

NEGOTIATING WORKERS' DATA RIGHTS — USING AND IMPROVING THE GDPR





MONITORING & SURVEILLANCE

and why it's different today

- 1 IN 5 EMPLOYERS ARE TRACKING WORKERS
- INESCAPABLE, INSTANT FEEDBACK
- YOU DON'T (ALWAYS) KNOW
- WHAT HAPPENS WITH THE DATA?
- **COMMODIFICATION OF WORKERS**

HOW CAN WE USE THE GDPR?

HANG

IN

THERE

AVENUES - DPIA

- **‘HIGH-RISK’ PROCESSING. RECITAL 75 OF GDPR**

= processing that is likely to result in a high risk to the rights and freedoms of natural persons --> DPIA

- **DATA PROTECTION IMPACT ASSESSMENT (ART 35 GDPR)**

European Data Protection Board (EDPB): when high risk processing takes place a DPIA should be carried out, before the processing starts.

AVENUE 1: DPIA

IN OTHER WORDS: EMPLOYERS ARE OBLIGED TO INFORM AND CONSULT WITH WORKERS IN ALL CASES WHERE WORKERS' DATA IS PROCESSED.

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- **EXAMPLES**

introduction of new technologies, tracking people's location or behavior, processing of personal data related to "racial or ethnic origin, political opinions, religious or philosophical beliefs, or **trade union membership**, if data processing is used to make automated decisions about people that could have legal (or similarly significant) effects (f.x. automated hiring systems or scheduling tools)

AVENUE 2: DPIA **REVIEW**

- **DATA PROTECTION IMPACT ASSESSMENTS SHOULD PERIODICALLY **BE REASSESSED****

Art 35: Where necessary, the controller shall **carry out a review** to assess if processing is performed in accordance with the data protection impact assessment at least when there is a change of the risk represented by processing operations.

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**WORKERS SHOULD BE
PARTY TO
THE REVIEW**

AVENUE 3: IMPROVE (VASTLY) WORKERS DATA RIGHTS

The Data Lifecycle @ work

DPIA! - BE PARTY TO THEM

DATA COLLECTION

Sources? Union access
to and knowledge of?
Rights to refute/block?

DATA ANALYSES

Used in productivity &
Human Resources. What
rights do workers have
to access these data and
the insights/inferences
drawn? Can they object
to these etc?

DATA STORAGE

Servers - where? Who
has access? Under what
jurisdiction?
Think here
WTO/ecommerce
discussions

DATA OFF-BOARDING

Is it sold? To whom?
Deleted? Can workers
deny/block who it is sold
to? This includes data
sets, statistics,
inferences.



AVENUE 4: DATA SUBJECT ACCESS REQUEST

- **DSAR**
handle with care!
- **IS YOUR UNION READY?**
- **CONFRONTATIONAL**

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