

Checklist: GDPR and the organization of the social elections 2020

Social elections procedure involves the processing of a lot of (often sensitive) personal data of employees. Think for example of the lists of candidates or voters, the voting papers, lists of executive staff. All these personal data must be processed in accordance with the rules of the GDPR. Since the social elections of 2020 are the first elections in which the GDPR rules must be complied with, we are providing you in advance with this handy **checklist**.

- Check if your **record** of processing activities already provides the processing activity of the social elections, or whether it could be covered by another processing activity.
 - If not, complete the record with the necessary information on the processing of personal data in the context of social elections.

- If you work with **service providers** for the organization of the social elections (e.g. payroll office, supplier of electronic voting software), check whether they act as **data processor**, or as **(joint) data controller**.
 - Make sure that you have correct agreements in place that provide sufficient guarantees for GDPR-compliant processing of personal data.

- Do **not** keep personal data **for longer than necessary**. The legislation on social elections itself, provides for specific minimum retention periods.
 - If you wish to keep data for a longer period, please ensure that you can justify this, and indicate in the record of processing activities the period to be respected. Make sure that your HR-processes are aligned to respect these periods and delete data at the end of the period.

✓ **Inform** employees about the processing of their personal data in the procedure of the social elections.

→ Check if such information has already been covered by wording in a data protection notice. In any event, we recommend that when publishing information including personal data in the social elections procedure, you should always refer to the legal basis or at least justify why the information is necessary for the organization of the social elections. In the brochure on the social elections 2020, the FPS WASO suggests for example the following wording when message X is published:

“This information is published in the context of the information obligation in accordance with Article 14 of the Social Elections Act of 4 December 2017. As this information contains personal data, the GDPR is applicable. [The company] processes the data only for the purpose for which they are collected and no longer than necessary for this purpose.”

✓ Ensure sufficient **technical and organizational measures** to protect personal data. The Data Protection Authority stresses for example that you should not disseminate voter lists as an attachment to a basic e-mail. You should also avoid the lists being published on your company’s intranet, unless this is sufficiently secure and only accessible to employees of your company.

→ Do not transfer personal data in an unsecured manner during the social elections procedure, but only through secure networks and platforms. Note that you can still opt to send an e-mail to your employees with a link to the secure platform or intranet, as long as only the employees have access.

✓ Ensure **proper preparation** of the organization of social elections: evaluate which processes in the procedure involve the most risks for the employees concerned and make sure that you manage these risks. Make employees who are involved in the organization of the social elections aware of the GDPR rules and stress that they must treat personal data confidentially.

→ Pay sufficient attention to the principles of GDPR at the commencement of the organization of the social elections in your company. If necessary, ask your DPO to provide you with the necessary support.

✓ **Do not send address lists** of your employees to, for example, trade unions for the purpose of election propaganda. After all, you do not have any valid legal grounds for doing so, because the employee’s address is in principle only relevant for HR administration. If you do so, an employee may claim that you have unlawfully transferred personal data, so you may have caused a data leak yourself.

Good read: information on GDPR in the FPS WASO Brochure on Social Elections 2020 (available only in Dutch and French: see: <http://www.werk.belgie.be/defaultTab.aspx?id=48339>)

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