

## **Hacked off employees - what potential rights does an employee in France have against their employer in the event of their personal data being hacked?**

In **France**, data protection legislation requires employers to have sufficient processes in place to control access to their employees' personal data, although unlike in Germany, they are not expressly required to use the latest encryption techniques.

Where an employer breaches its duty to ensure sufficient safeguarding of personal data, an employee could notify the French National Data Commission (CNIL) which has a number of courses of action open to it ranging from issuing a warning or imposing a fine (of up to €150,000) to granting an injunction to halt data processing or referring the alleged breach to the French Public Prosecutor.

An employee could also bring a criminal complaint against their employer. If found guilty, an employer could be subject to a fine of up to €300,000 and representatives of the employer could be sentenced to up to two years' imprisonment. In practice, however, successful prosecutions are rare and happen only where it is found that the failure to ensure sufficient safeguarding of personal data was as a result of a deliberate and wilful act.

Looking ahead, if current changes proposed by the French State Council are implemented, trade unions could, in the future, take injunctive action against an employer on behalf of all of their members in appropriate cases of data breach. At this stage the proposals are not detailed, but involvement of trade unions in enforcing an employer's data protection compliance could significantly bolster an employee's rights in this area.

**The information contained in this update is intended as a general review of the subjects featured and detailed specialist advice should always be taken before taking or refraining from taking any action. If you would like to discuss any of the issues raised in this article, please get in touch with your usual Olswang contact. This article is taken from the Digital Employment blog article 'Hacked off employees...' [here](#).**