

The Bavarian State Commissioner for Data Protection

Bavarian State Office for Data Protection Supervision

Munich and Ansbach, November 20th. 2020

press release

Strengthening of user rights:

Microsoft supplements Standard Contractual Clauses

Bavarian data protection authorities welcome the initiative

to secure international data transfers

According to the judgment of the European

Court of Justice on Schrems II of July 2020 is still possible to a very limited extent, although numerous US providers are key players in global data processing.

One reason for this is the mass surveillance by US

ican security authorities, such as the NSA, which is why data from Europeans is only

additional protective measures may be transmitted. The European Data Protection Board

last week issued initial recommendations for action on the design of protective measures

took part and were invited to a consultation.

All those involved and decision-makers in international data transfer are called upon to

to find sustainable solutions on the basis of suitable protective measures that meet the needs of European data protection.

Microsoft is now one of the key providers of globally networked IT products for companies

and authorities have made some proposals for guarantees that directly strengthen users' rights.

An evaluation of these proposals is now made by all decision-makers, so too

in the upcoming deliberations of the data protection conference. As a contribution to these

The data protection supervisory authorities of the states of Baden-Württemberg and Bavaria assess the ratings

and Hessen as follows: "The proposals from Microsoft are a valuable stimulus for the common

Search for legal certainty for data transfers to the USA as well as to other countries,

whose legal system does not meet the protection standard of European data protection law can guarantee. The European Court of Justice has ruled unequivocally that data flows from Europe to the USA are no longer permitted without additional measures. Microsoft has with his initiative presented today this demand of the European Court of Justice and for the enforcement of the GDPR competent data protection supervisory authorities in a first step grabbed. Especially for small and medium-sized companies looking for the uncomplicated and anyway are particularly dependent on the use of standard products in compliance with data protection regulations This is encouraging news," states BayLDA President Michael Will.

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The Bavarian State Commissioner for Data Protection, Prof. Dr. Petri notes: "Bavarian public

Commercial entities should primarily use services based on data transfers in

renounce third countries. However, it would be unrealistic to think that this is common for all

Office applications is possible. It is all the more important if US providers of

Office applications meet the requirements of the General Data Protection Regulation. I hold these current proposals from Microsoft for a first important starting point for the coming Negotiations."

In parallel press releases, the state commissioners for data protection and the Freedom of information in Baden-Württemberg and Hesse, Dr. Stefan Brink and Prof. Dr. Michael Ronellenfisch their assessments of the additional measures now presented.

Dr Stefan Brink emphasizes: "If a data processing company in the future on the European If it wants to operate on the European market, it must meet European legal standards, in particular the GDPR retain. This includes the companies informing those affected when security authorities gain access to their data. It is good and necessary for a company like Microsoft to follow suit to European data protection and amends its contractual clauses accordingly. The Euro-European Court of Justice has clearly ruled that data flows from Europe to the USA without such additional measures are no longer permitted."

Prof. Dr. Michael Ronellenfisch adds: "The question of whether adequate data protection in the USA for European export companies is to be answered by a weighing decision ten. This was due to the limited calculability of the previous US government-operated handle politics loaded. In view of the election result, an improvement in the negotiation situation can be assumed. But even then, a negotiation success is only possible expect if the data protection problems are gradually open-ended at all decision-making levels be discussed. All that matters is that the relevant arguments are put on the table. be brought. It doesn't matter who does it. The actual consideration can then only be carried out by the responsible bodies."

Microsoft's new contract clauses contain provisions on

□ the information of the data subject if Microsoft is required by a governmental order was legally obliged to release data to US security authorities  
ben;

□ Microsoft's obligation to take legal action and the US courts to

shout to contest the official order to release the data;

□ the right to compensation for the data subject whose data is unlawful

were processed and who suffered material or immaterial damage as a result

has

According to the joint assessment of the data protection supervisory authorities involved, this is the

Transfer problem to the USA not generally solved - because an addition to the standard contractual

clauses cannot lead to the fact that the European Court of Justice considers disproportionate

moderately objectionable access by the US secret services to the data

will.

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But that Microsoft, as one of the largest, internationally active corporations worldwide, with

a significant market power in Europe, are now moving in the right direction and

improvements for the rights of European citizens in its contract clauses

record, is an important step and a clear signal to other providers, this example

to follow.

Before the end of the year, the DSK will continue its talks with Microsoft on the Office package - the

The progress that has now been made promises a "tailwind".

Michael Will

president

Professor Thomas Petri

The Bavarian State Commissioner for Data Protection