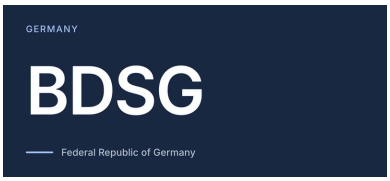
SmartSuite

Framework / Privacy / Global Privacy Regulations

Bundesdatenschutzgesetz (BDSG) vom 30. Juni 2017 (BGBl. I S. 2097), in force 25 May 2018, as amended

Germany's Federal Data Protection Act (BDSG) of 30 June 2017, in force since 25 May 2018, fills the GDPR's opening clauses, transposes the Law Enforcement Directive and sets up the BfDI.



What it is

The Bundesdatenschutzgesetz (BDSG) is Germany's Federal Data Protection Act of 30 June 2017 (BGBl. I p. 2097), in force since 25 May 2018, which adapts German law to the GDPR, transposes the Law Enforcement Directive (EU) 2016/680 and sets up the Federal Commissioner for Data Protection and Freedom of Information (BfDI). It binds federal public bodies, state public bodies where no state law applies, and every private body processing personal data in Germany or through a German establishment (section 1).

The Bundestag passed the Act with the consent of the Bundesrat as Article 1 of the Data Protection Adaptation and Implementation Act EU; it replaced the BDSG of 1990 and has been amended since, most recently by Article 3 of the Act of 3 July 2026 (BGBl. 2026 I No. 199). The BfDI supervises federal public bodies and telecommunications companies (section 9); the supervisory authorities of the Länder supervise private bodies (section 40).

At a glance

PUBLISHER
German Bundestag with the consent of the Bundesrat (enacted); enforced by the BfDI and the supervisory authorities of the Länder

TYPE
Regulation

VERSION
BDSG of 30 June 2017 (BGBl. I p. 2097), as last amended by Article 3 of the Act of 3 July 2026 (BGBl. 2026 I No. 199)

EFFECTIVE
May 25, 2018 (Article 8(1) of the Act of June 30, 2017)

DOMAIN
Privacy

FAMILY
Global Privacy Regulations

REGION
Germany

ADOPTION MODEL
Regulatory Compliance

IMPLEMENTATION COMPLEXITY
High

Source: gesetze-im-internet.de/bdsg_2018/

Why it matters

- **A low DPO threshold** Section 38 requires private controllers and processors to designate a data protection officer when, as a rule, at least 20 persons are constantly employed in automated processing, and regardless of headcount for DPIA-subject or commercial transfer processing.
- **Employee data rules** Section 26 allows processing needed to decide on, perform or end employment, requires documented factual indications before processing to detect crimes, and sets the test for voluntary consent at work.
- **National grounds for sensitive data** Section 22 permits special categories of data for social security, health care under professional secrecy, public health and substantial public interest, with the safeguards of section 22(2).
- **Rights with German limits** Sections 34 and 35 restrict access and erasure where data are kept only under retention duties or where non-automated erasure is disproportionate, replacing erasure with restriction.

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How SmartSuite supports BDSG

Processing Record with BDSG Basis

Record each processing activity with its GDPR Article 6 or 9 basis and the BDSG section relied on, such as section 22(1), 24 or 26(1), with the section 22(2) safeguards attached.

DPO Determination (section 38)

Document the headcount test, the DPIA and commercial transfer triggers, the designation and the notification to the supervisory authority.

Employee Data Register (section 26)

Flag processing of employee data, record the necessity test, the documented indications for any crime detection processing and the voluntariness assessment for consent.

Request Workflow with German Restrictions

Run access, erasure and objection requests with deadlines, apply the section 34 and 35 restrictions where retention duties exist and document the reasons as section 34(2) requires.

Supervisory Authority File (section 40)

Keep the competent Land authority, correspondence, orders and fine proceedings under section 41 in one case record, with appeal dates.

Law Enforcement Processing (Part 3)

For competent authorities, track section 64 security measures, section 65 breach notifications, section 67 impact assessments, section 70 records and section 76 logging.

Common framework mappings

APEC PF | GDPR | ISO 27001:2022 | ISO 27002:2022 | ISO 27701 | NIST Privacy Framework v1.0 | OECD Privacy Guidelines

Official resources

Germany Federal Data Protection Act (BDSG) Text

Provides the full legal text of the BDSG, detailing data protection requirements and principles in Germany.

gesetze-im-internet.de/englisch_bdsg/englisch_bdsg.html

Federal Data Protection Commissioner Guidance

Offers official guidelines from the Federal Data Protection Commissioner on implementing BDSG provisions.

bfdi.bund.de/EN/DataProtection/Das-neue-BDSG-node.html

BDSG and GDPR: Complementary Rules

Outlines how the BDSG complements GDPR with specific national regulations.

bfdi.bund.de/EN/DataProtection/Datenschutzrecht/EU-GDPR_node.html

Frequently asked questions

When does a company in Germany need a data protection officer?

Under section 38(1) BDSG, a private controller or processor must designate one when, as a rule, at least 20 persons are constantly employed in the automated processing of personal data. Regardless of headcount, one is required for processing subject to a data protection impact assessment under GDPR Article 35 and for commercial processing for the purpose of transfer, anonymized transfer, or market or opinion research.

What does section 26 BDSG say about employee data?

Employee data may be processed where necessary to decide on hiring, to perform or end the employment relationship, or to exercise rights and duties under a law or collective agreement. Processing to detect crimes requires documented factual indications of a crime in the employment relationship and a proportionality test, and section 26(2) sets how voluntary consent is judged given the employee's dependence.

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Who enforces the BDSG?

The Federal Commissioner for Data Protection and Freedom of Information (BfDI), a supreme federal authority seated in Bonn, supervises federal public bodies and telecommunications providers (sections 8 and 9) and exercises the GDPR Article 58 powers (section 16). The supervisory authorities of the Länder supervise private bodies, with competence following the establishment (section 40).

How do fines and criminal penalties work under the BDSG?

GDPR Article 83 fines are imposed through the Administrative Offences Act procedure of section 41, with the Regional Court deciding appeals above 100,000 euros. Section 43 adds a fine of up to 50,000 euros for consumer credit information breaches under section 30 and exempts authorities and public bodies from fines. Section 42 makes unauthorized commercial transfer of non-public data of a large number of persons a crime punishable by up to three years.

Does the BDSG restrict GDPR rights?

Yes, in sections 32 to 37. For example, section 34 removes the right of access where data are stored only because retention rules prevent deletion or serve only data security and control and access would take disproportionate effort, and section 35 replaces erasure with restriction of processing where non-automated erasure is impossible or disproportionate and the data subject's interest is minor.

License included / downloadable: Yes The Act is federal legislation published free of charge on gesetze-im-internet.de by the Federal Ministry of Justice, with an English translation that lags the German text, and is included with the platform for reference.

Full framework page and mappings: smartsuite.com/frameworks/germany-federal-data-protection-act-bdsg

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