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Draft law on the Code of Criminal Procedure deficient from a data protection point of view

The current draft law to amend the Code of Criminal Procedure (StPO) still has a considerable need for improvement from a data protection perspective. Among other things, the plans to make the data previously available for the individual criminal proceedings accessible to a much larger group of authorized persons via the police information systems are met with sharp criticism.

At today's hearing in the Legal Affairs Committee of the German Bundestag, the Federal Commissioner for Data Protection and Freedom of Information made it clear that the planned regulation on criminal prosecution files in particular should be rejected.

Ulrich Kelber: The plan to store data from individual criminal proceedings, which previously only the investigators entrusted with the proceedings had access to, in the future in a generally retrievable manner in the police information systems, is unacceptable from a data protection point of view. With this provision, a further step would be taken to dissolve the constitutionally required earmarking for the storage of data. In concrete terms, a significantly larger circle than before would have access to these sometimes very sensitive files. These not only affect convicted perpetrators, but also suspects, accused persons, witnesses, whistleblowers and persons injured by the offence. They can contain unlimited amounts of data and very sensitive information, such as on victims of sex crimes, who have not given cause for their data to be accessible on such a large scale. It would therefore be a mistake that must be avoided at all costs to integrate these previous special files into the information systems of the police authorities on a large scale.

The criticism was not limited to this point, however. The use of V-persons, the so-called "participation clause" of § 489 StPO or the regulations for data transmission between criminal prosecution and intelligence services would also have to be put to the test. A more comprehensive assessment of the legislative project can be found in the attached statement by the BfDI to the legal committee.

With the current draft law, the Code of Criminal Procedure is to be adapted in order to comply with the requirements of the EU data protection directive for the area of criminal prosecution and a landmark judgment of the Federal Constitutional Court.

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public bodies

The term public body not only includes the traditional administrative authorities, but also courts, parliaments and public foundations. This also includes social insurance, such as health insurance.

company

Private companies are mostly supervised by state authorities, but there are some exceptions. Private organizations such as clubs and associations also fall into this category.

Press, radio, church

Special responsibilities apply in these areas. Churches and public broadcasters have e.g. B. via their own data protection officers. The federal and state supervisory authorities are not responsible for other organizations either.