

Records Retention: Austria

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This Q&A guide provides a high-level overview of key records retention requirements relating to personal data in Austria. It addresses governing laws, authority guidance, and sector-specific requirements. This Q&A does not address every records retention obligation under Austrian laws.

Data Protection Law and Authority Guidance

1. Does the data protection law address retention of records that contain personal data? If so, what does the law require?

The Austrian [Data Protection Act \(2018\)](#) (*Datenschutzgesetz*) (DSG) does not address retention of records that contain **personal data**. However, the [General Data Protection Regulation \(Regulation \(EU\) 2016/675\)](#) (GDPR) does require that an organization only keep personal data in a form permitting identification of **data subjects** for no longer than necessary to fulfil the **processing** purposes (Article 5(1)(e), GDPR).

For more on Austrian data protection law, see:

- [Country Q&A, Data protection in Austria: overview](#) and
- Practice Notes:
 - [Austrian Implementation of the GDPR](#); and
 - [Determining the Applicability of the GDPR](#).

2. Does the data protection law require disclosure of the records retention periods or any other information related to records retention in a privacy notice directed to data subjects?

The Austrian [Data Protection Act \(2018\)](#) (*Datenschutzgesetz*) does not impose any requirements to disclose retention periods in a privacy notice directed to data subjects. However, the General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR) requires **controllers** to include in a privacy notice the storage period for personal data, or if this is not possible, the criteria used to determine retention periods (Articles 13(2)(a) and 14(2)(a), GDPR).

3. Has the data protection authority issued any binding or non-binding guidance on personal data retention?

The [Austrian Data Protection Authority](#) (*Österreichische Datenschutzbehörde*) (DSB) has not issued any guidance on personal data retention.

4. What key laws (other than the data protection law) regulate retention of employee personnel records or records containing employee personal data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The following Austrian laws regulate retention of employee personnel records or records containing employee personal data:

- To comply with the [Administrative Penal Act](#) (*Verwaltungsstrafgesetz*) (VStG), employers should maintain immigration checks, visas, work permits, and other similar documents issued under the [Employment of Foreign Workers Act](#) (*Ausländerbeschäftigungsgesetz*) (in German) for three years after termination of employment, which corresponds with the VStG's three-year statute of limitations for penal liability for administrative offenses (Section 31(2), VStG).
- To comply with the [General Social Security Act](#) (*Allgemeines Sozialversicherungsgesetz*) (in German) (ASVG), employers should retain social security documents for at least five years after they have paid the applicable social security contributions, which corresponds with the ASVG's five-year statute of limitations to claim established contribution debts (Section 68, ASVG).
- To comply with the [Equal Treatment Act](#) (*Gleichbehandlungsgesetz*) (in German) (GIBG), employers should retain documents related to the rejection of an employee's application or promotion for six months, which corresponds with the six-month statute of limitations for claims alleging a violation of the GIBG's equal treatment requirements (Sections 12(1), (5) and 15(1), GIBG). It is recommended that employers retain these documents for at least seven months to ensure receipt of any claims.
- To comply with the [General Civil Code](#) (*Allgemeines bürgerliches Gesetzbuch*) (in German) (ABGB), employers should retain employment-related documentation, such as employment agreements, bonus arrangements, and pay slips, for three years after an employee's termination unless a longer retention period applies, which corresponds with the three-year statute of limitations for employment-related claims such as remuneration or compensation claims (Sections 1478 and 1486, ABGB).
- The ABGB and [Act on White Collar Workers](#) (*Angestelltengesetz*) (in German) (AngG) require employers to provide employees with a written reference on request for 30 years after employment is terminated (Section 1478, ABGB). Unless otherwise agreed, the employee is only entitled to receive a basic job certificate containing:
 - the employee's name, birthdate, and address;
 - the employer's company name and address;

- the duration of employment; and
 - a job description.
- Only the above-referenced data must be kept for the 30-year period (Section 1163, ABGB and Section 39, AngG).
 - The [Act on Working Hours](#) (*Arbeitszeitgesetz*) (AZG) requires employers to retain drivers' working time records for at least 24 months from the date they were recorded (Section 17b, AZG).
 - The [Act on Employee Leasing](#) (*Arbeitskräfteüberlassungsgesetz*) (in German) (AÜG) requires lessors to retain the following data for five years:
 - the employee's name, social insurance number, birthdate, gender, nationality, and job position;
 - the lessee's name, address, VAT number, and legal representative; and
 - the lease's duration.

(Section 13, AÜG.)

5. What key laws (other than the data protection law) regulate retention of customer records or records containing customer personal data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The following Austrian laws regulate retention of customer records or records containing customer personal data:

- The [Commercial Code](#) (*Unternehmensgesetzbuch*) (in German) (UGB) and [Federal Fiscal Code](#) (*Bundesabgabenordnung*) (in German) (BAO) require that businesses retain documents related to bookkeeping and fiscal purposes and business letters for seven years after the end of each calendar year (Sections 190 and 212, UGB and Section 132, BAO).
- To comply with the [Product Liability Act](#) (*Produkthaftungsgesetz*) (PHG), a party putting products into circulation should retain customer-related information for ten years, which corresponds with the ten-year statute of limitations for retailers' product defect claims (Section 13, PHG).

Retention of Personal Data Under Corporate Law

6. What key corporate laws regulate retention of records containing personal data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The [Commercial Code](#) (*Unternehmensgesetzbuch*) (in German) (UGB) and [Federal Fiscal Code](#) (*Bundesabgabenordnung*) (in German) (BAO) require that businesses retain documents related to bookkeeping and fiscal purposes and business letters for seven years after the end of each calendar year (Sections 190 and 212, UGB and Section 132, BAO).

Businesses must specifically retain:

- Books.
- Inventories.
- Opening balance sheets.
- Annual financial statements, including management reports.
- Consolidated financial statements, including management reports.
- Business correspondence received (including emails).
- Copies of business correspondence sent.
- Accounting receipts for entries in the books.

(Section 212, UGB.)

Retention of Personal Data Under Civil Law

7. What key civil laws regulate retention of records containing personal data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

Based on the statutes of limitations set out in the [General Civil Code \(Allgemeines bürgerliches Gesetzbuch\)](#) (in German), personal data may be retained for longer than legally required:

- To exercise or defend legal claims if:
 - there are concrete indications that an exercise or defense will be necessary, such as an imminent lawsuit; and
 - the data is required for proof.
- For the duration of an ongoing judicial or extrajudicial process.

For more information on these exceptions, see [Question 12](#).

Retention of Financial Information

8. What key laws (other than the data protection law) regulate retention of personal financial information? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The following Austrian laws regulate retention of personal financial information:

- The [Financial Market Money Laundering Act \(Finanzmarkt-Geldwäschegesetz\)](#) (in German) (FM-GwG) requires credit and financial institutions to retain copies of transaction documents, related records, and

documents and information received relating to the identification of customers for five years after termination of the business relationship with the client, or after the time of an occasional transaction (Section 21, FM-GwG).

- The [Beneficial Owners Register Act \(Wirtschaftliche Eigentümer Registergesetz\)](#) (in German) (WiEReG) requires legal entities to retain copies of documents related to their due diligence of beneficial owners for at least five years after ownership ends (Section 3, WiEReG).
- The [Payment Services Act 2018 \(Zahlungsdiensteengesetz 2018\)](#) (in German) (ZaDiG 2018) requires payment services providers to retain all relevant records and receipts for at least five years (Section 24, ZaDiG 2018).
- The [Securities Supervision Act 2018 \(Wertpapieraufsichtsgesetz 2018\)](#) (in German) (WAG 2018) requires legal entities to retain recordings of telephone calls and electronic communications related to receiving, transmitting and executing client orders for production on a client's request for at least five years. The Financial Market Authority (*Finanzmarktaufsicht*) may require a longer retention period of up to seven years. (Section 33, WAG 2018.)
- The [Mortgage and Real Estate Credit Act \(Hypothekar-und Immobilienkreditgesetz\)](#) (in German) (HIKrG) requires lenders to define, document, and retain information used to assess a consumer's creditworthiness. However, a required retention period is not specified. (Section 9, HIKrG.)
- The [Account Register and Account Inspection Act \(Kontenregister-und Konteneinschaugesetz\)](#) (in German) (KontRegG) requires credit institutions to automatically keep a register of accounts available for electronic inspection by specified legal and tax authorities. Each search and transmission of the register of accounts must be recorded and retained for ten years from the end of the year in which the related account is closed, then deleted. (Section 5, KontRegG.)

Retention of Personal Data Under Healthcare Law

9. What key healthcare laws regulate retention of records containing personal health data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The following Austrian healthcare laws regulate retention of records containing personal health data:

- The [Medicinal Products Act \(Arzneimittelgesetz\)](#) (in German) (AMG) requires medical researchers to retain all data related to clinical trials for 15 years (Section 46, AMG).
- The [Medicinal Product Manufacturer Operational Regulations 2009 \(Arzneimittelbetriebsordnung 2009\)](#) (in German) (AMBO 2009) requires medical product manufacturers to retain all records, reports, and documents for five years (Section 15(1), AMBO 2009).
- The [Human Tissue Safety Act \(Gewebesicherheitsgesetz\)](#) (in German) (GSG) requires tissue collection facilities to retain documents:
 - related to the removal of human tissue for at least ten years; and
 - necessary for complete traceability for 30 years.
- (Sections 5 and 16(5), GSG.)
- The [Insurance Contract Act \(Versicherungsvertragsgesetz\)](#) (in German) (VersVG) requires insurance providers to immediately delete any personal health data collected if it cannot be stored for a legally

permissible purpose for a longer period (Section 11, VersVG).

Retention of Personal Data Under Insurance Law

10. What key insurance laws regulate retention of records containing personal data?

Under each law:

- **What records are subject to regulation?**
- **What is the required retention period?**

The [Insurance Contract Act \(Versicherungsvertragsgesetz\)](#) (in German) (VersVG) sets out the following statutes of limitations for claims arising under an insurance contract:

- A three-year statute of limitations for third-party claims when the third party is aware of its rights to a benefit from the insurer.
- A ten-year statute of limitations for third-party claims when the third party is not aware of its rights to a benefit from the insurer.

(Section 12, VersVG.)

However, the VersVG does not specify a required retention period for claim-related documents.

Other Applicable Laws

11. What other key laws not specified above regulate retention of records containing personal data? Under each law:

- **What records are subject to regulation?**
- **What is the required retention period?**

There are no other key Austrian laws that regulate retention of records containing personal data.

Key Exceptions

12. Are there any key exceptions to the required retention periods provided above (for example, exceptions that permit a longer retention period when necessary to establish, exercise, or defend legal claims)?

Based on the statutes of limitations set out in the [General Civil Code \(Allgemeines bürgerliches Gesetzbuch\)](#) (in German), personal data may be retained for longer than legally required:

- To exercise or defend legal claims if:
 - there are concrete indications that an exercise or defense will be necessary, such as an imminent lawsuit; and
 - the data is required for proof.
- For the duration of an ongoing judicial or extrajudicial process.

Statutes of limitations in Austria are generally between 3 and 30 years depending on the underlying claim. Organizations can store personal data that may be necessary as evidence to exercise or defend legal claims for the applicable statute of limitations.

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