

Is Employee Consent Under the GDPR Possible?

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The European Union's General Data Protection Regulation (GDPR) is fast approaching and U.S. organizations that control or process personal data of EU residents are likely subject to these new data protection requirements. Now is the time for U.S. employers to determine whether they are covered by the GDPR (see our blog post, [Does the GDPR Apply to Your US-based Company](#)) and, if they are, begin preparing their HR data systems for compliance.

An employer that needs to process EU employee data must have a lawful basis for doing so under the GDPR. One of the six lawful bases for processing an EU resident's personal data in [Article 6 of the GDPR](#) is *"the data subject has given consent to the processing of his or her personal data for one or more specific purposes."*

A common practice in the U.S. is to rely on blanket consent clauses in employment contracts or handbooks that permit employers to process employee personal data. U.S. employers often also rely on implied consent from employees. However, such practices may not be considered valid forms of consent for lawful processing of personal data under the GDPR. An expansive discussion on the validity of employee consent for data processing under the GDPR, and how organizations can prepare their HR data systems to reflect GDPR 'consent' requirements, [can be accessed here](#).

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