

Second Study Commission
Civil Law and Procedure
63rd Annual Meeting of the IAJ – San José (Costa Rica)
Questionnaire 2020

HOW DATA PROTECTION RULES ARE IMPACTING ON CIVIL LITIGATION (GERMANY)

1. Do you store digital data in your jurisdiction?

Yes.

2. How is it stored and for how long?

Digital data is stored on servers generally under control of the judicial administration, sometimes however of the executive branch (e.g. in Bavaria). The respective court, public prosecutor's office or other judicial authority dealing with the legal matter is responsible for digital data storage items.

The duration of digital data storage generally follows the duration of the storage periods of the files (paper or e-files) to which the data belong. According to the necessities of each kind of procedure and information, the different Bundesländer and the Federal Republic of Germany have established appropriate storage periods varying from 3 months to 100 years; certain data even have no limited storage period.

3. Who has access to the digital data in your jurisdiction?

Within the judiciary only those persons have access to digital data who are dealing with the procedure in which those data are relevant, i.e. judges, prosecutors and service personnel treating the legal case, but also the opponent party of a civil lawsuit as well as judicial experts. Other judicial or non judicial authorities will get access to such data only as far as necessary for the fulfillment of judicial or other legal purposes.

Third parties will obtain data only under tightly limited conditions: They have to make facts credible that show a legal interest (§ 299 para. 2 Zivilprozessordnung); a mere economic interest does not suffice.

4. Are there digital data protection rules in place in your jurisdiction?

Digital data protection is provided by the General Data Protection Regulation ((EU) 2016/679) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on

the free movement of such data (GDPR). Additionally, data protection rules are established in the procedural law and in the data protection acts of the Federal Republic of Germany (Bundesdatenschutzgesetz v. 30.06.2017) and those of the sixteen Bundesländer.

5. Who covers the costs relating to the storage and protection of the digital data in your jurisdiction?

The costs relating to the storage and protection of digital data are part of the expenditures for data processing and as such covered by the according budget title in the parliamentary budget act.