

PROTECTING DATA IN THE WORKPLACE

This report reviews the first of the two issues of the International Labour Office's publication - Conditions of Work Digest - devoted entirely to the specific topic of workers' privacy in the industrialised countries. It gives a systematic and overall view of the state of the art in this specialised area of data protection. The Digest is an ideal reference for anyone who deals with the issue of protection of workers' personal data and, in particular, for workers' and employers' organisations and policy makers.

Developments in modern data-processing technology have significantly increased the ability of employers to collect, store and process information related to individual employees, as well as the ability rapidly to incorporate data from other sources. The problems and risks involved in the processing of this particular kind of personal data are great, not least because of the often sensitive nature of such information and the special relationship between the data user and data subject. For example, employees' personal data may often be collected without their knowledge. Further, data may be used for purposes other than those for which it was gathered and transmitted to persons other than those for whom it was gathered.

All these factors raise a series of questions which need to be answered:

1. What types of data may be collected?

2. What should be done to prevent the collection of sensitive data?
3. How long and for what purposes should employees' data be stored?
4. How can the workers' right of access be efficiently organised?
5. Apart from the employees, who else should be allowed access to personal data and under what conditions?

The ILO Digest on workers' privacy deals in a systematic manner with these and other questions and controversial points. Further, it gives a comprehensive view of existing legislative and regulatory measures in this area both on an international and national level.

The Digest is organized in the following five parts:

Part I - Developments in the protection of workers' personal data

By way of an introductory article, Professor Spiros Simitis examines expertly and in depth the issue of the protection of workers' personal data. After identifying the problem in its historical context, he proceeds to analyse both the legislative and regulatory reactions to it and actual practices in different countries. His edited conclusions are shown in the box below.

Part II - Instruments adopted by international governmental organisations

This part of the Digest reproduces provisions adopted by several international governmental organisations in their efforts to set common standards in the data protection field. Both the relevant provisions on

FIVE PRINCIPLES FOR WORKERS' PERSONAL DATA

- The method of storage of data, whether computerized or manual, is irrelevant.
- It is unimportant who collects employees' data.
- The regulatory means should be chosen and limited by the necessity to safeguard the fundamental rights of employees. Statutory provisions rather than collective bargaining must be the primary source of regulation.
- Legislative demands must be specified in regulations by sector; general processing principles do not help.
- Any attempt at regulation must take into account the increasing internationalization of data processing.

protection of personal data in general and on the protection of workers' personal data in particular are included. Among the international instruments reviewed are those of the UN, OECD, International Labour Organisation, Council of Europe and the Organisation of American States.

Part III - Protection of workers' personal data under national legislation

This is an extensive and structured survey of the current national data protection legislation of nineteen industrial countries and its implications for employers and workers. The following points of reference and comparison were used and analysed:

1. the scope of the legislation;
2. the data protection institutions;
3. definitions;
4. prior procedures;
5. collection of data;
6. storage of data;
7. security measures;
8. interconnection of data files;
9. external communication of data;
10. rules applying to special data;
11. transborder communication of data;
12. rights of access to data files and rectification of data.

Part IV - Enterprise level practice

This part contains selected examples of practices accepted voluntarily by different

enterprises, groupings and parts of industry regulating (whether specifically or as part of a series of general measures) the issues of workers' privacy. Thus, the relevant provisions of collective agreements, policy statements, directives and guidelines issued by employers worldwide are examined.

Part V - Positions on data protection by workers' and employers' organisations, governments and others

Finally, the official positions of workers' and employers' organisations, as well as governments and other, primarily independent, data monitoring organisations are presented here. This section shows in the clearest possible way the complexity and divergence of interests involved in the debate on data protection issues relating to workers.

**Conditions of Work Digest Part One:
Protection of Personal Data Vol. 10.
Published in 1991 by the International
Labour Office, ILO Publications, CH-1211
Geneva 22, Switzerland. ISBN 92-2-108251
Price: 45 Sw.Frs. 277 pages**

**This report was written by Privacy Laws &
Business researcher, Bojana Bellamy.**