

## DPO in Europe

Countries	EU - DPR	Germany	France	Spain	Switzerland	Belgium	The Netherlands	Hungary	Sweden	Luxembourg	Italy	UK
Name of DPO	Data Protection Officer	Beauftragter für den Datenschutz (DSB)	Correspondant à la protection des données à caractère personnel (= Correspondant Informatique et libertés, CIL)	Responsable de seguridad/Security Officer	Betrieblicher Datenschutzverantwortlicher/ Datenschutzberater responsable della protezione dei dati/Conseiller à la protection des données	Préposé à la protection des données/Aangestelde voor gegevensbescherming	Functionaris voor de gegevensbescherming	Belső adatvédelmi felelős (internal data protection officer)	Personuppgiftsombudet (Personal Data Representative)	Chargé de la protection des données (Data Protection Official)	DPO	Data Protection Supervisor
Legal basis	Article 35 – 37 Proposal for a General Data Protection Regulation COM(2012) 11 final	§§ 4f, 4g Federal Data Protection Act (BDSG)	ACT N°78-17, Amended by the ACT OF 6 August 2004, Art. 22 III; Decree No 2005-1309 of 20 October 2005, Art. 42 and following	Ley Orgánica 15/1999, de protección de datos de carácter personal; Real Decreto 1720/2007	Article 11a section 5 lit. e and section 6 of Federal Act on Data Protection (FADP) (DSG, SR 235.1), Articles 12a and 12 b of Ordinance to the Federal Act on Data Protection (OFADP)	Article 17bis Act of 8 December 1992 on the protection of privacy in relation to the processing of personal data. The King determines the categories of data processed. Data controllers of these categories have to appoint a DPO.	Chapter 4 and Chapter 9 sec. 2 of Wet Bescherming Persoonsgegevens (WBP) of July 6, 2000.	Art. 28 and 31 of the Act LXIII of 1992.	Personuppgiftslag – Sections 36 to 41 of Personal Data Act of April 29, 1998	Law of 2 August 2002 on the Protection of Persons with regard to the Processing of Personal Data, modified by the Law of 31 July 2006 the Law of 22 December 2006 the Law of 27 July 2007, Articles 15 and 40	---	Data Protection Act 1998 c. 29 Part III Section 23  The DPA provides the secretary of state with the power to make provisions to allow DCs to appoint 'data protection supervisors' to independently monitor the compliance of the DC with the provisions of the act.  At this stage the Secretary of State has made no such provisions.
Prescribed by law	Art. 35 Nr. 1 lit. a): If any operation is performed upon personal data, designation of a DPO is: • Mandatory in public sector • Mandatory in private sector for - enterprises employing 250 persons or more - DCs whose core activities require regular and systematic monitoring of data subjects	§ 4f BDSG: • Mandatory for private entities ▪ if more than 9 persons are constantly employed in automated data processing of personal data ▪ if 20 persons or more are employed in processing of personal data ▪ if personal data subject to prior checking or for market research in commercial way are automatically processed regardless to the number of employees. • Optional for remaining private entities • Mandatory for public entities, when personal data are processed	DPO is optional.	DPO is optional.	DPO is optional.	Optional in private sector, mandatory only for several public institutions.	Optional in private sector.	Mandatory in case of processing • data files of national authorities • of national labor data • criminal data • or of data in financial institutions, • in telecommunication service providers • in public utility service providers	Optional	Optional	DPO is optional.	DPO is optional.

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<b>Function/Legal tasks</b>	<p>DPO informs and advises the DC of their obligations and documents this activity and the responses received.</p> <p>DPO monitors the implementation and application of the policies of the DC for protection of personal data, including the assignment of responsibilities, the training of staff involved and the related audits.</p> <p>DPO monitors the implementation and application of the General Data Protection Regulation</p> <p>DPO ensures the maintenance of the documentation of all processing operations.</p> <p>DPO monitors the documentation, notification and communication of personal data breaches.</p> <p>DPO monitors the performance of the data protection impact assessment by the DC and the application for prior authorization or prior consultation.</p> <p>DPO monitors the response to requests from the Authority and the co-operating with the Authority within the sphere of DPO's competence.</p> <p>DPO is point of contact for data subjects on all issues related to the processing of data and to request exercising its rights.</p> <p>DPO is contact point for the Authority and consults the Authority on his own initiative if appropriate.</p>	<ul style="list-style-type: none"> <li>DPO ensures compliance with the applicable data protection laws</li> <li>DPO checks technical and organizational measures concerning data processing</li> <li>DPO has to maintain a registry of data processing and to make it available to anybody on request</li> <li>DPO is point of contact for data subjects</li> <li>DPO supervises processing of personal data and for this purpose DPO shall be informed timely about all details of processing personal data.</li> <li>DPO performs data protection trainings for the employees</li> <li>DPO manages prior checking for sensitive personal data</li> </ul>	<ul style="list-style-type: none"> <li>DPO ensures compliance with the applicable data protection laws by making recommendations</li> <li>He shall be consulted about any new processing before their implementation</li> <li>Restriction of scope for special departments is possible</li> <li>DPO has to maintain a registry of data processing within three month after appointment and has to make it available to anybody on request</li> <li>DPO has to inform DC about all violations of data protection laws, also about those failings noted before any notification to the CNIL</li> <li>DPO is contact person for requests and complaints</li> </ul>	<p>Main task of Data Security Officer is to ensure compliance with the security measures of Royal Decree 1720/2007.</p> <p>Registration requirements are independent of the appointment of a Data Security Officer.</p>	<p>DPO audits the processing of personal data and recommends corrective measures if he ascertains that the data protection regulations have been infringed. DPO also has to maintain a list of the data files in accordance with Article 11a paragraph 3 FADP that are operated by the controller of the data files; this list must be made available to the Commissioner or on request to data subjects.</p>	<p>DPO has to ensure compliance with Belgium Data Protection Act.</p>	<ul style="list-style-type: none"> <li>DPO ensures and supervises the processing of personal data in accordance with the applicable laws.</li> <li>DPO may submit recommendation to the responsible party with a view to improving the protection of personal data being processed.</li> <li>DPO maintains a registry of data processing carried out by the data controller available to anybody on request.</li> <li>DPO may consult the Authority in case of questions concerning his duties and power.</li> </ul>		<ul style="list-style-type: none"> <li>DPO ensures independently the processing of personal data in accordance with applicable laws and in accordance with good practices</li> <li>DPO points out any inadequacies to DC</li> <li>DPO maintains a registry of data processing carried out by the DC with the information that a notification would have given.</li> <li>DPO shall assist persons to whom the personal data relates to obtain rectification when there is a reason to suspect that data is incorrect or incomplete.</li> </ul>	<ul style="list-style-type: none"> <li>DPO has investigative powers to ensure supervision of DC's compliance with the provisions of applicable laws and their implementing regulations</li> <li>DPO has a right to be informed by the DC and a correlative right to inform the DC of the formalities to be carried out in order to comply with the provisions of applicable laws and their implementing regulations.</li> </ul>		
<b>Reporting</b>		Optional reporting to the corporate management	DPO prepares annual reports for the DC and the Authority	Reporting only to the data controller, not to the Authority.	Reporting to the Authority is not regulated. Reporting only to the data controller.	n/a	DPO reports annually on activities and findings.					
<b>Optional tasks</b>		DPO may provide assistance in the draft of guidelines, codes of conduct and contracts for order data processing.	DPO may provide assistance in the draft of guidelines, codes of conduct and contracts for order data processing				When there is a code of conduct, DPO also supervises its compliance.					

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<b>Legal benefits</b>	Simplification of procedures because the DC is not required to notify the Authority, except where the data processed is subject to prior investigation.	Obligation to report to the Authority (§ 4d BDSG) does not apply. Exception in the case of personal data is processed for the reason of transmitting or market research.	Obligation to report to the Authority (Article 23 and 24) does not apply. Except where a transfer of personal data to a State that is not a Member State of the European Union is envisaged or data processing subject to authorization by the Authority.	None.	Abolition of the obligation to notify.	None.	<ul style="list-style-type: none"> <li>Abolition of the obligation to notify to the Authority, notification only mandatory if data processing is subject to prior investigation.</li> <li>Supervision of the Authority will be in case of an appointed DPO restricted to proper function of the organization of DPO.</li> </ul>	n/a	Simplification of procedures because the DC is not required to notify the Authority, except where the data processed is subject to prior investigation.	Simplification of procedures because the DC is not required to notify the Authority, except where the data processed is subject to prior investigation.		
<b>Appointment: Internal/External, Qualification</b>	<p>Internal or external appointment; Join appointment possible</p> <p>DPO shall be designated on the basis of professional qualities and expert knowledge of data protection law and practices and the ability to fulfill his tasks.</p> <p>DPO's duties must be compatible with his other professional duties.</p> <p>DC shall notify the Authority and the public about the appointment.</p>	<ul style="list-style-type: none"> <li>Internal and external appointment of lawyers is possible</li> <li>In business groups DPO may be responsible for affiliates with the need of local assistants</li> <li>Appointment must be in writing and within a month of starting private business</li> <li>Notification to the Authority is not required</li> <li>DPO must have specific knowledge of data protection laws and the relevant data processing system and structures, also adequate technical knowledge and economy knowledge depending on the specific data processing</li> </ul>	<ul style="list-style-type: none"> <li>Internal and external appointment of lawyers possible; legal entities cannot be appointed</li> <li>Exception with regard to entities where more than fifty persons are in charge of the implementation or have direct access to the processing: Only a DPO who serves exclusively the authority or body, or who is attached to the department that implements such processing, may be appointed</li> <li>Exceptions from this are possible: When DC is a controlling or controlled company DPO may be appointed among the individuals serving the controlling company or one of the companies it controls; when DC is member of Economic Interest Group; when DC is a member of a professional body or a body grouping DCs of the same branch of industry, he may appoint a DPO appointed for this purpose by this body</li> <li>Notification to employee representatives prior to other notification by a letter delivered against signature</li> <li>Notification to the CNIL or the secretariat of the Commission with acknowledgement of receipt is necessary; the appointment of a DPO takes effect one month after receipt of the notification</li> <li>DPO shall have the qualification required to perform his duties</li> <li>Certification is not mandatory</li> </ul>	Specific qualifications are not regulated, but DSO should have experiences in data protection security. Internal and external joint by an advocate or legal entity is possible.	Internal and external appointment by an employee, advocate or legal entity is possible. DPO must have the required specialist knowledge. Notification to the Authority on appointment is advisable if exemption from the duty to register the data file is wished, but not mandatory.	n/a	<ul style="list-style-type: none"> <li>Only natural persons may be appointed as DPO.</li> <li>Adequate knowledge necessary.</li> <li>Only persons that can be regarded as sufficiently reliable.</li> <li>Only internal appointment.</li> </ul>		<ul style="list-style-type: none"> <li>Internal, external and joint appointment possible, lawyers may be appointed. But DPO must be an individual, no legal entity allowed.</li> <li>The appointment must be notified to the Authority to be exempted from the requirement to notify the Authority about data processing.</li> </ul>	<ul style="list-style-type: none"> <li>Internal or external appointment of natural or legal persons who are approved by the Authority</li> <li>Notification to the Authority necessary</li> <li>Approval for the activity of data protection official will be subject to proof of completion of university studies in law, economics, commercial management, natural science or information technology</li> <li>Members registered in the following controlled professions can be approved unconditionally as DPO: barristers, auditors (réviseurs d'entreprises), accountants (experts-comptables), doctors.</li> </ul>		

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<b>Employment conditions</b>	<p>DPO is independent and receives no instructions regarding the exercise of the function.</p> <p>DPO shall directly report to the management of the DC.</p> <p>DPO shall be supported by DC with necessary staff, premises, equipment or other resources.</p> <p>Conflict of interests must be avoided</p> <p>DPO's duties must be compatible with his other professional duties.</p> <p>DPO shall be designated for at least 2 years with option to be reappointed. During this period dismissal of DPO is only possible in the case that DPO no longer fulfills the required conditions</p> <p>DC shall ensure that the DPO is involved in all issues relating to the protection of personal data.</p>	<ul style="list-style-type: none"> <li>DPO is independent, DC cannot give instructions</li> <li>DPO are immediately subordinated to the management</li> <li>Any disadvantages in result of following their duties is forbidden</li> <li>In consequence a conflict of interests must be avoided, so the DPO cannot be the DC, manager of IT or HR departments</li> <li>DPO has the right to access any information or document</li> <li>On internal appointment, DPO is a protected employee</li> <li>The DC shall provide advanced trainings and needful support to DPO</li> </ul>	<ul style="list-style-type: none"> <li>DPO is independent, DC cannot give instructions</li> <li>DPO shall carry out his mission in direct contact with the DC</li> <li>DPO is not a protected employee but shall receive no instructions or sanctions regarding the performance of his duties</li> <li>To avoid conflicts of interest, DPO cannot be the DC or his legal representatives or other person responsible for departments processing personal data</li> <li>DPO may apply to CNIL when he encounters difficulties in the performance of his duties</li> <li>The DC shall provide the DPO with all the material and information</li> </ul>	Not regulated.	<ul style="list-style-type: none"> <li>DPO carries out his duties independently and without instructions from the controller of the data file. The resources required to fulfill his duties must be made available to DPO.</li> <li>DPO may not carry out any other activities that are incompatible with his duties.</li> <li>DPO has access to all data files and data processing as well as to all information that he requires to fulfill his duties.</li> </ul>	n/a	<ul style="list-style-type: none"> <li>DPO may not receive any instructions from the responsible party or organization which appointed them with respect to the performance of their duties.</li> <li>They shall sustain no disadvantage as a consequence of performing their duties.</li> <li>Responsible parties shall give officers the opportunity to perform their duties properly.</li> <li>DPO is a protected employee comparable to members of work council.</li> </ul>	<ul style="list-style-type: none"> <li>DPO is independent in the performance of his duties</li> <li>DPO is not a specially protected employee.</li> <li>Sanctions for denouncing the DC to the Authority are not allowed</li> </ul>	<ul style="list-style-type: none"> <li>DPO is independent in the performance of his duties.</li> <li>DPO must be allowed adequate time in order to carry out his tasks.</li> <li>There must be no possibility of the missions of activities being carried out concurrently by the DPO being likely to cause a conflict of interest with the exercise of his mission.</li> </ul>			
<b>Relations with the Authority</b>	<p>DPO is contact point for the Authority on issues related to the processing and consult with the Authority.</p>	<ul style="list-style-type: none"> <li>No obligation to notify the appointment</li> <li>No obligation to report to the Authority</li> <li>In case of doubts concerning the legality of data processing the DPO may ask the Authority for advice</li> </ul>	<ul style="list-style-type: none"> <li>Notification of appointment to the Authority is necessary</li> <li>The DPO or the DC may report any difficulty encountered while carrying out the missions of the data protection officer to the CNIL at any time</li> </ul>	None.	<p>DPO can ask for advice but is not allowed to report to the Authority if there are difficulties in executing his duties.</p> <ul style="list-style-type: none"> <li>The Authority can access the data processing registry only on request.</li> </ul>	n/a	<p>DPO shall take up their duties only after the responsible party has registered them as appointed with the Authority, which maintains a list of registered officers.</p>	<ul style="list-style-type: none"> <li>If DPO has reason to suspect that the DC contravenes the provisions applicable for processing personal data and if rectification is not implemented as soon as is practicable after being pointing out, the personal data representative shall notify this situation to the supervisory authority.</li> <li>DPO shall consult with the Authority in the event of doubt about how applying the applicable laws.</li> </ul>	<ul style="list-style-type: none"> <li>DPO consults the Authority in the event of doubt regarding the compliance with applicable laws</li> </ul>			
<b>Liability</b>		<ul style="list-style-type: none"> <li>DPO has the obligation of secrecy and the right to refuse to give evidence</li> <li>DPO is not liable in the event of violation of law, unless intentional violation or severe negligence</li> <li>DPO is also not liable when in case of serious violation he has informed corporate governance</li> </ul>	<ul style="list-style-type: none"> <li>DPO cannot be liable for violations of the law by DC</li> <li>DPO may not be sanctioned for performing his duties</li> </ul>	No particularities. Liability as a normal employee or as a service provider according to the agreement.	<p>DPO cannot be liable for a violation of law by the data controller and he may not be sanctioned for performing his duties.</p>	DPO has obligation of secrecy, breaches of obligation can be punished with imprisonment or fine.	<p>DPO have an obligation to treat as confidential any information disclosed to them in connection with a complaint or request by data subjects, unless the said data subjects have given their consent</p>	<p>DPO has the obligation of secrecy.</p>	<p>DPO may not be the subject of reprisals on the part of the employer as a result of the exercise of his missions, except in the case of a breach of his legal or contractual obligations</p>			

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Termination		<ul style="list-style-type: none"> <li>At the request by the Authority</li> <li>By the DC in case of and only for important reasons with the obligation to keep up employment for one year, unless the DC has valid reasons</li> </ul>	<ul style="list-style-type: none"> <li>At the request of the Authority in case of breach of DPO's duties</li> <li>In case of dismissal DC shall present an application for opinion, with all details relating to the facts of the case, to the DPO and the CNIL by a letter delivered against signature. No decision to put an end to the functions of the data protection officer may be made before the expiry of at least one month</li> <li>DC must notify the resignation of DPO to the Authority</li> </ul>	Not at the request of the authority.	Not at the request of the Authority, but by the data controller at any time.	n/a	<i>Termination of DPOs needs the prior consent of the district court and notification to the Authority</i>		<ul style="list-style-type: none"> <li>Not at the request by the Authority, but by the DC or the DPO</li> <li>The removal from office must be notified to the Authority.</li> </ul>	<p>At the request by the Authority:</p> <ul style="list-style-type: none"> <li>The Authority checks the qualities of all DPO and may at any time object to the appointment or continuance of the DPO if he:                             <ul style="list-style-type: none"> <li>(a) does not have the qualities required for the position of DPO, or</li> <li>(b) is already in contact with the DC in connection with activities other than the processing of data and this contact gives rise to a conflict of interests limiting his independence.</li> </ul> </li> </ul> <p>In the event of objection by the Authority, the DC will have three days to appoint a new DPO.</p>		