1., p.

221-223).

In the summer, the Berlin Senate gave the key points for the long-awaited and

transparency law provided for in the coalition agreement, with which

outdated Freedom of Information Act (IFG) to be replaced

target. Unfortunately, the BlnBDI was included in the first versions of the

planned law asserted, partly massive criticism in the finally pre-

submitted draft law is not taken into account. The design looks so far-

sufficient exemptions for public institutions that

its adoption in the form presented would rather lead to a deterioration

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change compared to the previous legal situation and therefore not to

a further, but a backward development of the IFG (chap. 19.2.2, p. 246-253).