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# HmbBfDI presents the Data Protection Activity Report 2023

**+++ Number of complaints on the rise +++ Companies neglect deletion obligations +++  
+++ Fuchs: "Supervision of AI applications by data protection authorities" +++**

Hamburg's Commissioner for Data Protection and Freedom of Information, Thomas Fuchs, presented his activity report to the President of the Hamburg Parliament, Carola Veit, at City Hall today and then answered questions from the press.

## **AI Act: Supervision by data protection authorities**

The activity report addresses a crucial question in the introduction regarding the recently adopted AI Act: who will be responsible for its supervision in Germany? Thomas Fuchs sees a clear responsibility here:

"In my opinion, only the data protection supervisory authorities can be considered to supervise the use of AI systems. We already know the IT systems of the authorities and companies insofar as they process personal data. New supervisory structures will only lead to more bureaucracy."

Regarding important political issues the data protection authorities will be responsible under the AI Act anyway. If AI is used for law enforcement or migration issues or could influence elections, data protection authorities will be in charge for oversight.

Thomas Fuchs asserts: "This supervision should be expanded into a general responsibility: in this way, specific risks in the use of AI products, such as threats to health, safety and the protection of fundamental rights, would be assessed by a single authority."

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## **Development of case numbers for complaints and hacking attacks**

The number of complaints has increased again and, at 2537 cases, is almost 20 percent higher than the previous year's figure of 2160. The increase is largely due to a growing number of complaints in connection with products from Meta and Google, for which organisations the HmbBfDI has the leading supervisory responsibility within Germany.

The number of notified data breaches also continued to rise. After 859 cases in the previous year, the number of data breach notifications rose to a total of 925 and the number of hacking attacks to 235 (previous year: 227). Just as a reminder, there were only 74 notifications of such attacks in Hamburg in 2019.

The HmbBfDI also initiated 20 proceedings in 2023 to fine companies.

## **Companies neglect deletion obligations**

Numerous HmbBfDI proceedings, including current ones, relate to serious failures made by companies in dealing with outdated data. For example, personal data that is no longer used, such as copies of ID cards or financial data, is not deleted even though the purpose of the data processing has long since ceased to exist. This is not only a violation of the GDPR, but also a clear indication of inadequate data management, which the HmbBfDI is seeing in a wide range of sectors, from debt collection services to the hotel industry. A deletion concept is part of the basic GDPR compliance equipment of every controller. This requires an inventory of what data is collected in the first place and how long it is likely to be needed. Ongoing storage without a specific purpose violates the rights of the data subjects. Thomas Fuchs comments: "Old data is not big data: when the customer relationship ends, the data collected must be deleted immediately or after specified periods, depending on the type of data."

## **Shaping role of the data protection supervisory authority**

The shaping role of data protection supervisory authorities is becoming increasingly important and can be seen in specific projects. For example, Google was able to update its Street View service with new images in 2023. Due to strong opposition to the images in 2010, the service had not been updated in Germany since then, meaning that more recent buildings, such as the Elbphilharmonie concert hall in Hamburg, could not be found on the service. The HmbBfDI agreed clear rules for the update at an early stage, which safeguarded data subjects' privacy rights, in this case the right to object to have their own house depicted on Street View, while at the same time allowing the company

to use the images that are not objected to. Data protection-compliant solutions were also established in other cases, such as in the design of so-called consent or pay subscription models.

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