

Magdeburg, May 9, 2023

## Le angesmanicederfordatatpotection

data protection

State representative checks the professional requirements of female candidates

and candidates of the state parliamentary groups for the office of state commissioner

for data protection

Since the last change in the State Data Protection Act (DSAG LSA), the

parliamentary groups the candidate or candidates for the election of the state representative for

propose data protection in Saxony-Anhalt to the state parliament. the candidate-

In this process, candidates and applicants must meet the following mandatory requirements:

meet entry requirements:

- ☐ Career qualifications, e.g. proven by a university degree
- ☐ Required qualification (especially data protection)
- ☐ Required experience (especially data protection)
- ☐ Required expertise (especially data protection)
- ☐ Management experience
- ☐ Successful enhanced security scan with security discoveries

Level Ü3.

The State Commissioner for Data Protection Saxony-Anhalt has the obligation as

Supervisory authority to oversee the application of data protection regulations

monitor and enforce (§ 23 DSAG LSA in connection with Article 57 data

General Protection Regulation (GDPR)). The control and enforcement obligation applies in particular

especially for the legal requirements and regulations of the DS-GVO and the

DSAG LSA.

This obligation therefore also extends to the legal requirements "General

my conditions for the members of the supervisory authority" (Article 53 DS-GVO) and

"Prerequisites for the election of the state commissioner for data protection" (§ 21

Paragraph 1 DSAG LSA). Therefore, the supervisory authority must ensure compliance with the control and enforce the legal requirements.

"In addition to the technical requirements, passing the extended security

safety check (Ü3) required. The lack of such a security check

would also result in otherwise qualified candidates that the landing

instructed the prescribed control duties at the State Criminal Police Office and in particular

special with the protection of the constitution can not comply." explained the incumbent

State Commissioner Albert Cohaus.

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Lea n g e s m a n i c e d e r f o r d a t a t p o t e c i t i o n

In a letter to the state parliament today, the incumbent state commissioner

President announced his examination and asked the parliamentary groups

to inform about this. At the same time he asked the President of the Landtag for each

of the persons standing for election in addition to the evidence to be submitted

enclose a qualified test certificate. These documents are then the basis

the examination by the state representative, so that he, as an independent supervisory

authority can meet its monitoring obligations.

Background information:

Due to the clear legal requirements in Article 57 Paragraph 1 a) GDPR

the state commissioner "monitors and monitors all data protection regulations".

enforce" (§ 23 DSAG LSA). This includes all relevant laws that

contain protective regulations. This applies in particular

State Data Protection Act (DSAG LSA), in which the technical requirements

are specified for a state representative for data protection. Before this

The audit obligation includes the following points:

1. Requirements according to § 21 paragraph 1 DSAG LSA:

☐ The acquisition of the qualification for access to career paths of the career

Bahngruppe 2 under the conditions of § 14 paragraph 4 of the state

Civil Servants Act (career qualification, usually proven by university

certificate and, if necessary, additional preparatory service)

☐ Required qualification (especially data protection)

☐ Required experience (especially data protection)

☐ Required expertise (especially data protection)

2. Requirements according to § 22 paragraph 2 and 5 DSAG LSA: management experience

☐ Section 22 paragraph 2 in conjunction with Section 21 paragraph 1 DSAG LSA: Qualification to manage the office

☐ Section 22 paragraph 5 in conjunction with Section 21 paragraph 1 DSAG LSA: Qualification for the activity as the supreme service authority and supreme supervisory authority

3. Successful extended security check according to § 12 SÜG LSA (Ü3).

As a natural person, the state commissioner is responsible for data protection

view of the country's protection of the constitution (§ 30 VerfSchG-LSA in conjunction with

§ 22 DSG-LSA). To comply with this personal supervisory obligation

from day one, he must be authorized to view and

have access to all documents of the secret service.

Lea n g e s m a n i c e d e r f o r d a t a t p o t e c i t i o n

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§ 3 paragraph 1 Security Check and Secret Protection Act (SÜG-LSA)

expressly stipulates that a person carrying a security-sensitive

activities - this includes in particular the supervision of the constitutional protection - should be entrusted to undergo a security check before is. For this reason, at least before the appointment as state commissioned the successful security check has been completed be.

In addition, it should be noted that the state commissioner as the supervisory authority is legally obliged to carry out the data protection at the anti-terrorist database and the right-wing extremism database at the dekriminalamt (LKA) and the Office for the Protection of the Constitution (§ 10 Anti-terror file law (ATDG), § 11 right-wing extremism file law (RED-G)).

The documents are regularly classified as "Secret" and "Top Secret".

The controls are mandatory this year. With the appointment

a person to the state commissioner for data protection, the

Authorizations of the director of the office with regard to his activity as supervisory authority. For this reason, a state representative without prior successful security check is not able to pass the legally required comply with written control obligations. Even with reports about possible data protection violations should not give him access to any information be made clear. Incidentally, this applies to all graded papers.

It is advisable to determine the above conditions before an election, otherwise if the requirements are not met, in particular if the

Security review, a deselection by Parliament would have to take place (§ 21 sentence 3 DSAG LSA).

Stands for inquiries

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