Norway’s response

1

Does your country have laws or regulations that protect the confidentiality of electronic communications?

The main Norwegian act dealing with data protection is our Personal Data Act of 1978. The law deals with personal information, and the general rule is that there must be consent or statutory authority for the use of personal data. We don’t have specific regulations regarding the confidentiality of electronic communications.

2

If so, are these provisions applicable when the information are collected on social networks or blogs?

The Act applies when personal information collected is being used in a register, also if such information are collected from social media or blogs. But it would not prohibit individuals from collecting information from open sources and use it in their own publications on social networks or blogs.

As a rule, an employer – regardless of his employees´ role - can use social media, be friends, etc. and use publicly available information. In principle, the employer would be allowed to collect such information from the public area without restrictions, however, he may not store the information in a register without consent or without seeking permission from the appropriate authority.

3

If so, are these provisions protecting the information collected or used by an employer

- During the recruitment phase?

The Norwegian Work Act, Equality Act and Discrimination Act prohibits gathering personal information including health status, sexual orientation and religious conditions during the process of considering individuals for a job. Such information can therefore not be obtained through social media.
In the course of the employment for disciplinary reasons or others?

The Work Act requires that control measures taken towards an employee should be objectively justified and should not constitute a disproportionate burden for the employee.

4

Are the employees allowed to use social networks during working hours? If so, in which way?

There is no restriction against this provided by legislation, and employees are generally allowed to use social network during working hours. Such use may nonetheless be limited by the employer as a result of employer’s managerial prerogative. The employer can determine rules and develop guidelines for the use of social media and also set rules for the employees’ use of the employers technical equipment during working hours.

It is highly recommended that workplaces have guidelines for using social networks during working hours.

5

Can the employer monitor the use of social networks by his employees during working hours? Outside of the working hours?

The employer has no right to monitor the employees’ use of electronic devices beyond the requirements of Regulation.

Our Personal Data Act, Regulations Chapter 9, have provisions concerning the employers access to the employees’ e-mails. Regulations § 9-2 rely on conditions for access. Such conditions may be that it is necessary for the business, or the employee is suspected of gross violations of his duties. The employer’s right of access requires special justification, and access is narrow.

The regulations as such make no distinction between actions inside and outside working hours.