



Employee Data Privacy – Poland

GDPR Related National Laws & Modifications

The European Union’s General Data Protection Regulation sets a common standard for protecting personal data across the EU. It also allows member nations some flexibility to create additional provisions and limitations. Some examples, which may impact HR teams, include the ability for EU member states to:

- provide “specific rules to ensure the protection of...employees’ personal data in the employment context” (Art. 88);
- limit the transfer of “specific categories of personal data to a third country or international organization” if the country (or international organization) is deemed not to have adequate protections in place (Art. 49, (5)); and,
- “determine the specific conditions for the processing of a national identification number or any other identifier of general application” (Art. 87).

Derogations in Poland

Poland’s Personal Data Protection Act went into effect with the GDPR on May 25, 2018. The Act, along with the Polish Labor Code, includes a few requirements that employers should be aware of.

Employee and Applicant Data

The Polish Labor Code lays out the personal information that an employer may collect from an applicant and employee. Employers can request the following from **job applicants**: name and surname, date of birth, contact information (as provided by the applicant), education, occupational qualifications and employment history.

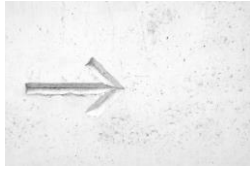


When requesting education information, occupational qualifications or employment history from job applicants, the data should only be collected if directly related to the position or to the performance of specific work. Generally, employers can collect this information, except when hiring for work that doesn’t require any special education, training or experience.

Employers can collect the following **from hired employees**: personal data including surnames and dates of birth of employee’s children (if required for employees to exercise rights provided by the labor law); residential address; PESEL number (or other document type and number for the purpose of verifying identity); education and employment history; payment account number (if employee hasn’t applied for direct payment); and, other legally necessary data.

Under the Labor Code, the consent of a job applicant or employee may form the grounds for processing special categories of personal data, only when the data is processed upon the initiative of the job applicant or employee.

UKG HR COMPLIANCE ASSIST



Biometric data generally requires an employee's consent. Poland's Labor Code allows employers to process employee

biometric data without consent when necessary to control access to especially important information, where the disclosure of that information can be detrimental to an employer or, in order to access areas requiring special protection (such as data centers and important R&D labs).

Criminal convictions and offences related data cannot be collected on the basis of an employee's consent, and can only be collected when explicitly permitted by binding legal provisions.

Video Recordings and Email Correspondence

Video recordings are allowed under the Labor Code if necessary to protect employees, property, production or confidential data (Article 111). When necessary to use video monitoring in locker rooms, sanitary rooms (i.e. bathrooms), canteens or smoking rooms, the monitoring should not violate employees' dignity or interests. Prior consent from either the trade union organization or official employee representative is required to monitor sanitary rooms. Note, recordings can't be used in areas made available to trade union organizations. In order to use video recordings:

- the recordings can only be used for their original purpose;

- the method, scope and objectives should be set in a collective agreement, workplace regulations or, in an announcement (when an employer is not subject to a collective agreement or isn't required to adopt workplace regulations);
- employees must be notified in writing in advance of starting employment or, are provided with at least two weeks' notice if it's a new system;
- signs or sound-notices must be located in the recording area;
- and, data must be deleted within 3 months of the recording, unless there is a legal claim which justifies longer-term storage.



Under the Labor Code, employers can monitor email when necessary to ensure the organization of work, enabling the full use of working time or,

the appropriate use of work tools made available to an employee. The monitoring can't violate the secrecy of correspondence or the personal interests of the employee. Similar to video recording requirements, certain conditions must be met to use email monitoring.

Data Protection Officers

The Act also requires that businesses register their Data Protection Officer with the Polish Office for the Protection of Personal Data within 14 days of appointment or change.

Last updated February 2023.

DISCLAIMER: The information contained in this document is for general information purposes only and is not intended to be a source for legal, tax, or any other professional advice and should not be relied upon as such. This information is not intended to create, and the receipt of it by the reader does not constitute, an attorney-client relationship. All legal or tax questions or concerns should be directed to your legal counsel or tax consultant. Laws and regulations may change and UKG Inc. ("UKG") cannot guarantee that all the information in this document is accurate, current or complete. UKG MAKES NO REPRESENTATION OR WARRANTIES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE DOCUMENT OR THE INFORMATION OR CONTENT CONTAINED HEREIN AND SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY, OR COMPLETENESS OF THIS INFORMATION. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, NEITHER UKG, NOR ITS AGENTS, OFFICERS, EMPLOYEES, SUBSIDIARIES, OR AFFILIATES, ARE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR PROFITS, OR BUSINESS INTERRUPTION), EVEN IF THE UKG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT, ARISING IN ANY WAY OUT OF THE USE OF OR INABILITY TO USE THIS INFORMATION. This document and the content are proprietary and confidential information of UKG. No part of this document or its content may be reproduced in any form, or by any means, or distributed to any third party without the prior written consent of UKG © 2023 UKG Inc. All rights reserved.