



PHOTOS / VIDEOS / LIVE STREAMS / RECORDINGS AT VIDEO CONFERENCES AND DIGITAL EVENTS

Whether events are held involving physical presence, as a hybrid format or purely virtually: Photo or video documentation of events is part and parcel of the package in many cases. (Online) events are streamed live on the internet or recorded for publication at a later date. Besides, there are also meetings that are held via video conferencing software. What is the legal basis and what needs to be taken into account here, distinguishing between live attendance and virtual events?

SCENARIOS

- Personal attendance event involving photo / video documentation / live stream / recording (public / non-public)
- Meeting held by video conference
- Online event with audience via live stream
- Online event with audience via video conferencing software

SYSTEMS AND PROVIDERS

- Selection of video/web conferencing software and/or streaming software
 - Third-party video/web conferencing software: Verification of GDPR compliance and conclusion of a commissioned data processing (if applicable, with standard contractual clauses)
 - Streaming providers (e.g. YouTube): no commissioned data processing contract in the case of pure streaming, which is different if additional functions requiring registration are to be used (e.g. YouTube chat), alternative: GWDG's RocketChat
 - Proprietary service: Implementation of the software in accordance with the requirements under the GDPR (principles according to Art. 5 GDPR)
 - Various software tools are already in use throughout the MPG which have been tested accordingly, for which commissioned processing contracts exist or which are operated by the MPG itself (Webex, DFNconf, BigBlueButton, Jitsi, Zoom).
- Service provider for professional support during implementation: This is not a case of commissioned processing, all that is required is a standard commercial contract containing a confidentiality clause.

LEGAL BASIS

Personal attendance event

1. Audience

If the audience is captured as a whole, balancing of interests can be applied. Explicit references to documentation in photo / video form or to the live stream / recording are required.

If individual persons are photographed / interviewed / broadcast / recorded, their consent must be obtained.

2. Speakers, presenters

Consent from this group of people must always be obtained for the photo/video documentation or the live stream/recording.



LEGAL BASIS

Meetings by video conference

1. Participants from within the MPG

Section 26 Federal Data Protection Act (performance of the employment relationship) is the legal basis for the participation of persons from within the MPG. If the conference is to be recorded, the consent of all those involved is required.

2. Participants from without the MPG

If a contractual relationship exists between the MPG and the external participants (service providers, contractual partners), this constitutes the legal basis for participation. In any other case, consent must be obtained prior to participation. If the conference is to be recorded, the consent of all those involved is required.

3. Job interviews

cf. "How to Job Interviews via Video Conference"

Online events

1. Audience of a live stream

Without a log-in option, data is processed only by the respective browser on the basis of a balancing of interests. If log in is performed, it is carried out based on consent.

2. Participants of online events via video conferencing software

a. Participants from within the MPG

Section 26 Federal Data Protection Act (performance of the employment relationship) is the legal basis for the participation of persons from within the MPG. If the event is to be recorded/streamed, the consent of all those involved is required. No distinction is made between participants and speakers / presenters.

b. Participants from without the MPG

For the participation of external persons, their consent must be obtained. If the conference is to be recorded, the consent of all those involved is required. No distinction is made between participants and speakers / presenters.

IMPLEMENTATION

- Irrespective of consent, data protection information must be made available to external participants (provision of a link is sufficient). A template can be found on the Data Protection Officer's intranet page under "Information on data collection".
- You can request consent along with the invitation to the meeting/event, for example with the phrase "By accepting the invitation and/or attending the meeting, you are giving your consent to the data processing described". A link to the data protection information is to be provided.
- The consent must be recorded and stored securely. It is proof that the data is processed in compliance with applicable law.
- When obtaining consent from speakers or presenters for personal attendance events, it is recommended that this be obtained in advance by means of an (email) form. You will find a template in the OHB under XVII.4, which you can adapt to your needs.
- If data is transferred to a third country, this must be mentioned in the consent form.

FURTHER NOTES

- Chat history: no consent is required for exporting the public or private chat addressed to oneself, this is handled in the same way as email communication.
- List of participants: no consent is required for the use by the event organiser; if the list is to be sent to all participants, consent is required (corresponding to the presence event).
- Meeting Owl video conferencing system:
 - Camera/microphone is only on during the meeting (lights on)
 - Information about meeting schedules to non-participants in the same room, so they can reschedule their calls/work tasks
 - If a recording takes place: recording/record-keeping with the offer to change the workplace during the session
 - For meetings that take place outside the office/conference room, the camera should be covered with black tape.

