

Bavarian State Office for
data protection supervision

Ansbach, June 25, 2020

press release

Maintaining confidentiality when collecting contact data in the

Gastronomy - No misappropriation of the Corona-Warn-App

Both when collecting contact data for tracing chains of infection as well as

When using the official Corona warning app of the Robert Koch Institute, data

protective regulations to be observed. In particular, contact data must not

accessible lists are collected. The use of the Corona-Warn-App is voluntary

and must therefore not be required as an "access condition" for guests or employees.

Neither can their personal risk status be viewed.

Since May 18, 2020, catering establishments in Bavaria have had to track infection chains in the

collect contact details from guests in connection with SARS-CoV-21. This is due to data protection law

In particular, to comply with the principle of confidentiality and integrity. That from the Bavarian

State Ministry for Health and Care and the Bavarian State Ministry for Economic Affairs,

The "hygiene concept gastronomy" developed by the development and energy company therefore expressly stipulates that

the collected data must be stored in such a way that third parties - primarily other guests - cannot see them

be able. Nevertheless, the State Office for Data Protection Supervision is receiving more and more submissions that guest

onymous companies either require their customers to be entered in a continuous list or the

individual forms lying around openly. This is a clear breach of data protection law

can also be punished with the imposition of a fine.

Michael Will, President of the State Office for Data Protection Supervision: "Open lists with the contact details of the

Guests in restaurants, cafés or beer gardens are just as inadmissible as they are unnecessary. On our homepage

a data protection-tested sample registration form is available for the individual guest, the host

only have to be filled out by the guest, then keep it safe and have to dispose of it after one month,

so that they can devote themselves to the well-being of their guests alone and not worry about avoidable data have to take care of protection complaints.”

Also with the official Corona warning app of the Robert Koch Institute, which has been available since June 16th, 2020 data protection limits to be taken into account. The media is currently piling up about the question discussed whether hosts or employers check the use of the app by their guests or employees

11 § 13 Para. 4 S. 3 of the Sixth Bavarian Infection Protection Measures Ordinance in conjunction with the hygiene concept Gastronomy"

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or may prescribe. In both cases, however, there are data protection conflicts that cannot be eliminated:

Both the employer who uses his employees on private or company devices

committed to the Corona-Warn app and would like to check the status of the app, as well as companies that use the

If you want to check the use of the app before customers access your business premises, come in

an independent data protection responsibility. Regardless of formal requirements

There are no viable legal bases for the processing of data, such as sufficient information requirements

Data by the companies for operational purposes. The information to be granted by the user when installing the app

Lending consent is not sufficient insofar as it serves the purposes pursued by the employer or company

Access control and operational infection prevention are not included. Separate Consent-

en of the employees or customers and guests cannot incriminate due to a lack of sufficient voluntariness

provide bare data protection justification.

Michael Will expressly warns: "Anyone who believes as an employer, innkeeper or shopkeeper that the Corona

Warning app for own purposes of access control and operational infection protection

being able to do so is offside in terms of data protection law. Since we see no guarantee that

basic data protection requirements can be met, we will do so

If necessary, prevent misuse of the warning app with fines. The project of the warning

App convinces with good data protection and its concept of voluntariness, pressure and false incentives

damage it."

Michael Will

president