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Farewell from the office of the BlnBDI – End of term of Maja Smoltczyk

On 27 October 2021, Maja Smoltczyk's 5-year term as Berlin Commissioner for Data Protection and Freedom of Information (BlnBDI) will end after almost six years. Since the Berlin Parliament could not agree on a successor even during the legally permissible 9-month extension of Smoltczyk's term, her deputy Volker Brozio will take over as head of the authority from 28 October until a new candidate is elected.

Maja Smoltczyk's term of office was marked by major transformations in data protection: The entry into force of the European General Data Protection Regulation (GDPR) that became binding for all European Member States shortly after her appointment ushered in a new era - with considerable challenges for all data-processing entities in business and administration as well as for the supervisory authorities. The latter found themselves in a Europe-wide network of cooperation for which completely new procedures had to be developed.

“The Europeanisation of data protection law is the answer to a cross-border digitalised world aiming at the protection of citizens and their fundamental rights”, says Smoltczyk. Knowing that, the Berlin supervisory authority has been deeply involved in the process of practical implementation of the new European rules at national and European level. Numerous interpretations that are binding throughout Europe were drafted with the significant participation of the Berlin authority.

“The GDPR has vastly increased public awareness of data protection”, says Maja Smoltczyk, head of the authority. One sign of this is the considerable and constant increase in the number of submissions and enquiries to the Berlin supervisory authority since the GDPR came into effect in May 2018. In order to meet these new requirements, the authority's processes had to be comprehensively modernised and adapted to the new circumstances. “Fortunately, after intensive negotiations, it was possible to obtain from the Berlin House of Representatives an urgently needed increase in personnel and funding for the authority to meet these challenges”, says Smoltczyk.

In terms of topics, Maja Smoltczyk's term was primarily characterised by questions of data protection in the course of the digitalisation of public administration and schools, the processing of data in Berlin's hospitals and public health administration, advising businesses and administration on the implementation of the GDPR, accompanying countless legislative projects and, in the past two years, a wide range of questions regarding measures to combat the pandemic.

Under Maja Smoltczyk, the authority set up a start-up consultation to advise young entrepreneurs on how data protection requirements can be implemented in their respective

business concepts right from the start. In addition, teaching materials and a homepage were developed especially for primary school pupils, their parents and teachers in order to familiarise even the youngest children with the safe handling of their data online and to support parents and teachers in communicating this complex topic with them. These offers enjoy enormous popularity and are now an essential part of the work of the Berlin authority.

With its examination of video conferencing systems, which has attracted attention far beyond the Berlin area, the authority has not only provided guidance in and after pandemic times, but has also brought about a significantly expanded range of products that comply with data protection regulations. In addition, the new powers of the data protection supervisory authorities to sanction data protection violations also created new possibilities for enforcing the European rules. The Berlin supervisory authority played a decisive role in the development of a German and subsequently a European guideline for imposing fines. A review of cookie banners covering several economic sectors was launched and will take the authority some time to complete.

The digitalisation of society and working life, which was extremely accelerated by the outbreak of the Corona pandemic, highlighted the need to catch up on the implementation of fundamental data protection requirements. Although important steps have been taken in the meantime and gratifying successes have been achieved, Maja Smoltczyk's successor will still have to take significant action in this context.

In the area of freedom of information, Maja Smoltczyk has not only campaigned for a modern transparency law in Berlin, but also intensively for drafting demands for the transparency of algorithmic procedures in public administration, which were ultimately also adopted by the International Conference of Information Officers.

Maja Smoltczyk on the end of her term:

“It has been a very exciting and challenging time and I am grateful to have had a hand in shaping these profound changes. In an increasingly digitalised world, the responsible handling of personal data and the right to informational self-determination are essential so that people do not become mere objects of economic or political interests. Sovereign people need a protected space in which they are not observed so that they can develop freely. Ultimately, data protection is the fundamental rights corrective to digitalisation.

It was my great honour to also chair the International Working Group on Data Protection in Technology (IWGDPT) during this time. Through the so-called Berlin Group, it was also possible to reach international agreements on data protection in this important area. I am very pleased that it has recently been possible to transfer responsibility for this renowned group to the German Federal Commissioner for Data Protection and Freedom of Information and thus secure it for the future.

I wish the future leadership of the Berlin supervisory authority much energy, courage and, above all, perseverance. She or he will be able to rely on an outstandingly qualified authority that is ready to master future challenges with a great deal of commitment and creative enthusiasm. I would like to thank my staff for their exemplary work. Without their expertise, dedication and idealism, the successes of the past years would not have been possible.”