

Data. Protection. Adding Value.

GDPR Local Insights*



Germany

Legislation

Bundesdatenschutzgesetz (BDSG), supplemented by data protection rules in special fields of law legislation.

Supervisory Authority

Multiple data protection authorities exist due to the federal structure in Germany. In addition to the Federal Commissioner for Data Protection and Freedom of Information on the federal level, **each federal state** has its own supervisory authority.

Special Conditions for Data Processing

- There are special rules on the processing of personal data in the employment context, e.g. the requirements for employee consent are further illustrated.
- Pre-contractual profiling and the use of scoring data provided by credit reporting agencies is subject to certain prerequisites.
- CCTV of publicly accessible areas is only permitted if it necessary (i) for a public body to perform their tasks, (ii) to exercise the rights to determine who is permitted or denied access; or (iii) in case of legitimate interests for specified purposes.
- Personal data may be processed for the establishment, exercise or defence of a legal claim, regardless of the purpose for which the data was first collected.
- The BDSG further permits public bodies to process personal data for certain specific secondary purposes.

Special Categories of Data

The BDSG makes use of the right under the GDPR to maintain or introduce further conditions for the processing of special categories of data. This includes additional legal bases for the processing of personal data by a public bodies, e.g. for danger and risk prevention and in the areas of **social security** and **public health**.

The German legislator has also introduced additional provisions covering the **employment context** and allowing for example that collective agreements can be used as a legal basis for the processing of sensitive personal data. The BDSG further allows the processing of special categories of data without consent for **archiving, research and statistical purposes** under certain conditions. Stricter requirements apply to the processing of genetic, biometric, or health data. By way of example, the processing of genetic information for examination or analysis explicitly requires the data subject's consent.

Restrictions on Individuals' Rights

Controllers are not required to provide transparency information under certain conditions. For example, no data privacy notice is required when this would interfere with **pursuing legal claims** or, in case of Art. 14 GDPR only, if the relevant information is subject to secrecy requirements.

The right to access is excluded in certain circumstances, including if information subject to **secrecy requirements** would need to be disclosed. Data subject rights are generally not available if this would impair processing for research or statistical purposes.

Restrictions on the right to erasure apply in case of non-automated processing.

Other Relevant Exemptions

Entities must appoint a **data protection officer** if they constantly employ at least **20 persons** with the automated processing of personal data. This includes for example personnel that is working at PC workstations.

Let's connect to discuss how we can help:



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*The overview intends to provide general insights on the level of supplementary rules implemented in a country and for such purpose provides examples where the relevant member states have made use of the exemption provided by the GDPR. It is therefore non-exhaustive.

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