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Activity 4.4

Social Data Protection applied to the Latvian “Support for Unemployed Persons and Persons Seeking Employment Law”

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Mandated Body**



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The following chapter aims at highlighting the data processing operations which may occur by implementing the Latvian “Support for Unemployed Persons and Persons Seeking Employment Law” (hereinafter called the “Employment Law”).

Reference is made to the provisions of “Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data” (hereinafter called “the Directive”). Such reference intends to highlight the practical application of the directive.

The “Employment Law” does not contain any reference to Data protection issues. Section 6 of the Latvian “Personal Data Protection Law grants the right to protection of his/her personal data to every natural person in Latvia. The legal basis for the processing of personal data of unemployed persons or persons seeking employment can be found in Sec.7 of the Latvian Data Protection Law.

Recommendation for provisions concerning data processing operations:

There is no provision about the allocation and technical organisation of data processing operations in the Employment Law. Data protection should be included in the catalogues of the individual’s rights and the authorities’ duties. The sections where such provisions are missing are also included in the following list.

Provisions should be made for the dealing with individual complaints made by citizens based upon e.g. Art10 and Art 12 of the data protection directive 46/95/EC.

Recommendation for a Communication Structure on Data Protection:

Furthermore, a Data Protection Officer should be established at the State Employment Agency. (as proposed by the new Latvian DPL.) Other entities entrusted with employment policy measures as well as the private implementing bodies should be obliged to appoint staff members responsible for the safeguard of data protection. The Data Protection Officer of the State Employment Agency should act as a coordinator and consultant for the persons responsible for data protection in the local governments and the implementing bodies.

Definition of data processing:

Processing personal data includes obtaining, storing, accessing, changing and destroying any information about the people entitled to receive social services and social assistance according to the Law. Furthermore, personal data may be shared with or transferred to other entities providing social services and social assistance.

Data protection implications of support for unemployed persons

Section	Described activity	Data protection implications
Sec.4/2 Sec.4/3	The Cabinet shall determine the conditions under which implementing bodies shall carry out employment measures.	Data protection should be included in the terms and conditions of the contracts made with implementing bodies under the condition that they are private

		companies.
Sec.6/5 Sec.10/1	The State Employment Agency shall register and record unemployed persons and persons seeking employment	Personal Data are involved; a strict purpose binding approach and in accordance with necessity principle
Sec.10/2	The Medical Commission for expert – examination determines the degree of loss of the ability to work	Highly sensitive personal data involved (see Article above); legal status of commission determines further measures to be taken
Sec.11	The State Employment Agency shall take a decision about an applicant's unemployment status	Personal Data are involved; Decision process involves only data needed for that purpose
Sec.12/1/3	The State Employment Agency shall decide about the coming under complete State support	Any further information being collected from other entities in decision making have to be in accordance with necessity principle
Sec.12/3	The State Employment Agency shall decide about the loss of the unemployment status	
Sec.13	Rights of Unemployed Persons do not include protection of the processed data, right of access etc....	No reference to Section 6 of the Latvian Personal Data Protection Law ; additional information about data protection rights should be made public (via websites, with leaflets; in forms etc.)
Sec.16	Rights of Persons seeking employment do not include protection of the processed data, right of access etc....	No reference to Section 6 of the Latvian Personal Data Protection Law; see above