

# Newsletter

## *Diversity & Inclusion: Practical Steps to Mitigate Privacy-related Risks*

October 22, 2020

### Dear Ladies and Gentlemen,

We have recently discovered growing interest in implementation of diversity and inclusion (“**D&I**”) programs by companies operating in Russia. D&I programs imply processing of new categories of employee personal data and new purpose of data processing. For this, Russian Labour laws do not provide for any requirement nor regulation for implementation of D&I programs. In such circumstances, employers’ processing of employee data, for purposes of D&I programs, cannot be based on legal obligation. In this letter, we would like to share our view on the measures that shall be taken by employers implementing D&I programs, in order to mitigate privacy-related risks.

#### Legitimate purpose of a D&I program

The crucial issue with regard to D&I is to justify the program, by explaining of its purpose.

Russian laws lay down a general guarantee that individuals enjoy **equal rights and opportunities**, irrespective of their sex, race, or nationality, which entails prohibition of any discrimination.

These legal guarantees shall serve as a **basis for the justification** of D&I programs implemented on a company level – in no case should the purpose of a D&I program be construed as giving the privilege to a particular group on a basis of their race, ethnicity, etc.

#### Mandatory formalities to observe

In addition to the purpose justification, the company implementing a D&I program shall observe certain formalities, in particular it shall:

- duly implement an internal D&I policy explaining the respective processes and related personal data processing activities;

- familiarize the employees with the policy’s content and train them on D&I issues;
- request individuals’ written consents, compliant with mandatory requirement, where personal data is not collected anonymously;
- implement a procedure of timely and safe deletion of data, collected within a D&I program;
- reconsider the security threats and implement additional safeguards to safeguard sensitive data;
- properly localize Russian citizens’ personal data upon collection;
- if personal data is processed by third parties, including affiliates, ensure legal requirements relating to a transfer of employee data to third parties, and, if applicable, requirements regarding cross-border data transfer; new personal data processing activities shall be reported to the Russian data protection authority;
- implement an effective control over the operation of the program (such as internal reporting, selective internal checks, etc.).

#### Potential risks

In addition to obvious reputational concerns, inappropriate implementation of a D&I program may trigger the risks of individuals’ complaints to the supervisory authorities and courts, administrative penalties and criminal liability for the company’s officials.

The above risks are not imaginary – implementation of D&I processes has a significant impact on individuals’ privacy and employment, which is always in the spotlight of the Russian supervisory authorities. So, companies shall carefully analyze their intended practices and take all necessary steps to make them legally compliant.

If any of your colleagues would also like to receive our newsletters, please let us know by sending us his/her email address in response to this message. If you would like to learn more about our [Data Protection and Cybersecurity Practice](#), please let us know in reply to this email. We will be glad to provide you with our materials.

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If you have any questions, please, do not hesitate to contact ALRUD partner



**Maria  
Ostashenko**

Partner

Commercial, Intellectual Property,  
Data Protection and Cybersecurity

E: [mostashenko@alrud.com](mailto:mostashenko@alrud.com)



**Irina  
Anyukhina**

Partner

Labour and Employment

E: [ianyukhina@alrud.com](mailto:ianyukhina@alrud.com)

Sincerely,  
ALRUD Law Firm