

From December 1, 2021, the law regulating data protection and the protection of privacy in telecommunications and telemedia - the TTDSG for short - will apply in Germany.

The legislator is therefore belatedly transposing the European ePrivacy Directive, which has been in force since 2002, into German law. In the past, courts have already ensured that the previously applicable law is interpreted in accordance with the directives. The "Planet49" judgment of the Federal Court of Justice is proof of this. With the entry into force of the TTDSG, the data protection regulations will not change significantly.

In principle, the TTDSG requires the user's consent if the website owner or app provider wants to save or read cookies and other objects (e.g. advertising IDs) on a terminal device. Exceptions to this consent requirement are strictly limited to an absolute necessity so that the provider can provide a telemedia service expressly requested by the user.

The supervisory authorities will resolutely oppose a broad interpretation of these exceptions, especially since the setting and reading of cookies and other information is in many cases also associated with the processing of personal data and must therefore be assessed according to the strict standards of the General Data Protection Regulation (GDPR). A revision of the »Telemedia Orientation Guide«, which offers specific assistance on individual points of application of the law, will be published shortly after approval by the data protection authorities.

Website and app operators should urgently review the use of cookies and other technologies. In particular, the precise design of the technologies and their necessity must be revised. Type and duration of storage as well as subsequent processing must meet the requirements of TTDSG and DSGVO. In case of doubt and in view of the growing fatigue of many users with consent, those responsible should consider forgoing certain technologies.

Incoming complaints about violations of the specifications are examined in detail by the Saxon data protection officer and necessary changes are implemented.

Addition from 21.12.2021

Orientation guide telemedia 2021

Press release on the new orientation guide