



To: Members and Substitutes of the Employment and Social Affairs Committee (EMPL) of the European Parliament

Cc: Members and Substitutes of the Civil Liberties, Justice and Home Affairs Committee (LIBE) of the European Parliament

20 February 2013

Dear Member of the European Parliament,

I am writing to you in view of the upcoming European Parliament's EMPL Committee vote on the opinion for the general data protection regulation.

BUSINESSEUROPE believes that the current proposal would have a huge impact for the business sector as a whole, as it will affect virtually all businesses in all sectors undertaking an activity in the EU. With the new rules, EU companies would have to comply with a series of new obligations and burdensome procedures, in some cases without proportional benefit for citizens.

As the European employers' organisation, BUSINESSEUROPE would like to share its concerns with you on some key elements related to employees' data processing.

Individuals should have the right to make free and informed choices about when and how their personal data are processed. This should also apply to employees' personal data.

The draft regulation currently being discussed would make it impossible to process data on the basis on consent in employment context. This would be extremely difficult for employers, who could face situations where it is impossible for them to process data even when an employee agrees, only because there is no other additional legal basis for processing.




Also, employees themselves could be negatively affected, because in many cases processing of employees personal data is done in their own interest (e.g. health, holidays, parental leave, educational and skills profiles and wages). The solution suggested by the EMPL draft opinion, namely that consent can be a basis for processing only if “intended to have legally or financially advantageous consequences for the employee” needs to be improved, because this definition is ambiguous and does not provide sufficient legal certainty. Consent should be considered a valid basis for data processing in general, including in employment context.

In addition, we would like to stress that in some Member States, collective agreements are a generally accepted basis for legal data processing as much as national legal provisions. This should be explicitly recognised in article 6 (1) (c) of the draft proposal.

We urge you to carefully consider these elements in preparation to the Committee vote and we remain at your full disposal if you wish to discuss these or other points further.

Yours sincerely,



Markus J. Beyrer