

O) Data Protection

1. Federal Data Protection Act (*Bundesdatenschutzgesetz - BDSG*)

of 20 December 1990 (Federal Law Gazette [BGBl.] Part I p. 2954), last amended by Act of 20 December 2001 (BGBl. Part I p. 3926)

Section 15 Transmission of Data to Public Bodies

(1) The transmission of personal data to public bodies shall be permissible if

1. this is necessary for the performance of duties of the transmitting body or the third party to which the data are transmitted and
2. the requirements are met which would permit use in accordance with section 14.

(2) Responsibility for the permissibility of transmission shall rest with the transmitting body. If the data are transmitted at the request of the third party to which the data are transmitted the latter shall bear responsibility. In such case the transmitting body shall merely examine whether the request for transmission lies within the scope of the duties of the third party to which the data are transmitted unless there is special reason to examine the permissibility of transmission. Section 10 subsection 4 shall remain unaffected.

(3) The third party to which the data are transmitted may process or use them for the purpose for which they are transmitted. Processing or use for other purposes shall be permissible only if the requirements of section 14 subsection 2 of this act are met.

(4) Subsections 1 to 3 above shall apply mutatis mutandis to the transmission of personal data to bodies of public-law religious societies, provided it is ensured that adequate data protection precautions are taken by them.

(...)

2. Act on the Protection of Citizens' Personal Data [of Saxony-Anhalt] (*Gesetz zum Schutz personenbezogener Daten der Bürger [von Sachsen-Anhalt] - DSG-LSA*)

of 12 March 1992 (Law and Ordinance Gazette [GVBl.] of Saxony-Anhalt p. 152), last amended by Act of 18 February 2002 (GVBl. of Saxony-Anhalt p. 54)

Part Two: Legal Basis of the Collection, Processing and Use of Data

Section 11 Data Transmission to Public Bodies

(...)

(4) Subsections 1 to 3 shall apply mutatis mutandis⁶⁸ to the transmission of personal data to bodies of the public-law religious societies if it is ensured that the recipient has taken sufficient

⁶⁸ Note: Subsections 1 to 3 largely make the following provision: Transmission of personal data is on principle permissible if it is necessary in order to carry out tasks within the competence of the transmitting body or of the

data protection precautions. The determination of this shall be taken by the transmitting body unless it has been carried out in general by the Ministry of the Interior.

(...)

3. Registration Law Framework Act (*Melderechtsrahmengesetz - MRRG*)
of 16 August 1980 (Federal Law Gazette [BGBl.] Part I p. 1429), in the version of the proclamation of 19 April 2002 (BGBl. Part I p. 1342)

Section 1 Duties and Powers of the Registration Authorities

(1) The authorities of the Länder that are competent for registration (registration authorities) shall register the persons (residents) resident in their area of competence in order to be able to determine and prove their identity and places of residence. They shall issue information from registration registers, assist in the implementation of tasks of other authorities or other public bodies and shall transmit data. In carrying out their tasks, the registration authorities shall maintain registration registers. These contain data collected from those affected, from authorities and other public bodies or which otherwise become officially known.

(2) The registration authorities may process or use personal data stored in the registration register only in accordance with this act or other legal provisions. Data from residents not obliged to register, may be collected, processed and used on the basis of a consent according to the provisions of the data protection law of the respective Land.

Section 2 Storage of Data

(1) In carrying out their tasks according to section 1 subsection 1 sentence 1 and 2, the registration authorities shall store the following data on residents in the registration register, including the indications necessary to prove their accuracy:(...)

11. legal affiliation to a religious society,

(...)

Section 4 Data Collection

(1) Land law shall determine which of the data which may be stored by the registration authorities in accordance with section 2 are collected as a result of the registration or deregistration or change of residential status of a resident.

(...)

Section 4a Correctness and Completeness of the Registration Register

(1) If the registration register is incorrect or incomplete, the registration authority shall correct or supplement it (continuation) ex officio. Without delay, the authorities or other public bodies

recipient, and it takes place for the purposes for which the data have been collected. The recipient may on principle only process or use the data transmitted for the purpose for which they were transmitted to him/her ; storage, alteration or use for other purposes is only permissible under certain preconditions (cf. section 10 subsection 2).

shall be informed of continuation to which incorrect or incomplete data have been transmitted in regular data transmission.

(...)

(3) The bodies named in subsection 1 second sentence, if they do not carry out tasks of the official statistics and are not public-law religious societies, shall notify the registration authorities without delay if they have concrete indications of the incorrectness or incompleteness of data transmitted. Other public bodies to which registration data have been transmitted at their request may notify the registration authorities in the event of the existence of such indications. Subsection 2 shall remain unaffected. Statutory duties of confidentiality, in particular tax secrecy in accordance with section 30 of the Due Ordinance, and professional or special official secrecy, shall not oppose notification in accordance with the first and second sentences if it is limited to stating that concrete indications exist for the incorrectness or incompleteness of data that have been transmitted.

(...)

Section 17 Data Transmission between the Registration Authorities

(1) If a resident has registered with a registration authority, the latter shall instruct the previously competent registration authority and the registration authorities competent for other residences of this by transmitting the data of the person affected, that are named in section 2 subsection 1 Nos. 1 to 18 (feedback). (...) The previously competent registration authority shall instruct the registration authority in the new place of residence of the facts named in section 2 subsection 2 Nos. 1, 3 and 4, as well as in cases where the data referred to in the first sentence deviate from the information previously given. Where registration authorities of the same Land are involved, further provisions may be made for data transmission by virtue of Land law.

(2) If the data referred to in section 2 subsection 1 are continued, the registration authorities which are responsible for further residences of the resident shall be instructed if the data are needed to carry out their tasks.

Section 18 Data Transmissions to Other Authorities or Other Public Bodies

(1) The registration authority may transmit to another authority or other public agency in the inland the following data of residents from the registration register if they are needed to carry out their competence or tasks lying in the competence of the recipient.

(...)

5. religious names/artistic names,

(...)

Section 19 Data Transmission to Public-Law Religious Societies

(1) The registration authority may transmit to a public-law religious society under the preconditions named in section 18 subsection 1 to carry out its tasks the following data on its members:

1. last names,
2. previous names,

3. first names,
4. doctor's degree,
5. religious names/artistic names,
6. date and place of birth,
7. gender,
8. nationalities,
9. present and last previous address, main and secondary residence, if moving in from abroad the last previous address in the inland as well
10. date of moving in and out,
11. civil status, restricted to the statement of whether married, leading a life partnership or not; in addition concerning married persons or life partners: date of marriage or establishment of the life partnership,
12. number of minor age children,
13. transmission barriers,
14. date and place of death.

(2) The registration authority may transmit from family members of the members who do not belong to the same or to any public-law religious society the following data:

1. last names,
2. first names,
3. date of birth,
4. affiliation to a public-law religious society,
5. transmission barriers
6. date of death.

Family members for the purpose of sentence 1 are the spouse, minor age children and the parents of minor age children. It may be determined by virtue of a Land statute that more of the data referred to in subsection 1 may be transmitted. The person affected may require his/her data not to be transmitted; he/she shall be informed of this on registering in accordance with section 11 subsection 1. The fourth sentence shall not apply if it has been determined by virtue of Land law that for purposes of the law on levying taxes of the respective public-law religious society data are to be transmitted thereto.

(3) Data transmission in accordance with subsections 1 and 2 shall only be permissible if it is ensured that the data recipient has taken sufficient data protection precautions. Further details shall be determined by Land law⁶⁹.

⁶⁹ Cf. on this by way of example the excerpts from the Registration Act of the Land of Saxony-Anhalt (Meldegesetz des Landes Sachsen-Anhalt) below.

**4. Registration Act of the Land of Saxony-Anhalt
(Meldegesetz des Landes Sachsen-Anhalt - MG LSA)**

of 18 September 1992 (Law and Ordinance Gazette [GVBl.] of the Land of Saxony-Anhalt p. 682), in the version of the proclamation of 1 March 1996 (GVBl. of the Land of Saxony-Anhalt p. 122), last amended by Act of 19 March 2002 (GVBl. of the Land of Saxony-Anhalt p. 130)

Part III: Registration Register

Section 22 Storage of Data

(1) In carrying out their tasks, the registration authorities store the following data on residents in the registration register, including the indications necessary to prove their accuracy:

(...)

11. legal affiliation to a religious society,

(...)

(2) Over and above the data named in subsection 1, the registration authorities shall store the following data in the registration register, including the indications necessary to prove their accuracy:

(...)

6. for the issuance of a wage tax card:

fiscal data (tax class, tax-free allowances, religious affiliation of the spouse, legal status and allocation of the children, first and last names, as well as address of the foster and step parents),

(...)

Section 24 Classification Aid

(1) The registration authorities may maintain the registration registers with the aid of classification aids. (...)

(2) Classification aids may not be transmitted other than to public-law religious societies.

Part Four: Data Transmission

Section 28 Data Transmission between the Registration Authorities

(1) If a resident has registered with a registration authority, the latter shall instruct the previously competent registration authority and the registration authorities competent for other residences of this without delay, not later than within a week by transmitting the following data on the resident (feedback):

(...)

4. affiliation to a public-law religious society,

(...)

Section 30 Data Transmission to Public-Law Religious Societies

(1) The registration authority may transmit to a public-law religious society in order to carry out its tasks the following data on its members from the registration register:

1. classification aid,
2. first and last names,
3. previous names,
4. doctor's degree,
5. religious names/artistic names,
6. date and place of birth,
7. gender,
8. nationalities,
9. present and last previous and future addresses, main and secondary residence, date of moving in and out,
10. civil status, restricted to the statement of whether married or not; additionally with married persons: date of conclusion of marriage,
11. number of minor-age children,
12. transmission barriers, and
13. date and place of death.

(2) It must be ensured in transmission that the third party, to which the data are transmitted, has taken sufficient data protection precautions. The determination of this shall be made by the storing body unless it has been carried out in general by the Ministry of the Interior.

Section 32 Regular Data Transmission

The Ministry of the Interior shall be empowered to permit or prescribe regular data transmission from the registration authority to public bodies, public-law religious societies and the search service by means of an ordinance if the transmissions are necessary in order to carry out tasks for which the third party, to which is transmitted, is competent. In the ordinance, the reason for and purpose of the transmission, the data to be transmitted and the third party, to which is transmitted, shall be established; in addition, the form and procedure of transmission may be regulated.