

Friday, August 9, 2019 2: Press releases Data protection: Prevention is better than aftercare - even without a wave of warnings Flashback: When the General Data Protection Regulation (GDPR) was introduced in 2018, many entrepreneurs reacted with fear and panic about data protection fines and waves of warnings. This horror scenario did not materialize: fines for data protection violations are imposed in Germany and in Europe with a sense of proportion, the prophesied warning wave has not materialized so far. Nevertheless, prevention is better than aftercare. If you are well positioned in terms of data protection, you have nothing to fear. Marit Hansen, the state representative for data protection in Schleswig-Holstein, sums up the past year: "Data protection has arrived in companies. Customers are sensitized and want to be sure that their personal data is processed fairly. Many entrepreneurs have also noticed how important it is to protect their own data processing against attacks such as hacking or blackmail Trojans." The Schleswig-Holstein data protection supervisory authority, the Independent State Center for Data Protection (ULD), has not received any reports of waves of warnings. In the course of its supervisory activities, the ULD did not receive any indications of illegal warnings on data protection issues. The ULD also has no corresponding findings from the other federal states. The GDPR did not pave the way for warnings or obligations to cease and desist due to data protection violations. In the past, individual warnings were issued in the private sector under the old data protection law and the application of competition law regulations. At that time, too, neither waves of warnings nor illegal warning practices could be identified. A new feature of the GDPR is that data subjects are represented by "non-profit institutions, organizations or associations" (Article 80 GDPR). Hansen welcomes legal clarifications at the federal level that were announced in 2018. Irrespective of this, however, Hansen makes it clear that data protection must be taken seriously: "Anyone who processes personal data must ensure that the data protection requirements are met. This also includes regularly checking your own data processing." The most important tips at a glance: Your website acts like a business card. Inform the users in an understandable data protection declaration. If you offer forms for entering customer data, ensure encryption on your web server. Document the legal bases (contract, consent or legitimate interests) for your processing activities. Define the responsibilities for data protection and security in your company, even if you should not be obliged to appoint a data protection officer. Set up standardized processes so that you can easily respond to requests from data subjects who want to exercise their rights. Check the contracts with service providers who process personal data on your behalf for data protection requirements. When making procurements and tenders, make sure that products and services comply with data protection regulations. Think about information security: from protection against viruses and Trojans to firewall protection and regular data

backups. Raise the awareness of data protection issues among your employees and train them in handling data. Encourage prompt reporting of improvement opportunities or privacy breaches. Should data protection warnings nevertheless arrive, Hansen advises checking them carefully – if necessary with the help of a lawyer – instead of panicking and paying the requested amount without checking. Hansen emphasizes: “If you are made aware of existing data protection errors, you have to investigate them and take measures to be in the green. Attention: If data breaches have occurred and this poses a risk to the persons concerned, this must be reported to the data protection supervisory authority. In high-risk cases, those affected must also be notified.” The ULD provides brochures and samples for users:

<https://www.datenschutzzentrum.de/dsgvo/#praxisreihe> In addition, chambers of industry and commerce, chambers of crafts and industry associations support their members with information on how the processing can be made legally compliant. If you have any questions, please contact: The State Commissioner for Data Protection Schleswig-Holstein

Independent State Center for Data Protection Schleswig-Holstein

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