

# China's Personal Information Protection Law

## – A Practical Factsheet

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# China's Personal Information Protection Law – Key Facts

## Started when?

The Law passed the final review of the National People's Congress on 20 August and is effective **from 1 November 2021**.

## Who is concerned?

PIPL may directly affect consumer-facing (2C) enterprises as well as digital solution (2B) providers. However, provisions on employees' personal information processing will impact **all companies operating in China**.

## Which kind of information is concerned?

**Personally Identifiable Information:** Information relating to **identified** or **identifiable** persons stored electronically or otherwise (Excluding anonymized information)

**Sensitive Information** (special rules for processing apply):

Information, whose misuse or breach could cause personal discrimination or material harm to personal or property security (Such as race, ethnicity, religious beliefs, biometric features, medical health, financial accounts, individual location tracking)

## What activities are concerned?

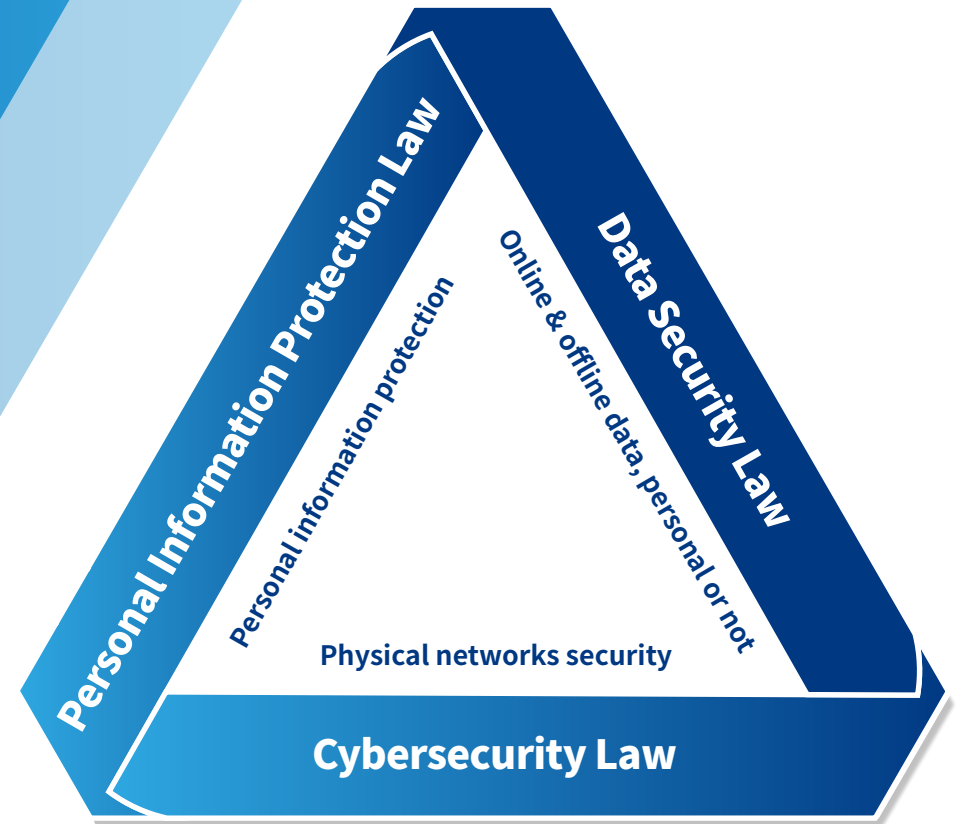
**Processing of personal information:** the collection, storage, use, processing, transmission, provision, publication, and deletion of personal information.

# A Legal Framework with Three Pillars

Cybersecurity Law (CSL), Data Security Law (DSL), and the Personal Information Protection Law (PIPL) are regarded as three pillars of the Chinese data protection legislation system – with different foci.

Note: The PIPL took significant input from the previously existing (non-binding) national Standard for the protection of personal information: "Information Security Technology – Personal Information Security Specification (effective 1 October 2020)

信息安全技术 个人信息安全规范 英文标准名称  
The full English translation is available at:  
<https://www.tc260.org.cn/piss/files/ywb.pdf>



# PIPL vs. GDPR

Often referred to as “China’s GDPR”, the PIPL is frequently compared with the European Union’s General Data Protection Regulation as both laws cover the rights of individuals for protecting his/her data.

## Similarities: Authorized rights

- Right to know data is collected
- Right to access personal information
- Right to decide about, to refuse, and to restrict the handling of personal information
- Right to withdraw consent
- Right to complain
- Right to delete information
- Right to correct inaccurate information
- Right to data portability

## Similarities: Extraterritoriality

- PIPL applies to those who process personal information about Chinese individuals **inside China** as well as those who process personal information about Chinese individuals **outside China**.
- PIPL requires the **establishment of representative offices** in China for overseas businesses processing Chinese nationals' personal information.

## Differences

- As a framework law, PIPL gives the authorities a much broader discretion than the GDPR. The language **is less precise**, for example when it comes to certain restrictions and exemptions of applications.
- PIPL requires **separate consent** for certain personal information processing activities such as for public disclosure, provision to a third-party, cross-border transfer and sensitive personal information processing.
- PIPL allows the authorities to **blacklist overseas businesses** and ban them from processing Chinese personal data if these businesses have been found violating China’s national security or public interests.
- PIPL allows the government for **reciprocating** against countries regarded as engaging in discriminatory measures against China or Chinese companies in the name of data protection.
- PIPL provides a **private right of action** to lodge a complaint if an individual’s request to exercise rights under the law is rejected by a company.
- Unlike the conventional wisdom that assumes rights lapse as people pass away, PIPL **grants rights of the deceased** to close relatives.

# General Obligations

## Personnel Changes

### Personnel:

Appoint personal information protection officer, if the amount of personal information hits a certain threshold. ✓

### Local representative:

Organizations outside China which process personal information of Chinese in China, should appoint a local representative to handle related issues. ✓

## Administrative Measures

### Internal systems:

Develop internal management processes and protocols. ✓

### Audits:

Engage in regular compliance audits. ✓

### PIIAs:

Exercise Personal Information Impact Assessments (PIIA).

(Note: Although the GDPR also requires PIIAs, the conditions under which it needs to be done are different from those of PIPL)

## Security Updates

### Information classification:

Classify /categorize information and take corresponding measures. ✓

### Technical measures:

Adopt security measures such as encryption and anonymization to prevent leakage, unauthorized access, theft, or distortion. ✓

### Training:

Implement control and regular security education and training for employees. ✓

### Data breach responses:

Formulate and conduct contingency plans; take immediate remedial measures and notify related individuals and authorities upon incidents. ✓

✓ means similarities with GDPR

# Cross-border Data Transfer and Localization

<b>Additional Requirements for Designated Entities*</b>	Store data collected in China locally Pass official security check for data cross-border transfers
<b>Basic Requirement for All Entities</b> (one option is to be selected)	Conclude a contract with the foreign receiving party <input checked="" type="checkbox"/> , <b>or</b> Undergo a certification process by authorized third-party, <b>or</b> Meet other conditions as laid out by the law
<b>Overall Requirements for All Entities</b>	Ensure the foreign receiving parties' relevant activities are conducted according to standards laid out in PIPL Inform individuals of the foreign receiving party regarding contact information, processing purpose and methods Obtain individuals' separate consent Conduct personal information protection impact assessments (PIIAs)

☒ means similarities with GDPR

\*Designated Entities include those processing certain larger amount of information (threshold to be released by the Cyberspace Administration of China)  
Operators of Critical Information Infrastructure (CII), defined as information, where a misuse or breach could cause serious damage to state security, the national economy, people's livelihood and public interests.

# Types of Penalties

PIPL provides the following **administrative penalties** for non-compliance:

- An organization refusing rectification upon official notice may be subject to fines up to 1 million RMB.
- If violation is regarded serious, a fine may increase to 50 million RMB or 5% of the organization's revenue for the previous year.
- The personnel directly responsible for the non-compliance may face a fine up to RMB 1 million.

- In addition to administrative penalties, **civil and criminal** liabilities are also included.
- PIPL also allows individuals to lodge complaints with officials (a private right of action).
- The right to **collective action** is also granted, which can be initiated by authorities, official consumers' organizations or other officially recognized organizations

# What do German Companies need to do?

## Initial Recommendations for Compliance

### General Recommendations

- Review HR data flows, categorize data into personal information and sensitive personal information, examine against the legal basis for processing, and adopt corresponding measures.
- Take measures to perform protection obligations, including but not limited to updating consent letter and keeping records of processing activities.
- Revise policies and documents related to the collection and use of employees' personal information such as employee contract and manual.
- Review contracts and internal arrangements related to personal information for cross-border transfers such as official websites with employee information.
- Review any third-party agreements – such as with an HR agency – to ensure that applicable obligations are followed.

### Recommendations Regarding Overseas Entities

- Regularly check if overseas conducted personal information processing activities fall into the scope of PIPL.



## About the German Chamber of Commerce in China

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