

THE STATE COMMISSIONER FOR DATA PROTECTION AND FREEDOM OF INFORMATION

PRESS RELEASE

Press Office of the State Commissioner for the

Data protection and freedom of information

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Education platform BW: LfDI advises due to high

data protection risks from the use of the

tested version of Microsoft Office 365 in schools

- Alternatives should be strengthened

Background and consequences of the recommendation

The Ministry of Education had

intended,

as part

the

Educational platform for schools a specially configured version

from Microsoft 365 from the US software manufacturer Microsoft

integrate to provide teachers, students and parents with a suitable digital

To provide infrastructure for teaching and education.

Of the

State representative

for

the data protection

and

the

Freedom of information Stefan Brink was asked by the ministry to

a pilot project to introduce this software from mid-January

to be active in an advisory capacity until the end of March.

In this context, the LfDI tested the specially designed for use in the

School operation configured version of the product MS 365 in one

practice test. He has the necessary technology for this

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State representative, since him funds for his own test laboratory from

been made available to Parliament.

Essentially, it was checked whether the data protection

Ministry Impact Assessment (DPIA) October 2020

(press release

of

state representative

"LfDI

accompanied

Ministry of Education pilot project for using Microsoft

Office 365 in Schools") suggested remedial actions

Minimize the risks of Microsoft software

indeed

have been implemented and proven to be sufficient; checked

was also what data flows in the pilot operation actually

measurable

took place

especially

if

unwanted

respectively

Not

requested data processing,

for example

of telemetry, diagnostic

(or otherwise

designated) data, were recognizable and

to what extent the

Processing of personal data of teachers and students

to

own

purposes of Microsoft

determine

are.

This review also examined whether data in

third countries outside the scope of the GDPR

and whether through secure encrypted communication the

Possibilities of access by the provider or third parties

could be effectively restricted.

Among the tests in practice were in several areas

samples taken. During his consultation, the LfDI was in regular exchange with the Ministry of Education and representatives of the software and service provider.

Although the tests due to the scope and

Further development of the services could not be final, so their results were sufficiently clear to

Recommendation to be sent to the Ministry of Education.

The state representative Stefan Brink assesses the risks

Use of the now tested Microsoft services in the school sector as unacceptably high and advise against using them there. Of the

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State representative recommends

furthermore, the

in the school area

further strengthen existing alternatives.

“Students, parents and teachers

want digital and legally secure solutions for teaching. we

support that,” says Stefan Brink. That's why with high

Deployment within the pilot project seeks clarity about

Data flows, legal bases and technical measures of the

agent to obtain what

however

not as a result

had been achieved satisfactorily.

Those responsible - and these are the schools (cf. Article 4 No. 7 DS-

GMO) - do not have full control with the chosen system

above

the overall system

and

the US American

processor. You can after evaluating the

State representative currently not sufficiently understand,

which personal data, how and for what purposes

are processed and you cannot prove that the

Processing to the minimum necessary for this purpose

reduced

is. Alles

that would have to

you

but,

around

of their

Accountability from Article 5 Paragraph 2 DS-GVO

will. In addition, for some transmissions of personal data

Microsoft – partly also in regions outside the EU – none

Legal basis recognizable, which is required according to DS-GVO.

This applies in particular to international data flows in the light

of the Schrems II judgment of the European Court of Justice

year 2020.

For the school sector, the LfDI therefore has a high risk of

Violation of the rights and freedoms of data subjects

established. This applies to the planned expansion of the

System around accounts for the students all the more.

The state has a guarantor position

for the

usually

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underage students who also

are subject to compulsory education and therefore the use of their

cannot avoid personal data.

In this

Constellation, the state representative assesses the risk of

used software as unacceptably high.

LfDI Brink: "It doesn't seem entirely out of the question, with

other variants of the products used in the pilot and

under significantly modified conditions of use

in the

to work in accordance with the law in the school area. It is in the past

Months even after intensive cooperation and with high

Personnel deployment but failed to find such a solution

find." Given this result, it seems more than

questionable whether it is the person responsible for data processing

Schools, also with the support of the Ministry of Education, in

foreseeable future can succeed, the tested products

legally safe to use.

From the point of view of the LfDI, an education platform has a lot more to offer

Future. For example, it could consist of different tools like

for example Big Blue Button and Moodle that already exist now

are used intensively by the schools in the country. Since these dated

be operated by the country itself,

are numerous

in the

In principle, the risks identified in the pilot project are not present here.

The state representative will be out before the summer school holidays

own initiative no exams in schools with the objective

to ban products. From the beginning of

new school year

however, the authority will all then

investigate existing complaints vigorously.

For all other public and private users of such software

The provisions of the state representative continue to apply, in particular in

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his handout

"Schrems

II

- What

now

in matters

international data transfer?"

home page

of

state representative

available

is empty

Those responsible must carry out a risk assessment with a view to

specifically processed data and understandable

deal with the legal bases of their data processing.

These legal bases differ in the public and

private sector, authorities can

basically no data on the basis of a 'legitimate interest'

process and are also in the use of consent

restricted. The LfDI emphasizes that in this consideration

blanket statements such as that software always or never

can be used in compliance with data protection regulations, too undifferentiated and not

are convincing. When using non-European providers

always to check whether there are alternatives that are one less

enable risky processing.

Further information:

The Ministry of Culture has the pilot project

initiated and the

Project subject and time frame determined. Lasted about 3 months

the practice exam. The LfDI already had various

Tests conducted, including in the context of the second

Data protection impact assessment of the Ministry of Education. This

Tests by the LfDI served, among other things, to identify possible risks

to be identified and remedial measures taken at an early stage.

After the pilot phase, the LfDI evaluated the results and

in a statement a recommendation to the

for the

Ministry responsible for education platform. The LfDI was

active in an advisory capacity in the pilot project, in this context he does not meet any orders and does not issue any prohibitions. This consulting activity is with the termination of the pilot closed.

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The statement itself cannot be published at this time will. According to a publication intended participation process (here are the Ministry of Education and Microsoft to participate) will then be based on the result Publication on the LfDI homepage.

Press release from the LfDI from October 30th, 2020:

<https://www.baden-wuerttemberg.datenschutz.de/lfdi-accompanied-pilot-project-of-the-ministry-of-culture-for-the-use-of-microsoft-office-365-at-schools/>

Handout "Schrems II - What now in terms of international

Data transfer?":

<https://www.baden-wuerttemberg.datenschutz.de/wp-content/uploads/2020/08/orientation-aid-what-now-about-international-data-transfer.pdf>