

The Bavarian State Commissioner

for data protection

Publication of the 32nd Activity Report 2022

The Bavarian State Commissioner for Data Protection

presents the results of his work in 2022

Munich, June 14, 2023

"This regulation contains provisions for the protection of natural persons in the processing of personal data and the free movement of such data." With these words begins the General Data Protection Regulation, which came into force recently on its fifth year anniversary. The fact that data protection law also includes the free movement of personal data, sometimes gets out of sight in everyday national life - unlike with the Union legislator, who defines the relationship between data protection and the free movement of data time, guided by the European data strategy, in numerous standard-setting processes concretized. The discussion about the European health data space is just one prominent example. As the representative of the German states in the European data protection committee, I would like to use my 32nd activity report to contribute to critically examine the regulatory approaches discussed. After all, it is data protection policy decisions that will be made over the course of the next few years and beyond will also have consequences for the citizens of Bavaria (article no. 1.1).

Of course, the activity report primarily deals with my task, compliance with the General Data Protection Regulation, the Bavarian Data Protection Act and others. To monitor regulations on data protection at the Bavarian public authorities.

As in previous reporting periods, I continue to pursue a preventative

Approach: Good data protection does not primarily react with harsh sanctions to spectacular data breaches, but tries to guide how to avoid them.

A key tool is the transfer of knowledge. I want as many as possible

enable Bavarian public authorities to process personal data

to design data in a legally compliant manner in their respective area of responsibility. Therefore I have in

In the reporting period, my information technology, which is now probably the leading one in Germany

range of services for the public sector further expanded and updated. Contribution No. 2.1

gives an overview. I would like to use general data protection law as examples

mention contributions no. 2.2 and 2.3, in which Bavarian public authorities learn what

when sending hybrid letters and when using external fonts on websites

must be observed.

Preventive data protection includes advising those involved in legislation

bodies, in particular the state ministries. My involvement in the relevant

driving is in accordance with Art. 16 Para. 3 Bavarian Data Protection Act and § 7

Para. 4 Clause 1 Rules of Procedure of the Bavarian State Government mostly smoothly. I

get involved early on, and my hints will be heard, my suggestions for improvement

gratifyingly often taken up. In the reporting period, however, there was also a

The Bavarian State Commissioner for Data Protection

80538 Munich | Wagnmüllerstrasse 18 | Telephone: +49 89 21 26 72-0

poststelle@datenschutz-bayern.de | <https://www.datenschutz-bayern.de>

G

n

and

I

i

e

t

t

i

m

e

s

s

e

right

P

Publication of the 32nd activity report

BayLfD | press release

gene example. This changed with the amendment to the Bavarian University Hospital Act

responsible state ministry my detailed reasons for data protection

largely closed to nita and introduced processing regulations that

Reduce patient rights unilaterally in favor of research interests. The reorganization

appears in view of the current regulation of the European health data

tenraums also as hasty (article no. 7.1).

At the Bavarian police, I have continued the efforts to introduce a

cross-driving research and analysis platform (VeRA). In

my advocacy of a framework for action that is acceptable under the rule of law, I

received support from the Federal Constitutional Court. In a decision on the police

quite a few other federal states, the court took up arguments that I have always had

counter the Bavarian police (article no. 3.1). Supposedly smaller successes could

I use, for example, the acceleration of information procedures and the use of private

father's smartphones by police officers (articles no. 3.2 and 3.4). In the area

of the Office for the Protection of the Constitution I have given the Bavarian State Parliament a moratorium on deletion

ria, which the work of the NSU investigative committee

are intended to make things easier, but raise data protection problems (article no. 3.5). In the

Justice, my supervisory competence does not extend to judicial activities; to

However, I had to check data transmissions from public prosecutors

Youth welfare offices and immigration authorities (Articles No. 4.2 and 4.3). to one

I have a formal notice from the notary due to unauthorized inspection of a land register

objection expressed (article no. 4.5).

As far as the municipal sector is concerned, I have fundamentally decided on the regulatory

opportunities expressed that municipalities are entitled to in data usage statutes (article

No. 5.1). Municipalities cannot create their own data protection law, which as a

simply pushing aside perceived restrictions. You should have some wiggle room though

know, which may be filled in by local law. I have a thorough examination

subjected to the e-ticket system of a municipal transport company (article

No. 5.2). A need for optimization could be identified in some details. The GE-

As a registration authority, I would like to draw your attention to the fact that

information may only be given from the local registration database and an additional

automated retrieval from the central register of foreigners, also for the purpose of administration

simplification must not be set up (Contributions No. 6.2 and 6.3). My advice

activity in the creation of uniform regulations for the use of state

data centers as a processor, I continued to

leads (article no. 6.1).

In the field of social and health administration, many data protection issues are

connection with the COVID-19 pandemic has now been clarified, and in some cases they are also on

lost interest; In this respect, topics were still the symptom query by health

health offices or the vaccination status query for visitors in public

hospitals (amounts no. 7.2 and 7.4). In addition, "corona-free" data protection issues

such as the evaluation of the Bavarian Cancer Register Act or the data protection

Legal responsibility in on-call practices of the Association of Statutory Health Insurance Physicians

to appreciate Bavaria (articles no. 7.3 and 7.5).

2

Publication of the 32nd activity report

BayLfD | press release

In the case of tax and financial administration, the function of the data protection supervisory authority widely assigned to the Federal Commissioner for Data Protection and Freedom of Information grasslands; this also applies to the Bavarian tax offices. Tax law starts with a special the regulation to nationwide centralization. To mean new questions of demarcation However, responsibilities arose in the reporting period due to the introduction of the baye ric property tax. Regarding the administration of this state tax, I am currently seeing me as the competent data protection supervisory authority (article no. 8.1). My first experiences I have presented struggles with exercising this responsibility for some case groups (Contribution No. 8.2).

In the area of personal data protection, questions arose about the processing of immunity provide proof of the facility-related compulsory vaccination (Contribution No. 9.1) in the future related to the COVID-19 pandemic. In two noteworthy individual cases there were formal complaints about public work that was too keen on documentation giver; this was about a covert audio recording of the statements of an employee agreed during a video conference (article no. 9.3) and – once again – for the illegal galen use of tracking systems in service vehicles (article no. 9.4). A fundamental contribution (No. 9.5) is dedicated to the fate of official e-mail Accounts of a deceased professor who is still active at his university after retirement was.

As far as data protection in schools and colleges is concerned, I have in the reporting period a revision of the relevant provisions of the Bavarian law on the education and teaching system, the Bavarian school regulations and the

associated administrative regulations (article no. 10.1). incoming

I have consented to the processing of personal data in the context of the video recording

view of distance examinations at Bavarian universities (article

No. 10.2). A not inconsiderable number of submissions reached me in the course of the census

2022; I have presented the most important questions in an overview article (No. 11.1).

My activity report for the year 2022 gives information on technical and organizational data protection

again a variety of impulses: My range of materials on data protection

Impact assessment – a key tool in the General Data Protection Regulation

the systematic detection and management of risks - has the next highest

construction stage reached (article no. 12.2); In principle, I have agreed to the data protection

technical requirements for so-called penetration tests, which ensure the security of IT

Put systems to the test (article no. 12.1). The unintentional publication

Unfortunately, the processing of personal data on the Internet also occurs with Bavarian public

common places again and again; to return to some as part of my supervisory

I explain error avoidance measures (Article No. 12.4) in the case groups. In

a survey of the Bavarian health authorities on data processing in the

In connection with the COVID-19 pandemic, I was able to gain some new insights, in particular

win others for future consultations (article no. 12.5).

The Data Protection Commission at the Bavarian State Parliament, which, according to Art. 17 Para. 1 Sentence 1

Bavarian Data Protection Act supported my work three times in the reporting period

met. The committee, a Bavarian specialty whose tradition stretches back to the Bavarian

3

Publication of the 32nd activity report

BayLfD | press release

dating back to the 1978 Data Protection Act, has six members from the middle

of the state parliament and four external members. The one associated with the sessions of the Privacy

Commission-related intensive exchange on current data protection policy such as

data protection issues, about legislative projects, also about measures that I

I always find it enriching that I have met as part of my supervisory work. I

would therefore like to take this opportunity to thank the members of the Data Protection Commission for their

I would like to express my heartfelt thanks to the work that is not in the public

chen.

The 32nd activity report will be available on my as of Wednesday 14 June 2023 at 11:00 am

Homepage <https://www.datenschutz-bayern.de> in the "Activity Reports" section for

call ready. The printed version can be obtained under "Order brochures". The

Activity report is free of charge in all versions.

I am available to interested journalists for interviews and inquiries

available. To make an appointment, please contact my office

(Telephone: 089 212672-12, email: [vorzimmer@datenschutz-bayern.de](mailto:vorzimmer@datenschutz-bayern.de)).

Prof. Dr. Thomas Petri

A notice:

The Bavarian State Commissioner for Data Protection controls the Bavarian public authorities

Compliance with data protection regulations. He is elected by the Bavarian state parliament, is independent and

bound by instructions.