



Central European
Labour Studies
Institute

GDPiR:

Managing Data Processing in the Workplace Through Industrial Relations

National Report - Czechia

A circular illustration in a light, sketchy style showing a group of people, possibly a crowd or a group of workers, in a public or industrial setting. The figures are rendered in simple lines and washes of color.

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Managing Data Processing in the Workplace Through Industrial Relations



CELSI Research Report No. 59

August 2024

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European Union



This project has received funding
from the European Commission
under the Grant agreement
No. 101048690



MANAGING DATA PROCESSING
IN THE WORKPLACE THROUGH
INDUSTRIAL RELATIONS

National Report – Czech Republic



Co-funded by the
European Union

The GDPIR project has received funding from the European Commission under the grant agreement No 101048690. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union. Neither the European Union nor the granting authority can be held responsible for them.

Document Information

Project Acronym	GDPIR
Grant Agreement	101048690 — GDPIR — SOCPL-2021-INFO-WK
Organisation Name	CELSI

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Scrivi per inserire testo

Scrivi per inserire testo

Introduction

In the modern era, the protection of personal data has gained significant importance within the context of workplaces. With this in mind, this report offers a comprehensive examination of the legal frameworks that regulate the protection of worker's personal data in Czechia. The report presents the research outcomes of the European-funded project GDPIR: Managing Data Processing in the Workplace through Industrial Relations (No. 101048690), which focuses on data processing in Czech manufacturing workplaces. This sector was chosen due to its role as a leading participant in the digital transformation, making it particularly vulnerable to the phenomenon of "datafication" or the extensive utilization of workers' data in the employment setting.

This report utilized a combination of qualitative and quantitative methods to generate its insights. Chapters 2 and 3 were developed through a desk research approach, which involved reviewing national legislative frameworks and pertinent scientific literature, as well as scrutinizing relevant case law, administrative practices, and decisions made by Data Protection Authorities. On the other hand, Chapters 4 presents findings from an online survey conducted among workers' representatives and trade unionists involved in social dialogue procedures at the workplace level, along with interviews with national trade unionists to evaluate the extent and nature of national trade union organizations' participation in issues concerning the processing of workers' data. Chapter 5 concludes the report with remarks on research results and the contribution of national industrial relations to workers' data protection and processing. Both categories of respondents are active in the manufacturing sector and belong to the metal federation (OS KOVO) and the main trade union confederations in Czechia, ČMKOS (*Czech-Moravian Confederation of Trade Unions*). OS KOVO represents metalworkers and it is the largest sectoral union in Czechia.



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National legal framework on workers' data protection and processing

1. National legal framework on workers' data protection and processing

1.1 The main legal provisions

In the Czech Republic, a Transposition Act No. 110/2019¹ on the Processing of Personal Data (PDPA), which clarifies and further regulates the processing of personal data in conformity with the EU GDPR, went into effect on April 24, 2019. By this, the Personal Data Protection Act No. 101/2000 Coll., having several of its provisions in conflict with the GDPR, was completely invalidated by the PDPA. However, the PDPA essentially only outlines the rights and obligations of personal data administrators rather than making any significant modifications. Therefore, the PDPA does not offer exhaustive rules or provide clarification for laws where the GDPR is still vague.

As such, for example, the processing of genetic, biometric, or health-related data generally permitted by Article 9(4) of the GDPR is not subject to any extra restrictions or criteria under the PDPA. However, it does set down a specific regime for the handling of particular types of personal data in the fields of journalism, academia, the arts, or literary expression. Employers who process personal data must comply with the PDPA, which applies to both public and private organizations.

Nevertheless, it is mainly the Labour Code (Zákoník práce)² that addresses concerns in regard to data protection and processing within work environments. For example, section 316 of the Czech Labour Code restricts a (potential) employer's ability to do background checks of job candidates. Similarly, the code is extremely stringent in the matter of the processing of the personal data of current employees by an employer. For the processing is mandated by statutes and not on the basis of the employee's consent, the procedure of justifying the requirement for particular data is always subject to legal dispute.

Accordingly, any demands for gathering personal data are expected to be as minimal as possible, taking into account the purpose of their collection. The employer is required to inform the data subject in advance of the purpose for which the data will be used, who will have access to it, and how long it will be stored. Moreover, the employer is required to regularly update the gathered data.

However, the Labour Code also causes controversy in some of its parts related to data protection and processing. For example, according to Article 316, Sections

¹ In English - https://www.uoou.cz/en/assets/File.ashx?id_org=200156&id_dokumenty=1837

² In Czech - https://ppropo.mpsv.cz/zakon_262_2006

3161, II and III of the I., employees are prohibited from using the means of production and other tools required for the performance of their jobs, including computers and telecommunications equipment, for personal purposes without the employer's explicit permission. Additionally, in this respect, the employer has the right to monitor employee adherence to the rule against misusing company equipment which lays the ground for open surveillance of employees. In other words, the aforementioned clause of the Labour Code, authorizes monitoring, and interception, including recording of phone calls, as well as the inspection of electronic communications and mail of employees. This was proven also by several rulings of the Supreme Court that upheld the legality of evidence obtained through covert monitoring on multiple occasions.

The Czech Personal Data Protection Authority (Úřad pro ochranu osobních údajů)³, which serves in the Czech Republic as a supervisory authority for data protection, is tasked with upholding the PDPA as well as the Labour Code and looking into complaints of data protection violations. However, in most of the cases, The Personal Czech Data Protection Authority's approach is self-limited hence it does not fine public authorities for violations of personal data protection but only disciplines them⁴.

1.2 The role granted by law to industrial relations actors and processes (e.g., trade unions, worker representatives, collective bargaining, social dialogue, codetermination) on data protection, processing and new technologies

The Czechia has a sophisticated system of social dialogue between employers, employees, and their respective representatives, which is relevant to the role that industrial relations play in the adoption of new technologies in workplaces. The Labour Code recognizes the value of collective bargaining, which is the foundation of this system.

Trade unions have the legal right to bargain with employers over issues relevant to the processing of employee data, including the use of new technology. The Czech Labour Code grants trade unions the right to take part in collective bargaining agreements that address issues like working hours, pay, and working conditions and so may contain clauses about data protection and emerging technology.

³ In English - <https://www.uoou.cz/en/>

⁴ Štefko, M. (2023). "Privacy at Work in the Czech Republic" – p.152 <https://law-store.wolterskluwer.com/s/product/privacy-at-work/01t4R00000P470XQAR>

Employees who work for organizations with 50 or more employees have the right to elect worker representatives, and they also have the right to negotiate with employers on matters concerning the new technologies and data protection. Employee representatives may also participate in data protection impact assessments (DPIAs) and may offer suggestions if the use of new technology may affect workers' rights.

The adoption of new technologies in Czech workplaces has recently grown in importance in the context of labour relations. Trade unions have called for measures to ensure that workers are not negatively impacted, and highlighted concerns about the possible effects of automation and digitalization on employment and working conditions.

Specifically, some concerns regarding the possible effects of automation and digitization on employment and working conditions have been voiced by trade unions in the Czech Republic. Among the principal worries are:

- Trade unions are worried that the rise in automation and digitalization in the workplace would result in job displacement, especially in industries where manual labour is currently the norm.
- Workers' skills and the demands of the labour market may not match, which would make it challenging for them to find new job.
- Trade unions have expressed concern that as automation and digitalization become more prevalent, the workplace will become more stressful as employees are forced to adopt new technology and work more quickly.
- Trade unions are concerned about the possibility that employers may monitor and spy employees using modern technologies, resulting in a loss of privacy and autonomy in the workplace.
- Trade unions have emphasized the possibility that automation and digitalization would worsen already-existing labour market inequities, such as wage gaps and job insecurity, as some groups of employees may be more susceptible to exploitation and displacement than others.

In general, as discussed in the previous section, the Czech Republic's institutional framework offers a strong legal and regulatory framework for the protection of

workers' personal data, and the system of collective bargaining and social dialogue facilitating the effective representation of workers' interests in the case of introduction of new technologies in the workplace also assists the same goal.

The sources informing on the situation include reports and publications from Czech trade unions that have released statements and position papers on the effects of automation and digitization on employment and working conditions, such as the Confederation of Trade Unions and the Czech-Moravian Confederation of Trade Unions as well as academic studies on the subject, including research on the impact of automation and digitization on the labor market, working conditions, and labor relations by Czech researchers and academics. Moreover, international organizations have also conducted study and analysis on the effects of technology development on the workplace, such as the International Labour Organization (ILO) and the Organization for Economic Co-operation and Development (OECD). The Czech Republic's news stories and media coverage of labour concerns and technological progress frequently include quotations and viewpoints from trade unions and other labour organizations.

1.3 Relevant case law, administrative practice, rulings of Data Protection Authorities on the topic

The Czech Data Protection Authority's (DPA) 2019 ruling on the use of fingerprint scanners by an organization to track employee attendance is a significant case in this area. According to the DPA, using these scanners amounted to the processing of biometric data, which is a particular class of personal data under the GDPR.

The DPA decided that the employer had violated the law by failing to properly undertake a data protection impact assessment (DPIA) before adopting the fingerprint scanning technology and by not obtaining sufficient employee agreement for the processing of their biometric data. The employer was required by the DPA to stop using the scanners and erase any previously gathered biometric information. This decision on the use of fingerprint scanners is available on the website of the Czech Data Protection Authority (in Czech).

The Czech Supreme Administrative Court's 2019 decision on an employer's monitoring of an employee's email and internet activity is another noteworthy case. The court determined that this monitoring qualified as processing of personal data and was therefore subject to the PDPA and GDPR's regulations.

The company was found to have done a poor job of conducting a DPIA and not obtaining sufficient employee consent for the monitoring of their personal data,

according to the court. The employer was required by the court to discontinue monitoring and to destroy all personal data that had been gathered. Czech Supreme Administrative Court ruling on monitoring of employees' email and internet use is available on the website of the Czech Supreme Administrative Court (in Czech). These instances highlight the need of adhering to the GDPR and PDPA obligations when processing employees' personal data and the role of the Czech Data Protection Authority in enforcing those rules.

1.4 Possible legal developments in the near future

Given the close interconnections between the Czech Labor Code and EU data protection law, any future changes to EU law in these areas may also affect Czech law. The EU is currently updating its data protection laws, and it's probable that new policies or laws will be implemented in the following years hence impact Czech legislation.

For example, efforts such as the Digital Single Market Strategy, which seeks to promote the use of digital technology throughout the EU, have been under development by the EU. Changes in these areas may also have an influence upon Czech labor law and labor relations.



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**Main features of industrial relations in
the manufacturing sector**

2. Main features of industrial relations in the manufacturing sector

2.1 Trade union and employer representation and their density

Like other Central and Eastern Europe nations, Czechia has undergone significant changes in the past three decades, transitioning from a centrally planned to a market-oriented economy. This has presented challenges for trade unions, as they grapple with adapting to new economic structures while still protecting workers. After 1989 a number of trade union confederations emerged, with the dominant one becoming Českomoravská konfederace odborových svazů (ČMKOS; the Czech and Moravian Confederation of Trade Unions). This represented almost 300 000 members in 2022, around 70 per cent of all trade union members. Further fragmentation of the trade union movement, resulting from differing views on ČMKOS's internal functioning, led to the establishment of Asociace samostatných odborů (ASO; Association of Independent Trade Unions) in 1995, creating the second largest confederation in Czechia. ASO claimed around 80 000 members in 2018. Both organisations include affiliates active in the automotive sectors (Martišková-Šumichrast 2023).

Trade union density is also difficult to measure, partly because of unreliable past claims from one of the confederations and partly because stated membership includes pensioners, who make up a significant proportion in some unions but zero in others. In addition, there are organisations that call themselves trade unions and may engage in collective bargaining, but for many of them no reliable data exist on membership. Total trade union membership declined from 2.35 million in 1995 to 500,000 in 2018, with the result that trade union density fell from 45 to 11 per cent (Martišková-Šumichrast 2023).

The main functions of employers' organisations are representation and lobbying the government. Two confederations are present in the tripartite structure, claiming together to represent 33,000 employers with 2.6 million employees in 2017. If accurate, this would represent about 67 per cent coverage of all employees. Employers' organisations that sign collective agreements, 20 in 2017 and all members of a larger confederation represented in the tripartite structures, rarely reported the numbers their members employed (Myant 2019).

2.2 Collective bargaining structure and coverage

After 1990 the trade unions were reborn within a fairly favourable institutional framework, which provided their activities with institutional support and gave them tools to protect employees in the transformation period. In 1990, a Collective Bargaining Act (Zákon o kolektivním vyjednávání) was adopted following advice from the International Labour Organization, creating a framework for social dialogue in the former Czechoslovakia (from 1993 Czech Republic) (Martišková-Šumichrast 2023). There had been early expectations that the importance of the law would fade over time as collective bargaining took on a bigger role. In fact, collective bargaining developed to a great extent as a supplement to legal protections, giving slightly better conditions but still covering the same themes. As a result, much of the activity of basic organisations involved ensuring that labour law was respected as much as negotiating, and ensuring implementation of, collective agreements. A major reason for this was a general decline in membership and weakening organisational strength in workplaces.

Collective bargaining coverage fell from 47 per cent in 1995 to 33 per cent in 2020. Collective bargaining in Czechia is primarily decentralised so that negotiating improvements in working conditions is carried out at company level. Those signed at the industry level, meaning with employers' organisations, cannot stipulate worse conditions for employees than are provided by law. This decentralisation of collective bargaining causes difficulties in terms of the trade union coordination of wage increases and advances in working conditions. Coordination at sector level is legally supported but carried out only in some. Even then, the negotiated terms do not significantly differ from what is set out in the legislation. Despite favourable institutional setting for collective bargaining, trade unions often opted for legislative solutions for improving working conditions (Martišková-Šumichrast 2023 MNCs).

Only three employees are needed to set up a trade union and initiate collective bargaining, which can increase the likelihood of trade unions forming but also weaken their legitimacy (Drahokoupil et al. 2015). This may even lead to the emergence of organizations that demand collective bargaining rights without representing a significant number of employees. Collective bargaining can only improve working conditions beyond the legal minimum, not reduce them. This has motivated trade unions to seek robust legal protections through political connections (Martišková-Šumichrast 2023 MNCs).

2.3 Workplace level representation and industrial relations procedures

In general, decentralised collective bargaining dominates in the Czech Republic, but there are also several sectoral collective agreements in industry.

To establish a trade union organization, OS KOVO requires a minimum of five members. However, due to this low threshold, there is often a proliferation of trade union organizations within a single employer. In fact, 10% of companies with OS KOVO organizations report having more than one trade union organization, which is lower than the national average of 20%. When multiple trade unions operate within a single employer, they must reach an agreement on the collective agreement. If conflicts arise between the unions, this may hinder the conclusion of the collective agreement at the company level (Martíšková 2022).



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**The role of industrial relations in
workers' data protection and
processing**

3. The role of industrial relations in workers' data protection and processing

The purpose of this section is to elucidate, based on data gathered through interviews, questionnaires, and documentary research, the significance of industrial relations in the context of worker data protection and processing within the manufacturing sector of Czechia. Subsections 4.1 and 4.2 draw upon interviews conducted with two national sectoral trade union representatives, both representing the OS KOVO. The interviews are complemented by the results of an online survey with union representatives.

We collected information from a survey involving 7 participants. The majority of respondents were company level trade union delegates, while the remaining two consisted of national sectoral trade unionist and regional sectoral trade unionist. They all work in the automotive and basic metals sectors.

3.1. Trade union organisations facing workers' data protection and processing

Interviewees expressed indicated that GDPR is not a priority topic for the unions, but since the adoption of the EU's GDPR Directive, there have been notable changes that have brought greater prominence to the subject and efforts are being made to familiarize organizations with these issues and provide them with guidance. Nevertheless, traditional trade union priorities and the enhancement of working conditions continue to constitute the primary focus of action (CZ1, CZ2). In the majority of survey respondents' experiences, workers' data processing is primarily managed unilaterally by management. In the remaining respondents' experiences, it is either managed through information and consultation procedures or through collective bargaining

3.1.1. Research and training activities

Trade unionists also approach this topic from the perspective that it is relevant to trade unions because they themselves handle personal data. Consequently, there was a need to develop a methodology that is now established and standardized (CZ1). For instance, upon the implementation of the EU directive, training sessions were conducted at all levels of union organizations, targeting all functionaries responsible for handling data (CZ2). No research activity took place (CZ1). Four

survey respondents answered the question about their participation in specific training modules related to dealing with workers' data processing by employers. Among them, two respondents have participated in such training organized by the company, while the other two have not. Participants mentioned that the main topics covered in the training were the key features of European and national privacy and data protection laws.

OS KOVO collects basic data from its members, including their names, surnames, places of residence, and dates of birth. The basic organizations collect this data for their own organizational purposes, in accordance with their specific size and requirements, but it must be promptly deleted once it is no longer necessary. OS KOVO provides guidance to basic organizations on matters such as the types of data they can collect and the appropriate retention periods for such data (CZ2).

In the context of the GDPR issue, some particular cases highlighted by trade unionists. The most common concerns the use of industrial Closed-Circuit Television (CCTV) in the workplace in the context of their use by the employer, e.g. tracking employees, such as their pauses (CZ1, CZ2). Another issue that was raised pertained to employers outside the payroll office being informed about which employees had payroll deductions (CZ2).

3.1.2 Engagement with other stakeholders and/or Data Protection Authorities

Regarding lobbying activities, there have been instances where trade unions have engaged with relevant authorities, such as the Office for Personal Data Protection, to interpret wording or provision of a GDPR-related law in order to be able to put it into practice. Furthermore, the trade unions have dealt in this context with the issue of deduction of membership fees, which, with the employee's consent, can be deducted and transferred to the trade union's account (CZ1).

3.2 Main topics and trends in social dialogue practices

3.2.1 Social dialogue and collective bargaining

In general, GDPR is not a pressing or primary concern for Czech trade unions. As per one respondent's account, the company's collective agreement does not encompass the GDPR topic. Moreover, sectoral cooperation is weaker as trade unions do not have enough social partners (CZ1). One respondent acknowledged the possibility that trade unions may have commented on something related to

GDPR through the Tripartite, but did not have further information (CZ2). When asked if they had ever negotiated a company collective agreement exclusively regulating workers' data processing or addressing it among various issues, four respondents answered negatively. Meanwhile, some of the survey respondents either do not remember or do not know whether they have negotiated a company collective agreement regarding workers' data processing. So only three respondents negotiated a company collective agreement regulating exclusively or, among various issues, workers' data processing. From those, only two respondents answered the question regarding the main topics concerned by such a negotiation. One respondent claimed that he/she negotiated over the topic of ensuring the respect of international and national privacy/data protection law and the other one negotiated over regulating the use that can be made by management of workers' data (safety matters, disciplinary actions, training purposes, etc.). When asked about the uses of workers' data that have been allowed and regulated through collective bargaining, only one respondent stating that it was for health and safety matters. Similarly, one respondent answered the question regarding the prevented uses of workers' data by collective bargaining and reported the prevention of the data used for training and career development purposes. Of those who have not been ever involved in negotiating a company collective agreement regulating workers' data processing, two have given reasons for their uninvolvedness. Both of those claimed that it is because both of these issues are usually managed unilaterally by company management.

3.2.2 Support tools in social dialogue procedures

Among the main difficulties when negotiating over workers' data processing is the lack of knowledge from one side or both, data management professionals in the company not participating in negotiations and difficulties in getting timely, full and complete information from management. Four respondents answered the question regarding the availability of experts in data processing for the needs of negotiating parties. Among them, three respondents stated that there is an internal company expert, while one respondent mentioned the unavailability of an expert. Two respondents said that the main tasks focus on legal advice to worker representatives and/or managers on European and national privacy/data protection law and one respondent reported as the main task the organisation of training modules for workers and/or managers on the topic. In a similar manner, when asked if there are any IT experts (experts in the functioning of new technologies) readily available for the

needs of the union, two respondents answered negatively. The other two had experiences with an internal company IT expert. In cases where IT experts were available, their primary responsibilities included guiding worker representatives and/or managers in negotiations regarding workers' data processing and organizing training modules for workers and/or managers on technological tools and their functionality.

Within the trade union structures, there is no distinct capacity dedicated to handling the GDPR issue, and there is a perceived lack of emphasis on addressing this issue more prominently (if the union receives a query, it will initiate the processing procedure to find the answer, which may include communication with relevant authorities and public bodies) or HR departments are responsible for handling this topic (CZ1, CZ2). However, trade union officer speculates that, at most, the topic may gain greater relevance in the future as digitalization and artificial intelligence continue to expand (CZ1).



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**General evaluations and
conclusions**

4. General evaluations and conclusions

The topic of GDPR in relation to employment is not a top priority for Czech trade unions, although recent EU directives have brought increased awareness and efforts to educate organizations on the subject. Traditional trade union priorities and improving working conditions remain the primary focus of action. Workers' data processing is predominantly managed unilaterally by management, with some involvement through information and consultation procedures or collective bargaining.

Training sessions have been conducted to educate union members on data handling, with a focus on privacy and data protection laws. Trade unions collect basic data from their members but emphasize the importance of data security and prompt deletion when no longer necessary. Concerns raised by trade unionists include the use of industrial CCTV in the workplace and the disclosure of payroll deductions to employers outside the payroll office.

Trade unions have engaged with relevant authorities, such as the Office for Personal Data Protection, to interpret GDPR-related laws.

Sectoral cooperation is limited due to a lack of social partners. Negotiations regarding company collective agreements specifically regulating workers' data processing are infrequent. Topics negotiated in relation to workers' data processing include ensuring compliance with privacy and data protection laws and regulating management's use of workers' data. Uses of workers' data allowed through collective bargaining are primarily related to health and safety. Challenges in negotiations include a lack of knowledge, absence of data management professionals in negotiations, and difficulties in obtaining timely and complete information from management. Within trade union structures, there is no dedicated capacity for GDPR issues, and it is not a prominent focus.

4.1. GDPR legislation

In the Czechia, worker data protection is guided by laws that follow the European Union's GDPR rules. These laws focus on the responsibilities of those who handle data, like employers. The Czech Labor Code also has strict rules for how employee data can be used, including limits on background checks and rules for when data can be collected. However, some parts of the Labor Code have caused debate because they allow employers to monitor employees, even recording their phone calls. To make sure these rules are followed, there is an authority called the Czech Personal

Data Protection Authority. They usually use warnings and penalties instead of fines when organizations break the rules.

The role of industrial relations actors, including trade unions and worker representatives, is essential in shaping data protection and processing practices in Czech workplaces. The Labour Code recognizes the value of collective bargaining, allowing trade unions to negotiate issues relevant to data protection and the use of new technologies. Worker representatives play a crucial role in addressing concerns related to the impact of automation and digitization on employment and working conditions. These concerns include potential job displacement, skills-mismatch, increased workplace stress, employee monitoring, and labor market inequalities. The Czech institutional framework offers a strong legal foundation for protecting workers' personal data, while the system of collective bargaining and social dialogue facilitates effective representation of workers' interests when adopting new technologies in the workplace.

4.2 Overall conclusion

In Czechia's manufacturing sector, workers' data protection and processing are not top priorities for trade unions, but recent EU directives have raised awareness and prompted educational efforts. Traditional trade union concerns like working conditions and employment rights continue to dominate the agenda. Data processing is primarily managed by management, and negotiations related to workers' data processing are infrequent. Challenges in negotiations include a lack of knowledge and difficulties in obtaining complete information from management. Training sessions and education efforts have been conducted to improve understanding of privacy and data protection laws. While some unions have access to data processing and IT experts, there is no distinct capacity dedicated to handling GDPR issues within trade union structures. The importance of GDPR may increase in the future with the continued expansion of digitalization and artificial intelligence.

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