Global Data and Cyber Handbook - Chile

Data Processing in the Employment Context

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# Is an identified legal basis required in order to collect or process personal data or sensitive personal data in the employment context?

*Last review date: 29 December 2023*

No.

**The potential legal bases for data processing in the employment context are:**

The Chilean Labor Code assumes that employers will need to access their employees’ personal data. In this context, the law focuses on the protection of personal data and sensitive data that naturally comes into the possession of the employer, rather than focusing on the legal basis for obtaining it.

Further, employers are specifically obligated not to disclose any private information or data relating to their employees that they may access as a result of the employment relationship. This obligation arguably includes data revealing trade union membership.

# Can consent be validly obtained in the employment context?

*Last review date: 29 December 2023*

☒       Yes, same as for data subjects outside the employment context.

Consent may be validly obtained in the employment context, but for the basic information required to comply with legal obligations, consent is not required.

# Has the data privacy regulator issued guidance on use of artificial intelligence, automated decision making or profiling in an employment context – for example, relating to use in employee monitoring or hiring?

*Last review date: 29 December 2023*

No.

If yes, please provide a link.

N/A

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