

Friday, May 24, 2019 2: Press releases Data protection and freedom of information in Schleswig-Holstein: close to the wind - State Commissioner for Data Protection presents activity report 2019 - press release in PDF format One day before the first birthday of the General Data Protection Regulation, the State Commissioner for Data Protection Schleswig -Holstein Marit Hansen presented their activity report for the years 2017 and 2018. The reporting period was characterized by the European data protection reform, which led to changes in the legal regulations and the associated record number of complaints and inquiries. There was also increasing demand for help in the area of freedom of information, when citizens want to exercise their right to access data from the administration and public and private interests have to be weighed up. . Hansen, who heads the Independent State Center for Data Protection Schleswig-Holstein (ULD), sums up the work of the past two years: "Promoting data protection and freedom of information means sailing close to the wind and defying the adversities that make it difficult for us to fulfill our legal mandate in an exemplary manner. With the introduction of the General Data Protection Regulation, the obligations of processors have changed comparatively little, but the issue has now increased in the awareness of data processors and the people whose data is at stake. We had our hands full correcting errors, dispelling myths and, above all, giving advice on how data protection requirements can be implemented in practice. All of this, of course, without neglecting day-to-day business. Complaints come in every day that we have to investigate, and authorities and companies report data breaches to us almost every day." Hansen identifies three problem areas that contribute to the adversity: fan page decision, paragraph

7.1, p. 139 1. Many of the data protection requirements need to be specified. However, legal processes on data protection issues, which are fundamental for all of Europe, can take years or decades. On the one hand, in such cases, the important questions should be submitted more quickly to the European Court of Justice as the highest instance in order to bring about a binding clarification. Second, standardization initiatives should incorporate privacy by design requirements into their information technology best practices and standards. Data protection by design, text number

2.3, p. 24 2. Large international providers of products or services in particular often only claim that they implement data protection requirements, but the reality is different. The manufacturers are also not directly obliged to data protection compliance. Users from public authorities and companies must increasingly demand data protection guarantees and the necessary documentation from their service providers, otherwise they cannot fulfill their own accountability. Office, text number

1.2, p. 11 3. The data protection supervisory authorities can only act within the framework of the resources available to them.

Especially in the important area of digitization, they are necessary as a corrective to undesirable developments in the processing of data. However, an effective performance of this function in terms of the rights and freedoms of the people requires adequate human and financial resources. All in all, Hansen sees a silver lining on the horizon: "The General Data Protection Regulation shook things up last year, the majority of those responsible from administration and business checked themselves, organized their own data processing processes and improved data protection measures. However, the wake-up call from 2018 must not fade away, it is now important to constantly adapt to new risks and new protection options. The large number of justified complaints, the significant increase in reports of data breaches and the results of our controls show that none of this is a matter of course. The official and company data protection officers, who are controllers and contact persons on site, have a high priority. All in all, I am hopeful that, with the European harmonization of data protection, we now have the leverage to achieve the necessary changes in the handling of personal data. This not only serves the basic rights of every individual, but also our democratic society in the increasingly digitized world. The digitization initiatives in Schleswig-Holstein may set a good example here." The 2019 activity report is available at: <https://uldsh.de/tb37> If you have any questions, please contact: State Commissioner for Data Protection

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E-mail: mail@datenschutzzentrum.de The ULD activity report 2019 - selected results This year's ULD activity report describes current developments and relevant individual cases on 200 pages. Some examples are given below: Text number 5.4.17, p. 105

For professional athletes:

Data protection in doping controls, text number

8.3.2, p. 150 The tasks of the ULD include audits related to and without cause in order to identify data protection violations and to provide information on data protection compliance. Industry tests are particularly important in order to be able to apply the test criteria in comparable processing situations and to detect structural deficiencies in an entire industry. The reason for the industry audit of sports associations on the handling of athletes' data were complaints from parents about the player passports of their children who have since left the club, whose data allegedly needed to be stored permanently. Photos on websites

without information and consent were also the subject of the examination. The state associations of the various sports were mostly cooperative and adjusted their statutes and data processing during the course of the test. However, there are further problems due to the specifications of some higher-ranking federal associations; the competent supervisory authorities have been informed. text number

4.2.1, p. 51 A mandatory task is the examination of data protection in the processing of the police and the protection of the constitution. For example, the ULD must check storage in certain information systems, access to them and certain covert investigative measures every two years. During the reporting period, the so-called "Anti-Terrorism File" and the "Right-Wing Extremism File" were checked, which gave little cause for complaint. The fact that this is not always the case is shown by the handling of the "narcotics case file", which was checked in the previous reporting period. As a result of our review, more than 15,000 cases - around 75% of the total database - were deleted because they did not or no longer met the requirements for storage. text number

4.2.3, p. 53 The state police's pilot test for bodycams (body cameras) is accompanied by the ULD. Even if it is not yet fully completed, the ULD has already gained essential knowledge that should flow into the legal regulations in the event of further operation of the body cams, so that the use is legally secure and verifiable. text number

4.4.2, p. 69 The case in which an employee of the immigration office visited a foreign EU citizen in the evening and photographed his passport – with her private cell phone – also had something to do with photographs. There was neither authorization for the full collection of data on the passport nor should data have been stored on a private device from which possible data leaks - e.g. B. with a synchronization in a cloud - are not excluded. text number

4.6.4, p. 79 Money was involved in the case in which a municipality, in accordance with its spa tax statute, required the local spa clinics to transmit the names of patients and the length of stay. The clinics refused, with reference to medical confidentiality – and rightly so. Clinics and hospitals are not part of the accommodation business. A doctor who passed on the names of patients ran the risk of committing a criminal offence. text number

4.8.3, p. 83 The collection of taxes on second homes by municipalities has also been the subject of several complaints. Here, taxpayers were asked to provide an excessive amount of data from the tax return, where even partially blacked-out documents or other evidence of the long-term rental of an apartment would have been sufficient. The communities affected must adapt their statutes and questionnaires to the legal situation and also implement the information obligations of the GDPR. text

number

4.1.10, p. 47 Several dog owners complained that their city required them to clearly display their name and address on the "leash device". It was an interpretation of the Dogs Act that came into force on January 1, 2016. With the intervention of the ULD, it was possible to ensure that the name and address do not have to be publicly visible. Since dogs already have to be chipped and registered from the age of three months according to the Dogs Act, it is questionable what the point of this regulation is. text number

5.5.6, p. 115 A long-running issue of complaints is video surveillance, which affects public space or one's own property. The case of video surveillance in the fitness studio, where e.g. in changing rooms, the report takes up again, as athletes keep making similar complaints: As early as 2017, the ULD prohibited the gym from operating video surveillance in the chosen form. The operator has brought an action before the administrative court against the prohibition order. The lawsuit has been pending there for more than a year. text number

4.3.2, p. 65 People often come forward who have found their own data on the Internet and do not agree with it. People who discovered information about their bankruptcy proceedings, which had been completed years ago, were particularly desperate. This data is often provided by websites that are operated without provider information from non-European countries. In the meantime, the people concerned had built a new life for themselves and had not told their employers, life partners and acquaintances about the earlier insolvency. The ULD was able to help get the entries deleted from search engines such as Google or Bing. A publication of this information for a short period of time is provided for in the Insolvency Act and is carried out centrally in Germany via an official judicial portal. Those affected could not expect that years later the data would continue to be accessible on completely different websites. text number

5.4.8, p. 97 The ULD also received complaints when it became known that several cities wanted to measure the flow of visitors in the pedestrian zone and other public areas by collecting and storing the technical data sent by smartphones (so-called offline tracking). . However, this is not permitted without a legal basis, and the cities refrained from doing so due to criticism from the ULD. Visitor flows could, however, be measured in other ways, e.g. B. with light barriers at passages. Specific apps could also obtain consent or collect statistical information about visits in a privacy-friendly manner. text number

10.3, p. 175 Tracking is in vogue: the tracking of users is becoming increasingly blatant. Apps have emerged that use the microphone enabled on many smartphones to pick up and interpret ultrasonic signals from the environment that humans

cannot hear. Tracking takes place across devices (cross-device tracking). For example, such signals can be interspersed in commercials on television or in computer activities, which are then eavesdropped on and passed on by the smartphone. This enables analyzes of locations, habits or interests. You should be aware of this possibility if an app requests access to the microphone. text number

10.4, p. 177 Many authorities and companies use color laser printers or multifunction devices that combine copy, print and scan functionality. What many users are not aware of: These devices encode yellow microdots ("Yellow Dots") in the color printouts. In the IT laboratory, ULD examined the color printouts from its own multifunction device and made the markers visible using black light and a microscope. The manufacturer was unable to satisfactorily answer questions about the legal basis for inserting these device-specific dot patterns, which may also contain information on the date and time. Devices without "Yellow Dots" are hardly offered. The ULD will not be satisfied with that. In the meantime, a sign on the ULD's own device informs that these points will be included in color copies and that tracing different color prints to the ULD is not excluded. text number

6.1.4, p. 127 Criticism is repeatedly raised that the information obligations of the GDPR are not manageable at all because the persons concerned cannot understand the necessary texts anyway. However, the GDPR requires information in clear and simple language. The ULD has developed sample examples and made them available for download on the website. The "data protection profiles" illustrated with simple pictograms are now being tested by several municipalities. This makes it possible to quickly understand the necessary information at a glance - as required by the GDPR in terms of transparency. text digit

8.4, p. 151 Unfortunately, information security is far from being a matter of course. When it comes to personal data, it shouldn't be dismissed with a shrug. After all, information technology is the foundation of the information society. Reports of data breaches often relate to hacking attacks on web servers or malicious programs that entered the IT system via email. But what about stolen data like account names and passwords that are traded on the Internet? At the turn of the year 2018 / 2019, awareness of these data collections with the so-called doxing scandal came to light, because many politicians - also from our state - were affected. The ULD not only deals with concrete measures of IT security, but is also involved in the funded research project "Effective information after digital identity theft" (EIDI)" so that those affected find out more quickly if they have become the victim of data theft. text digit

4.1.4, p. 38 The technical and organizational security measures to be taken are based on the state of the art. Again and again,

the ULD recommends a multi-factor procedure, for example by not only asking for the account name and password, but also for a transaction number, which is sent, for example, by SMS - as a separate and independent factor. However, it is not a multi-factor process if a password-protected table is sent in an e-mail via insecure connections and the password, with which the plain text can be made visible, follows in the same way in the next e-mail . We would like to thank the attentive official data protection officers who did not want to follow the instructions of the Ministry of the Interior on the procedure thoughtlessly. text digit

9.1, p. 163 A permanent chapter in the activity reports for almost 20 years has been called "Seal of Approval and Audit". It describes traditionally good solutions that have undergone a more detailed data protection review. What began almost 20 years ago on a small scale as a model project in Schleswig-Holstein has finally made it to Europe-wide recognition. The GDPR provides certifications as a tool to mark data protection compliance. This means that the goal of the Schleswig-Holstein seal of approval as a pioneer for data protection certification has been achieved. The Schleswig-Holstein quality seal and the audit are therefore no longer included in the new state data protection law. The certification according to the GDPR applies. For their implementation in practice, details still have to be regulated by the data protection supervisory authorities of the member states. The ULD is intensively involved in this. text digit

13, p. 193 Further training in data protection - the new legal regulations have triggered a boom in demand in this area, which unfortunately could only be partially met with the available resources. Nevertheless, in 2017 and 2018 more than 2,000 participants in the established courses of the DATA PROTECTION ACADEMY and more than 4,600 schoolchildren were specially trained in data protection and media skills. This is in line with the GDPR, which has given data protection regulators the task of raising public awareness and even calls for specific measures for children. Tags for this article: news, press releases, uldArticles with similar topics: E-prescription procedure: protect machine-readable codes! Property tax reform 2022 - Responsibility of the BfDI No loopholes in communication with authorities and for foundations with public tasks - Further develop the right to freedom of information Announcement - "Save the date!": Summer academy "Freedom of information by design - and data protection?!" on September 12, 2022 in Kiel Data protection and social work in schools – practical knowledge in the new ULD brochure