

Position statement

Position statement on the 2nd draft of the planned new Federal Data Protection Act **Passage of the future Data Protection Act will strengthen planning certainty**

Adoptions from Federal Council comments increase legal certainty

The Association of Data Protection Officers of Germany (BvD) welcomes the draft of the new Data Protection Act in the 2nd and 3rd reading, for Bundestag discussion on 27.04.2017. Promulgation of the law is urgently required by data protection officers involved in consultation in companies and authorities on the future legal position, said BvD Vice Chairman Rudi Kramer on Thursday in Berlin. The BvD therefore trusts that the legislative process will not be delayed since Federal Council suggestions have already been taken into consideration.

Doubts remain, however, whether some of the provisions will not give rise to infringement proceedings by the EU Commission. “Legal uncertainties about employee data, change of purpose and the rights of affected persons will be disastrous should legal implementation of the provisions by EU Commission, data protection supervisory authority or consumer protection associations be open to objections”, said Kramer. Authorities and companies need a Federal Data Protection Act compliant under EU law for certainty in their preparation for the day the GDPR enters into force on 25 May, 2018.

The BvD also regrets that no solution has yet been found to ensure short-term common ground within the Federal responsibilities of the data protection authority. “This will weaken the influence of the German data protection concept on the European level”, fears Kramer.

The BvD agrees with the stipulation that companies over a certain size will still need to appoint internal data protection officers. This would ensure qualified and legally compliant support of responsible companies and their order processors in respect of the new GDPR duties. This includes the development and implementation of new internal processes, obligation to report violations of protection obligations, verification requirements for compliance of documentation with statutory provisions, support with assessing the impact of data protection and technical cooperation with supervisory authorities.