

Protection of employee personal data (GDPR)

Igor Kyrzewski · 24.05.2025 · Kadry i Płace – JDG, Kadry i Płace – Spółki

□ Introduction

Every employer processes the personal data of their employees – from the moment of recruitment, throughout the entire period of employment, to the storage of documentation after its termination. These principles are regulated by:

- **Regulation of the European Parliament and Council (EU) 2016/679 (GDPR),**
- **Labour Code,** and
- **Act on the Protection of Personal Data of May 10, 2018**

□ 1. What personal data can an employer process?

□ **Mandatory data (based on art. 22¹ Labour Code):**

- Recruitment - first name, surname, contact details, education, work experience
- Employment - PESEL, address, children's data (for tax purposes), bank account number
- During employment - data on disability, medical certificates, court rulings (if required)
- After employment ends - data in personal files for 10 years

□ **Biometric, genetic, health, or religious data** cannot be **processed** by the employer unless explicitly required by law and necessary.

□ 2. Employer's obligations as a data administrator

According to GDPR, the employer as a data administrator is obliged to:

☐ a) **Lawfulness of processing**

- Data may be processed **based on an employment contract** or **legal obligation (e.g., Labour Code, Social Insurance, Tax Office)** – **consent is not required**

☐ b) **Data minimization**

- Only data **necessary for the purpose** (e.g., employment, payroll calculation, Social Insurance)

☐ c) **Provision of information clause**

- Information obligation – e.g., during recruitment and employment (art. 13 and 14 GDPR),
- Must include: administrator, purpose, legal basis, retention period, employee rights.

☐ d) **Data security**

- Organizational (e.g., access only for HR department),
- Technical (passwords, encryption, access control).

☐ e) **Storing data only as long as necessary**

- Personal data in personal files – **10 years**,
- Data processed based on consent – **until revoked or purpose fulfilled**.

☐☐ **3. Informational obligations towards the employee**

The employee must be informed, among other things, about:

- the purpose and scope of data processing,
- their rights (access, rectification, objection, deletion, restriction),
- contact details of the data protection officer (if appointed),

- the right to lodge a complaint with the President of the Personal Data Protection Office.

☐☐ The information should be provided **in writing or electronically** (e.g., as an attachment to the contract or regulations).

☐☐ **4. Rights of the employee (as the data subject)**

- Access to data - Right to view and obtain a copy of the data
- Rectification of data - Ability to request correction of incorrect data
- Deletion (“right to be forgotten”) - Only when data is processed based on consent
- Restriction of processing - In certain situations (e.g., dispute regarding data accuracy)
- Objection - When data is processed based on a legitimate interest

☐☐ In practice, data arising from the **labour Code and public legal obligations** cannot be deleted upon request (e.g., personal files, documents for Social Insurance).

☐☐ **5. Can data of candidates, family, health be processed?**

- Data of job candidates - Only necessary (art. 22¹ Labour Code) + consent for CV
- Data of children (for benefits, Employee Benefit Fund) - Yes, but only if required by law (e.g., PIT-2)
- Health data - Only based on referral to a doctor / ruling
- Photos, monitoring, location - Required information and justification in regulations

☐☐ **6. Consequences of violating GDPR**

Lack of information clause - Complaint to the Data Protection Office,
recommendations, order to delete data

Processing unnecessary data - Warning or administrative penalty

Loss or disclosure of data - Fine up to €20 million or 4% of turnover (in practice: up to
PLN 1 million in Poland)

Failure to report a breach - Additional sanctions and inspection proceedings

☐☐ Legal basis

- **GDPR** (Regulation of the European Parliament and Council (EU) 2016/679),
- **Labour Code** – art. 22¹–22⁵
- **Act of May 10, 2018 on the Protection of Personal Data**