

## **Information on data-processing for clients and other data subjects ("Privacy Policy")**

The purpose of this Privacy Policy is to inform you about the processing of personal data by Kapellmann und Partner Rechtsanwälte mbB (below, Kapellmann“) and the rights available to the data subjects.

### **1 Area of application and definitions**

This Privacy Policy applies to the processing of personal data. With regard to the definitions used (e.g. "personal data", "processing" or "controller"), we refer you to the definitions in Art. 4 of the European General Data Protection Regulation (hereinafter referred to as "GDPR").

If clients, interested parties, business partners and contacts are not direct data subjects, they will forward the Privacy Policy to the data subjects acting on their behalf (e.g. their contact persons, other empowered or authorised persons).

### **2 Controller and Data Protection Officer**

The controller responsible for the processing of personal data as defined in Art. 4, para. 7 GDPR is

Kapellmann und Partner Rechtsanwälte mbB  
Viersener Straße 16,  
41061 Mönchengladbach  
e-mail: [mg@kapellmann.de](mailto:mg@kapellmann.de)  
Telephone +49 2161 811-8  
Fax +49 (0) 811-777

You can contact our Data Protection Officer by e-mail at [datenschutz@kapellmann.de](mailto:datenschutz@kapellmann.de) or at the above postal address, addressing any correspondence "An den Datenschutzbeauftragter" ("To the Data Protection Officer").

### **3 Purpose and legal basis of data processing**

#### **3.1 Processing in connection with client relations**

During the course of initiation, establishment, processing and execution of the client relationships (e.g. processing of client inquiries, issuing quotations), Kapellmann shall process the information provided by the client for this purpose (master data and contact data of the client or its contact persons or other involved parties, contract data and billing data, communication with clients or its contact persons and other involved parties, further information required for processing the inquiry or order). These data are processed primarily to provide appropriate services to the client. This also includes processing for such purposes as

- checking conflicts of interest,
- communication with the client and other parties for the purpose of establishing and processing the

client's case,

- identification under the German Anti-Money Laundering Act (*Geldwäschegesetz, hereinafter "GwG"*), cf. Article 3.2),
- the performance of administrative duties (e.g. filing, contact management) and billing of the order,
- claiming, exercise or defence of mutual legal rights.

Within the framework of the client relationship, Kapellmann may need to collect personal data from publicly accessible sources (e.g. public registers, media, Internet).

Data processing is necessary under Art. 6, para. 1, sentence 1, (b) GDPR for the aforementioned purposes. If it is not you yourself but your employer or principal who is the contract partner of Kapellmann, the data that relates to you, provided by our contract partner in the course of the client relationship, shall be processed on the basis of Art. 6, para. 1, sentence 1, letter (f) GDPR. The legitimate interest of Kapellmann arises from the need to process these data for the purpose of performing the contract or for the provision of pre-contractual measures. The same applies to the processing of personal data of opposing parties, their legal representatives and representatives of other involved organisations (e.g. authorities, courts).

#### **3.2 Performance of statutory duties**

If Kapellmann is involved in the planning or execution, e.g. the purchase or sale of real estate or commercial enterprises or conducts financial transactions or real-estate transactions in the name and for the account of the client (section 2 (1), no. 10 GwG), the processing of client details, any persons acting on behalf of the client and beneficiaries, is necessary, in particular, for the purpose of identification (name, date and place of birth, nationality, photo ID, details of business relations and contract partners). To this purpose, it may be necessary to collect and process data from publicly accessible sources (e.g. public registers, Internet). The legal basis for this data processing is Art. 6, para 1, sentence 1, (c) GDPR in conjunction with the pertinent provisions of GwG.

Moreover, Kapellmann shall process personal data to perform further statutory obligations, e.g. performance of professional and documentary and filing duties required by commercial law, anti-money laundering law and tax law. The legal basis is Art. 6, para. 1, sentence 1, (c) GDPR in conjunction with the relevant statutory duties.

### 3.3 Processing of business contacts

If Kapellmann receives your business contact data in the course of events, business appointments, seminars or similar or as part of the initial business contact or engagement, Kapellmann shall store your contact data for the purpose of maintaining and administering the business contacts in a CRM system (Customer Relationship Management System). The legal basis for this is Art. 6, para. 1, sentence 1, (f) GDPR. The legitimate interest arises from the above purposes.

### 3.4 Marketing and advertising

Kapellmann shall also use the contact data for the purpose of sending clients, other business contacts and potentially interested parties invitations to events, information brochures or other information on current legal developments and topics (e.g. on current court decisions, statutory amendments, legal articles), on news from the legal firm or planned seminars, events, etc. If your business contact data are publicly accessible (e.g. via the company website or professional networks such as Xing, LinkedIn) and Kapellmann events and/or services may be of interest to you due to your business activities, Kapellmann may also use and store the business contact data for the above purposes.

If you have given us your consent to this, your contact data shall be used for these purposes on the basis of Art. 6, para. 1, sentence 1, (a); GDPR. Notwithstanding the above, such use may also be made in accordance with the provisions of Art. 6, para. 1, sentence 1, (f) GDPR, and the relevant provisions of the Unfair Competition Law (*Gesetz gegen den Unlauteren Wettbewerb* or UWG) on the grounds of our legitimate interests. These constitute client maintenance and acquisition. If you do not wish to have your contact data processed for the above marketing/advertising purposes, then you may of course **object to this at any time or revoke your consent (cf. Articles 7 and 8)**. If you wish to unsubscribe from our newsletter you can also do this at any time using the link provided for this purpose in the newsletter.

### 3.5 Customer reference marketing/industry journals

Provided that clients have given us their consent to report on individual mandates or projects to the industry journals relevant to commercial law firms (e.g. JUVE, Legal500, Chambers), we shall reserve the right to nominate clients or contacts as reference persons and to forward their business contact details (name and surname, title, business name and where appropriate address, department, position, email address and telephone number) to the editorial staff of the relevant industry journal. Such information will be forwarded in case the journals wish to contact the reference persons and ask them about their experienc-

es with Kapellmann.

If you have given Kapellmann your express consent to the transmission of the details of your contact persons to industry journals, then the legal basis for this is provided by Art. 6, para. 1, sentence 1, (a) and Art. 7 GDPR. Notwithstanding the above, such transmission may also be made on the grounds of our legitimate interests, for coverage by the industry journal that is as transparent and authentic as possible. In this case the legal basis for transmission would be Art. 6, para. 1, sentence 1, (f) GDPR. You may of course **object to the transmissions of your data at any time or revoke your consent (cf. Articles 7 and 8)**.

### 3.6 Participation in events

If you take part in an event organised by Kapellmann, Kapellmann will process your contact and registration data in order to organise and carry out the event, in particular to create lists of participants, name badges and certificates, for guest management and if necessary to calculate participation fees and forward materials. Where events are carried out in cooperation with other organisations, Kapellmann will share participant lists (name, title, company, position) with the relevant partner organisations, on the basis of Art.6 para. 1, sentence 1, (b) and (f) GDPR. The legitimate interest is established by the purposes set out above.

### 3.7 IT security

In order to guarantee the security, stability, integrity and functionality of the IT systems and IT operation and the security of the stored data and the data-processing operations at Kapellmann, it may be necessary to process the personal data stored in the IT systems of Kapellmann (e.g. during the creation of backups or the performance of tests). The legal basis for this is Art. 6, para. 1, sentence 1, (f) GDPR. The legitimate interest arises from the above purposes.

We would like to point out that any email communications relating to client matters are normally sent using email encryption (a Transport Layer Security Protocol or TLS) that encrypts the transport route of the email. Your attention is expressly drawn to the associated confidentiality risks, e.g. unauthorized access to/interception of emails or failure of the recipient's email server to support TLS. At the request of the recipient and for the transmission of particularly sensitive data we use content encryption (end-to-end encryption).

## 4 Duration of storage

As a matter of principle, Kapellmann shall store your personal data only for as long as this is necessary to perform the processing described in these Privacy Policy provisions or statutory requirements or filing

duties. Client records must be filed before the expiry of the filing period applicable to lawyers under section 50 (1) Federal Bar Association Regulations (*Bundesrechtsanwaltsordnung, hereinafter "BRAO"*), which is six years after expiry of the calendar year in which the engagement was terminated. Other major filing duties arise under commercial law (filing of trade and business correspondence for 6 years and accounting documents for 10 years, section 257 German Commercial Code (*Handelsgesetzbuch hereinafter "HGB"*), under tax law, in particular, filing of accounting documents for 10 years and other documents of relevance for tax for 6 years, section 147 Fiscal Code (*Abgabenordnung, hereinafter "AO"*) and under anti-money laundering law (filing of records and other documents as defined in section 8 (1) to (3) GwG for 5 years from the end of the calendar year in which the business relations ended, section 8 (4) GwG).

After expiry of the statutory filing periods, the data and documents shall be erased or destroyed unless Kapellmann requires the same to protect its own professional interests as lawyers taking account of the limitation period stipulated in section 199 (3) German Civil Code (*Bürgerliches Gesetzbuch, hereinafter "BGB"*) (generally, for a period of up to 10 years, beginning with the end of the year in which the relevant engagement was ended) unless the data subject has consented to a longer period of storage.

## 5 Recipients and categories of recipients

In addition to the recipients listed under section 3, your personal data will be forwarded to third parties or other organisations, to the extent that this is necessary for proper client processing and the handling of the client relationship. This includes, in particular, forwarding data to opposing parties and their representatives (e.g. their lawyers), courts, authorities and other public organisations or private entities or service-providers (e.g. experts) for the purpose of properly processing the relevant engagement. If the engagement has connections with a foreign country, it may be necessary to forward data to organisations in countries outside the EU or EEA. The lawyer's duty of confidentiality remains unaffected.

Kapellmann uses external service providers who, in the course of their work for Kapellmann, have access to personal data (e.g. translators, postal services/transport services, IT service-providers, disposal companies). Orders to carry out such services are awarded only in compliance with the pertinent professional and data-protection law regulations.

## 6 Rights of data subjects

In connection with the processing of personal data, you have the following rights under GDPR as data subject:

**Right to information:** Under Art. 15 GDPR, you have the right to ask for information at all times about your personal data processed by us and to receive the information listed in Art. 15, paras. 1 and 2 GDPR in connection with such processing. In accordance with your right to information, you have the right to receive a copy of your personal data subject to the requirements of Art. 15, para. 3 GDPR. The restrictions of the right to information under Art. 15, para. 4 GDPR and section 34 Federal Data Protection Act (*Bundesdatenschutzgesetz, hereinafter "BDSG"*) must be observed.

**Right to rectification:** In accordance with Art. 16 GDPR, you may require rectification of your personal data stored by us if they are inaccurate or their completion if they are incomplete.

**Right to erasure:** In accordance with Art. 17 GDPR, you may require the erasure of your personal data stored by us, unless their processing is required to comply with a legal obligation or for the purpose of asserting, exercising or defending legal rights. The further restrictions under Art. 17, para. 3 GDPR and section 35 BDSG must be observed.

**Right to restriction of processing:** Subject to the requirements of Art. 18 GDPR, you have the right to restrict processing of your personal data. In this event, your data may only be processed – other than for storage - with your consent or subject to the requirements of Art. 18, para. 2.

**Right to data portability:** Subject to the requirements of Art. 20 GDPR, you have the right to receive your personal data, which you have provided to us, in a structured, commonly used and machine-readable format or to require transmission directly to another controller.

If you would like to exercise the rights listed above, please contact our Data Protection Officer (Article 2).

## 7 Revocation of consent granted

In accordance with Art. 7, para. 3 GDPR, you are entitled to withdraw your consent at any time after having given it to us, at no cost. You may notify us of the revocation of your consent at any time in writing (e.g. by email, fax or letter) using the contact details set out at Article 2. If you would prefer us to stop processing your data for advertising/marketing purposes, you may also send your revocation directly to [marketing@kapellmann.de](mailto:marketing@kapellmann.de). It is also possible to unsubscribe from the newsletter using the link provided for this purpose in the newsletter.

The consequence of your revocation of consent is that Kapellmann may not continue any data processing that was based on this consent in the future. The revocation

of consent shall not affect the lawfulness of any data processing that took place on the basis of such consent up to the time of the revocation.

ter “LDI NRW”) is the competent supervisory authority which can be contacted as follows: Landesbeauftragte für Datenschutz und Informationsfreiheit Nordrhein-Westfalen, Postfach 200444, 40102 Düsseldorf, Telephone: 0211/38424-0, Fax: 0211/38424-10, e-mail: [poststelle@ldi.nrw.de](mailto:poststelle@ldi.nrw.de).

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## **8 Right to object**

If your personal data are processed on the basis of legitimate interests in accordance with Art. 6, para. 1, sentence 1, (f) GDPR or on grounds of public interest in accordance with Art. 6, para. 1, sentence 1, (e) GDPR, you have the right, in accordance with Art. 21 GDPR, to lodge an objection to the processing of your personal data at any time, if there are grounds for the objection arising from your particular situation.

In the event of a justified objection to the processing of your personal data under Art. 6, para. 1, sentence 1 (e) or (f) GDPR, we must refrain from any further processing of your data unless it is necessary on grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims. The right to objection is subject to the restrictions of section 36 BDSG.

If your personal data are processed for direct marketing purposes, you have the right to object at any time without restriction to the processing of your data for such direct marketing purposes. No statement of reasons is required. This also applies to profiling that it is related to such direct marketing. In the event of your objection to the processing of your personal data for direct marketing purposes, we must refrain from any further processing of your data for such purposes.

The objection can be sent at any time in writing e.g. by e-mail to [marketing@kapellmann.de](mailto:marketing@kapellmann.de) or by fax to +49 2161 811-777 or by post to the address set out at Article 2. It is also possible to unsubscribe from the newsletter using the link provided for that purpose in the newsletter. . No costs will be incurred other than transmission costs at the basic rates.

## **9 Right to lodge a complaint with the supervisory authority**

If you are of the opinion that the processing of your personal data by us infringes data protection regulations, you also have the right to lodge a complaint with a supervisory authority under Art. 77 GDPR. To this end, you can contact the supervisory authority at your usual place of residence or place of work or at the place of the suspected infringement. In North Rhine-Westphalia, the Regional Officer for Data Protection and Freedom of Information for North Rhine-Westphalia (*Landesbeauftragte für Datenschutz und Informationsfreiheit Nordrhein-Westfalen, hereinaf-*