

HR Checklist – Obligations with regard to the processing of personal data as from 25 May 2018

CATEGORIES OF PERSONAL DATA	<ul style="list-style-type: none"> • Is the processing of personal data necessary for: <ul style="list-style-type: none"> • Compliance with a statutory obligation; • Performance of the employment contract; or, • The purposes of another legitimate interest, e.g. evaluation and monitoring of employees, etc.? • Is it possible to achieve these purposes through other means, limiting the processing of personal data?
TRANSPARENCY	<p>Are employees whose personal data is processed, informed about all aspects of data processing? It concerns for example the following information:</p> <ul style="list-style-type: none"> • Data controller; • Categories of personal data; • Processors; • Transfers of data to third countries; • Right to lodge a complaint before the data protection authority; • Right of access and right to rectification; • etc.
RIGHT OF ACCESS	<p>Have you determined the possibilities to have access to personal data, in order to make sure only people who need to have access to the data actually have access, and only to the data they actually need ("need to know")?</p>
RETENTION PERIOD	<p>Has your company set up internal procedures concerning the retention period of the different categories of personal data, in order to avoid that personal data are kept for an indefinite period of time.</p>
RECORDS OF PROCESSING ACTIVITIES	<p>Have you drafted records of processing activities containing detailed information about all of your processing activities?</p>
PROCESSORS	<ul style="list-style-type: none"> • Does your company call upon the services of a processor of personal data, e.g. payroll agency , data storage service provider, etc.? • If so, have you concluded an agreement with the processors of personal data, containing all mandatory provisions provided by the new regulation, e.g. description of processing activities, instructions, data security, international transfer of data, etc.?
DATA PROCESSING BY JOINT CONTROLLERS	<ul style="list-style-type: none"> • Are personal data of employees also processed by a joint controller, e.g. parent company using the same data for a different purpose? • If so, have you determined your respective responsibilities with the joint controller in a written agreement?

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DATA PROTECTION OFFICER	<ul style="list-style-type: none"> Does the core activity of your company consist of: <ul style="list-style-type: none"> Regular and systematic monitoring of individuals on a large scale; or, Processing on a large scale of special categories of personal data (race, ethnic origin, political opinion, trade union membership, health status, data concerning biometrical or genetic information, sexual orientation, sex life) or personal data relating to criminal convictions and offences? Alternatively, is the processing carried out by a public authority or body? If so, has your company designated a data protection officer?
DATA PROTECTION IMPACT ASSESSMENT	<ul style="list-style-type: none"> Does your company carry out any processing activity: <ul style="list-style-type: none"> Through the use of new technologies allowing to make decisions based on profiling; Processing on a large scale of special categories of personal data (race, ethnic origin, political opinion, trade union membership, health status, data concerning biometrical or genetic information, sexual orientation, sex life); or, Involving a systematic monitoring of a publicly accessible area on a large scale? If so, have you carried out a prior data protection impact assessment which is documented in writing?
PERSONAL DATA BREACH	<ul style="list-style-type: none"> Have you set up internal procedures intended to quickly detect personal data breaches? Have you set up internal procedures to inform the Privacy commission (within 72 hours) and the data subjects within a short period of time of a possible personal data breach and its impact?
INTERNATIONAL TRANSFER OF PERSONAL DATA	<ul style="list-style-type: none"> Are personal data accessible from third countries outside the European Economic Area, not offering an adequate level of protection? If so, have you entered into standard contractual clauses – based on the template of the European Commission - with the recipient? Alternatively, in case of cross border transfers of personal data within the group to which your company belongs, are binding corporate rules applicable, approved by data protection authorities? Or, in the specific case of data transferred to the USA, does the recipient comply with the principles of the EU-US Privacy Shield?

QUESTIONS?

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