

711.430.1

P r e s s e release

October 2, 2020

Adaptation of the Berlin data protection law - there is still a lot to do

On the occasion of the adoption of the law to adapt data protection law

Provisions in Berlin laws to the General Data Protection Regulation (Berlin

Data Protection Adaptation Act EU), instructs the Berlin Commissioner for Data Protection and

Freedom of information, Maja Smoltczyk, pointed out that previous regulatory deficiencies in the Berlin

Data Protection Act survive. She calls on the legislature to do this in the course of the

announced evaluation of the new Berlin Data Protection Act.

The aim of the Berlin Data Protection Amendment Act EU is to increase the number of Berliners

State laws to the specifications of the European data protection law, which has been in effect for two years

adjust the basic regulation. Unfortunately, the legislature has this legislative process

not used to remedy significant regulatory deficiencies in the Berlin Data Protection Act.

The Berliner sees especially in the area of data protection supervision and control

Data protection officer still urgent need for improvement.

In the areas of the police and judiciary, effective data protection supervision is still lacking

Enforcement Powers. The data protection officer can contact the police and

Judicial authorities continue to issue non-binding orders, but established ones

Report violations only without obligation. This contradicts the clear wording of the

underlying European regulations. This deficit is serious because police

and judicial authorities often collect particularly sensitive data about citizens

process, such as data from witnesses in criminal investigations.

In all other areas of public administration, the Berlin Data Protection Authority

make formal arrangements. However, the relevant ones are missing here

enforcement options. Without the possibility of setting fines or a

Such orders can be used to arrange for replacement performance – for example for deletion illegally stored data - are ultimately not enforced. One

As a result, there is no effective data protection supervision in the entire public administration guaranteed. In addition, the data protection authority also does not impose fines

Authorities or other public bodies may impose. Especially public bodies such as hospitals or in-house operations are thus opposed in an unjustifiable manner privileged to private bodies.

There are still control deficits in the important area of data subject rights. The

The right to information about the data stored about oneself is a fundamental one

Principle of the European General Data Protection Regulation. Should the information in individual cases may be refused, citizens should in principle be able to demand that

corresponding information at least to the competent data protection authority

become. Through this alternative information to the supervisory authority and the resulting

Spokeswoman: Dalia Kues

Office: Cristina Vecchi

Email: presse@datenschutz-berlin.de

Friedrichstr. 219

10969 Berlin

Tel: 030 13889 - 900

Fax: 030 2155050

- 2 -

Control aims to ensure that the processing of the data concerned

carried out in accordance with data protection regulations. Even this alternative information can, however, according to the now

Berlin's legal regulation, which continues to apply, was denied by the authority concerned

if it believes that doing so will compromise federal or state security

would be endangered. - Such a restriction of the rights of those affected is not comprehensible, since the data protection authority is an independent, supreme state authority, their employees to maintain strict secrecy about what has become known to them in the service information are required. Not only is this regulation an important control function of the Berlin data protection supervisory authority. This regulation can lead to cases in which Citizens their most important data subject right, namely the right to information, is completely denied. This restriction of a fundamental right is the highest in the rule of law dubious.

A well-known control deficit in the portfolio of the House of Representatives was new law even tightened. Because although there is still no data protection regulation for the Berlin Parliament, the law that has now been passed further expands the possibilities from also transmitting sensitive personal data to the House of Representatives. Also if one assumes that Parliament does not directly follow the regulations of European General Data Protection Regulation is subject to such personal data Data of effective and reliable protective measures and control mechanisms on the Basis of comprehensible regulations. This was last in connection with the AfD parliamentary group initiated the "Neutral School" project, which showed that organs of the Legislation process quite sensitive personal data. concerned citizens and citizens have so far faced such initiatives in Berlin without any means of control. Here urgently needs to be improved. Safeguards, which are also used in Parliament the level of data protection based on the General Data Protection Regulation is ensured indispensable.

Maja Smolczyk:

"The aim of the Data Protection Adaptation Act was two years after the entry into force of the General Data Protection Regulation, the Berlin state law finally fully conforms to the specifications of the adapt to European law. Unfortunately, not all the necessary ones were found

regulations made. Public administration can still change in several ways

evade effective data protection control. This contradicts the requirements of a

modern, transparent and citizen-friendly administration. I really hope that

Legislature the sometimes serious shortcomings in the context of him before the end of the

the evaluation of the new Berlin Data Protection Act announced during the legislative period

becomes."