



**German
Business Protection**

**Risk Consultancy
Business Enablement
Health & Safety
Compliance & Security**

Security Threats Germany

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**Hotline
Fax
E-Mail
Internet**

**+49 30 63967027-0
+49 30 63967027-99
info@gbp-security.com
gbp-security.com**

The new Chinese Data Protection Law

The purpose of a data protection law is to literally protect data and also the privacy of the users. In China this is seen somewhat differently. The new law, which will significantly affect foreign companies operating in China, will give the Chinese authorities complete control over electronic communication within the country and any electronic communication to and from China. It would not be wrong to speak of a “digital dictatorship” when the law comes into effect on 1st April of this year.

Data communication to and from China has been problematic for some time. Companies report that emails have simply not reached the intended address and some are having problems tracking staff using geolocation software. For foreign companies this means that as of 1st April no data can be transmitted without running the risk that this data will be read by the authorities. The law sets out clearly, that all operators of critical infrastructure have to use IT-products for network security which have been approved by the Chinese authorities and are certified. In short – China will shortly prohibit the use of non-approved VPN servers. The result is quite clear – the authorities will have the capability to read all traffic.

In the past companies assumed that the Chinese government tolerated secure communication as this benefitted companies and contributed to growth. It is now becoming increasingly clear that this trade – off has been superseded by the wish to exercise more control. It can also be seen as a first and significant step towards the introduction of a social scoring system. By 2030 all companies and individuals within China will be monitored and evaluated with regard to conforming to the wishes of the government. Anybody who communicates encrypted data without permission will be spotted immediately, as will individuals who write or read critical blogs or messages.

This new law poses a significant challenge to any company operating in China and is likely to put a brake on future investment in the country.