

Press release from the Conference of Independent Data Protection Authorities

of the federal and state governments from November 26, 2020

100th data protection conference met successfully

The conference of the independent data protection supervisory authorities of the federal and

of the countries (Data Protection Conference - DSK) on November 25th and 26th, 2020

met via video for their 100th meeting since their inception (see press release

the DSK of November 19, 2020).

The anniversary meeting was chaired by the Saxon Da-

data protection officer Andreas Schurig. The conference dealt with i.a. With

the question of the data protection-compliant use of Windows 10 (version "Enter

prize"), with the initiative taken by the German EU Council Presidency

Softening of end-to-end encryption in favor of security

authorities and news services, with the legal structure of the telecom

communication inventory data information, with initiatives to centralize the data

protection supervision and with the implementation in Germany, which is still pending

the "ePrivacy" directive (RL 2002/58/EG).

Andreas Schurig: "The 100th DSK also dealt with fundamental rights and freedoms

of the people concerned. Since the early 1970s, the

German supervisory authorities citizens compared to the public

and non-public bodies in asserting their rights. freedom and

mokratie do not thrive without the individual being given the freedom they need

State, the social insurance, the municipalities and all other public ones

Place. Informational self-determination is also important towards companies,

especially compared to the economically often enormously superior companies

Information industry, the often controversial and crucial point."

In detail:

- Again, the conference dealt with both the telemetry functions of

Microsoft Windows 10, "Enterprise" version, as well as with the Microsoft

data protection improvements announced for MS Office 365. To the

A DSK working group had to determine telemetry functions in three test scenarios

found before that those responsible when using the Enterprise version die

Use the "Security" telemetry level and contractually, technically or organizationally

technically have to ensure that no transmission of personal tele-

metry data to Microsoft takes place. With regard to MS Office 365, the

DSK continues to stay in touch with Microsoft. For both items

the DSK value the consideration of the judgment of the European

Court of Justice on the transfer of personal data to insecure third parties

States of 16 July 2020 (C-311/18) ("Schrems II").

- Clearly, the DSK rejects demands for access by the security authorities

and secret services on encrypted communication in messenger services

ten and private communication. She points in an on November 25th

2020 resolution indicates that the erosion of ver-

coding solutions, as proposed by the Council of the European Union in the resolute

Draft no. 12143/1/20 of November 6, 2020 "Security through

encryption and security despite encryption" is suggested, contra-

productive and easily circumvented by criminals and terrorists

could. Secure and trustworthy encryption, on the other hand, is

essential prerequisite for resilient digitization in business

society and administration. Companies must protect themselves from industrial espionage

can protect. Citizens must be able to rely on a safe and

tegre use of digital administrative services. closures

ment is also a key means of data transmission in insecure

third countries. The "Schrems II" judgment of the European Court of Justice has newly made clear.

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In the interest of legal certainty, the DSK appeals with a further decision closure to the federal legislature, finally the specifications of the federal Constitutional Court of May 2020 on the design of the manual inventory to implement data disclosure procedures. The court recognized that probably the transmission of data by telecommunications service providers as well as retrieval by authorized bodies (e.g. public prosecutors) because they require a proportionate and clear basis ("Doppelteür model"). The current version of § 113 Telecommunications Act set and the retrieval standards on the part of the recipient groups meet these requirements not. The conference calls on federal and state legislators to request that the manual information procedure for security authorities and to make intelligence services conform to the constitution as quickly as possible.

- The conference also calls on the legislator to finally introduce the ePrivacy directive of the European Communities from 2002 (RL 2002/58/EG) fully and in accordance with the General Data Protection Regulation of 2018 into German law. According to Art. 5 Para. 3 ePrivacy Directive requires an active informed consent of the user, in particular especially when the person responsible sets "cookies". website operator and other actors that use their services in relation to, among other things, "cookies" lawfully, need legal clarity and certainty.

The DSK also clearly opposes demands for centralization data protection supervision in the non-public area. Andreas Schurig: "The Regulatory authorities at federal and state level enjoy a high professional reputation. your central

centralization would be downright counterproductive, because centralization also means farther away from the concerns and concrete circumstances of the people concerned to be. Instead of unnecessary centralization debates, care should be taken that all supervisory authorities fulfill their statutory duties in terms of personnel and organization ben can fully fulfil.”

Other topics at the 100th DSK included: the improvement of cooperation in the European Data Protection Board (EDPB) and the future functioning of the DSK.

The 101st DSK, scheduled for April 2021, will be chaired by the Saarland stand.

Questions, especially about the resolution texts, with Mr. Andreas Schneider, spokesman for the Saxon data protection officer, 0351 - 85471-120; andreas.schneider@slt.sachsen.de