

# Bird & Bird & Equality, Diversity & Inclusivity

*HR Data Essentials*



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Is there a legal requirement to carry out equal opportunities & diversity monitoring?	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Can employers actively promote diversity in the workplace?	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Are there provisions in data protection law on diversity monitoring?	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●

- No
- Yes
- Not required by law but strongly recommended or specific conditions apply

# Australia

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Race</li> <li>Colour</li> <li>Sex</li> <li>Sexual orientation</li> <li>Age</li> <li>Physical or mental disability</li> <li>Intersex status</li> <li>Marital status</li> <li>Family or carer's responsibilities</li> <li>Pregnancy</li> <li>Religion</li> <li>Political opinion</li> <li>National extraction or social origin</li> <li>Gender Identity</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>No.</b> There is no general requirement to carry out equal opportunities & diversity monitoring. Employers with more than 100 employees are required to report annually on gender diversity in the workplace under the <i>Workplace Gender Equality Act 2012 (Cth)</i> .
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> There is no positive requirement for employers to do so, however employers are obligated to prevent discriminatory practices in the workplace.</p> <p>Employers with 500 or more employees must also have a formal policy or strategy in place for at least one of the Workplace Gender Equality Minimum Standards in categories such as</p> <ul style="list-style-type: none"> <li>Workforce composition;</li> <li>Gender pay gaps;</li> <li>Support for carers; or</li> <li>Sex-based harassment.</li> </ul>
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<p><b>No.</b> There is no specific provision. The Privacy Act 1988 (Cth) requires that personal information is managed in accordance with the Australian Privacy Principles.</p> <p>There is an exemption to these requirements for "employee records" that are directly related to a current or former employment relationship; however, this exemption may not apply to an employer's diversity monitoring initiatives as they may not be sufficiently related to the current or former employment relationship. In addition, the employee exemption is only available to the employing entity, and not to related bodies corporate of the employing entity and employee databases and diversity monitoring often involves more than one company in a group. Further, the employee exemption does not apply to contractors who are not employees. Contractors are often included in diversity studies.</p> <p>Additionally, assuming that diversity monitoring would not fall within the employee records exemption, certain categories of personal information including an employee's disability (health information), racial or ethnic origin, religious or philosophical beliefs and sexual orientation or practices, are considered 'sensitive information' and receive a higher level of protection than other personal information under the Privacy Act, including by requiring an employee's consent to the collection of the information unless an exception applies.</p>
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<p><b>Requirement varies.</b> Commonwealth agencies must conduct DPIAs in relation to all high risk privacy projects (new or changed ways of handling personal information that are likely to have a significant impact on the privacy of individuals).</p> <p>For non-high risk privacy projects conducted by Commonwealth agencies, and any projects conducted by (private sector) organisations under the Commonwealth Privacy Act 1988, the Office of the Australian Information Commissioner strongly encourages conducting DPIAs as a matter of course for projects that involve personal information, and particularly those that involved sensitive information. Undertaking a threshold assessment can assist entities to determine whether a PIA is necessary for a project.</p> <p>The privacy regulators in most states and territories of Australia recommend conducting DPIAs to assist with privacy compliance requirements.</p>

# Belgium

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Gender (this includes discrimination on the grounds of pregnancy, childbirth, breastfeeding and medically assisted reproduction, motherhood, fatherhood, co-motherhood, adoption, sex change, gender identity or gender expression, gender characteristics)</li> <li>Race (including race, skin colour, nationality, origin (e.g. Jewish), national or ethnic descent)</li> <li>Disability</li> <li>Religious and philosophical belief</li> <li>Sexual orientation</li> <li>Age</li> <li>State of health</li> <li>Wealth</li> <li>Physical characteristics</li> <li>Civil status</li> <li>Political conviction</li> <li>Trade union beliefs</li> <li>Birth</li> <li>Social background</li> <li>Language</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>Yes.</b> There is an obligation to monitor equal pay for men and women. Every two years, employers who employ at least 100 employees must carry out and submit a detailed analysis of their remuneration policy (a more simplified form must be submitted by companies who employ between 50 to 100 employees). Any wage disparity on the basis of gender should therefore become transparent and should subsequently be eliminated via negotiations with employee consultation bodies (Works Council or trade union representatives).
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<b>Yes.</b> Employers can set up a diversity action plan aimed at combatting discrimination and ensuring equal opportunities in a more diverse workplace. .
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<b>Yes.</b> As regards equal pay for men and women, the company is not obliged to disclose wage data if there are only three or less than three workers in a specific function, as this would allow to identify the workers in question and thus breach their right to data protection.
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.

# China

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>• Origin</li> <li>• Gender</li> <li>• Age</li> <li>• Pregnancy</li> <li>• Marital status</li> <li>• Nationality</li> <li>• Race</li> <li>• Political opinion</li> <li>• Religious beliefs</li> </ul>	<ul style="list-style-type: none"> <li>• Physical appearance</li> <li>• Disability</li> <li>• Health status</li> <li>• Place of residence</li> <li>• Family condition</li> <li>• Educational background</li> <li>• Special identity, e.g. discharged soldiers, former prisoners</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<p><b>No.</b> There is no general requirement to carry out equal opportunities &amp; diversity monitoring. Nevertheless, employers should comply with relevant provisions under the PRC Labour Law which stipulates that labourers, regardless of their ethnic group, race, sex, or religious belief, shall not be discriminated in employment, and that women shall enjoy the equal right with men to employment. (Article 13 &amp; 14)</p>	
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> Employers must provide workers with equal employment opportunities and equitable conditions of employment, and avoid discriminatory employment practices.</p> <p>Employers can pursue preferential policies for disadvantaged groups, as long as the policies meet certain requirements established under the law.</p> <p>Companies failing to meet their obligations under the law can be subject to fines and rectification order, and be held liable for any damage caused to the employees.</p>	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<p><b>No.</b></p>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<p><b>No - but recommended.</b> There is no legal requirement for carrying out a DPIA under the PRC law. However, the recommended national standards for personal information protection provides that personal information controllers should conduct the personal information security impact assessment before carrying out any personal information processing activities. Although this set of national standards does not have the force of law, compliance with these standards is important in determining the compliance with law in China. Thus, it is recommended that a personal information security impact assessment should be carried out when an employer carries out equal opportunities &amp; diversity monitoring.</p>	

# Czech Republic

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>• Gender (this includes discrimination on grounds of pregnancy, maternity, paternity or gender identification)</li> <li>• Sexual orientation</li> <li>• Racial or ethnic origin</li> <li>• Nationality</li> <li>• Citizenship</li> <li>• Social origin</li> <li>• Family background</li> <li>• Language</li> </ul>	<ul style="list-style-type: none"> <li>• State of health</li> <li>• Age</li> <li>• Religion or belief</li> <li>• Property</li> <li>• Marital or family status</li> <li>• Family relationship or responsibilities</li> <li>• Political or other opinion</li> <li>• Membership and activities in political parties or political movements, trade unions or employers' organizations</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<p><b>No.</b> There is no general or specific requirement to carry out equal opportunities &amp; diversity monitoring. However, the employer should collect relevant information and behave and act in such a way as to avoid discrimination on protected grounds.</p>	
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> Employers must ensure equal treatment for all employees as regards employee working conditions, remuneration for work and other emoluments in cash and in kind (of monetary value), professional training and opportunities for career advancement (promotion).</p> <p>Employers with more than 25 employees are obliged to employ 4% of persons with disabilities within the total number of employees of the employer. This obligation can be fulfilled by other statutory means (e.g. by purchasing specific products or services or by payment to the state budget).</p>	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<p><b>No.</b> There are no specific local provisions.</p>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<p><b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.</p>	

# Denmark

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>• Gender</li> <li>• Race</li> <li>• Skin colour</li> <li>• Religion / Religious beliefs</li> <li>• Political opinion</li> <li>• Sexual orientation</li> <li>• Age</li> </ul> <ul style="list-style-type: none"> <li>• Disability</li> <li>• National, Social or Ethnic origin</li> <li>• Trade union membership or activities</li> <li>• Membership of associations</li> <li>• Pregnancy</li> <li>• Maternity/parental leave</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>No.</b> There is no general requirement to carry out equal opportunities & diversity monitoring. Employers must act in line with regulations and legislation prohibiting of any kind of discrimination at all times.
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<b>No.</b> Employers are prohibited from applying adverse measures (terminations, demotions, rejection on applications etc) on the grounds of one or more protected characteristic. For most of these characteristics, a split burden of proof applies. This means that if an employee subjected to adverse treatment can point to circumstances sufficiently supporting the notion that the protected characteristic played a role, then the burden shifts to the employer to prove that the characteristic did not play any part. For example, asking an employee or a job applicant about for pregnancy, ethnic origin, religious belief or other protected characteristic will normally suffice as circumstances supporting the notion that the protected characteristic played some part in the employer's decision / subsequent actions.  In addition, requesting, obtaining, receiving or making use of information about the worker's race, colour of skin, religion or belief, political affiliation, sexual orientation or national, social or ethnic origin in connection with or during their employment is prohibited.
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<b>No.</b>
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees. The requirement, however, depends on the type of personal data being processed, whether it is on a large scale and how the monitoring is carried out.

# Finland

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>• Age</li> <li>• Origin</li> <li>• Nationality</li> <li>• Language</li> <li>• Religion</li> <li>• Belief</li> <li>• Opinion</li> <li>• Political activity</li> <li>• Trade union activity</li> <li>• Family relationships</li> </ul> <ul style="list-style-type: none"> <li>• State of health</li> <li>• Disability</li> <li>• Gender</li> <li>• Pregnancy/childbirth</li> <li>• Maternity/parental leave</li> <li>• Sexual orientation</li> <li>• Other personal characteristics</li> </ul> <p><i>Note: In addition to direct and indirect discrimination, harassment, denial of reasonable accommodation and an instruction/order to discriminate constitute discrimination under Finnish legislation.</i></p>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>Yes.</b> Requirements relating to equal treatment and prohibition of discrimination are enshrined in Finnish law. Employers have a general legal duty to promote equality in the workplace - they must assess the realisation of equality in the workplace as well as develop the working conditions, the methods that are applied in the selection of staff and decision making concerning staff, in order to promote equality.  Additionally, employers who regularly employ at least 30 employees must have (i) an equality plan; and (ii) a gender equality plan describing the measures how, generally speaking, equality and gender equality are promoted in the workplace. More specific requirements for the plans are further laid down in the law. Employers employing regularly at least 20 employees are also obliged to take measures to promote equality into account in their personnel and training plan.
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<b>Yes.</b> Please see the answer above.  Employers may take proportionate "positive actions" to promote equality i.e., for example, to improve the conditions of specific groups of people (children, ethnic minorities etc.) in the workplace in order to promote equality.
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<b>No.</b> The obligations mentioned above on addressing discrimination do not give employers <u>additional</u> rights to process sensitive personal data outside of Article 9 GDPR.
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.

# France

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Gender</li> <li>Morals</li> <li>Sexual orientation</li> <li>Gender identity</li> <li>Age</li> <li>Pregnancy</li> <li>Marital status</li> <li>Genetic characteristics</li> <li>Particular vulnerabilities resulting from economic hardship</li> <li>Nationality</li> <li>Race / ethnic origin</li> <li>Bullying (plaintiff or victim)</li> </ul>	<ul style="list-style-type: none"> <li>Whistleblower</li> <li>Political opinion</li> <li>Trade union membership or activities</li> <li>Religious beliefs</li> <li>Physical appearance</li> <li>Name</li> <li>Place of residence</li> <li>Bank domiciliation</li> <li>Medical conditions</li> <li>Disability</li> <li>The ability to express oneself in a language other than French</li> <li>Exercising the right to strike</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<p><b>Yes.</b> All employers need to actively ensure equal pay and equal treatment of female and male employees.</p> <p>Companies with more than 50 employees now need to publish an annual gender pay gap indicator and to initiate negotiations with their staff representatives and in-house unions every year on this topic (sanctions include fines).</p> <p>Companies also have an obligation towards handicapped workers, who must represent at least 6% of the workforce (otherwise the company will be obliged to pay a financial contribution in this respect).</p>	
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> Companies are required to implement actions to address their obligations with respect to equality and diversity in the work place (e.g. diversity training, updating their internal regulations,...).</p> <p>Employers can also promote other diversity and equality topics (ethnic diversity, LGBTQ+ rights, etc.) but there is no obligation to do so.</p>	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<p><b>No.</b> Guidelines from the French DPA: The CNIL published specific guidelines for cases where the processing of personal data for equal opportunities &amp; diversity monitoring would involve sensitive data (ethnicity, sexual orientation, religious or political opinion, health, trade union membership): <a href="https://www.cnil.fr/sites/default/files/atoms/files/ddd_gui_20120501_egalite_chances_0.pdf">https://www.cnil.fr/sites/default/files/atoms/files/ddd_gui_20120501_egalite_chances_0.pdf</a></p> <p>The CNIL's guidelines were published in 2012 and were not updated to take into account the GDPR.</p>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<p><b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.</p>	

# Germany

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Age</li> <li>Disability</li> <li>Ethnic origin</li> <li>Race</li> <li>Gender</li> <li>Religion or belief</li> </ul>	<ul style="list-style-type: none"> <li>Sexual identity</li> <li>Language</li> <li>Descent</li> <li>Political opinion</li> <li>Political or trade union activity or position</li> <li>Works council membership</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<p><b>No.</b> There is no general requirement to carry out equal opportunities &amp; diversity monitoring. German employers with more than 200 employees within one business establishment are required to respond to individual enquiries by employees on gender pay equality under the German Gender Pay Transparency Act. Private employers with more than 500 employees are obliged to take adequate measures to ensure gender pay equality and must report on their measures.</p>	
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> There is no direct broad requirement to actively promote diversity and equality of opportunities in the work place under German law but employers can choose to do so. Positive discrimination (treating one person more favourably than another because they have a protected characteristic) is generally prohibited under the law, unless there is sufficient justification for such inequality. Employers will still be subject to obligations under the law to prevent discriminatory practices in the workplace.</p> <p>Employers must ensure there is equal pay for women and men for equal work of equal value.</p> <p>In January 2021, the bill to supplement and amend the regulations for the equal participation of women in leadership positions in the private and public sectors (Second Leadership Positions Act - FüPoG II) was passed. The bill further develops the FüPoG, which came into force in 2015, and provides a minimum proportion of women for executive boards with more than three members in large German companies.</p> <p>Certain employers in Germany may be subject to additional rules, particularly around diverse representation in the workplace, depending on the number of employees. For example, employers with 20 or more positions must employ individuals with severe disabilities in at least 5 percent of those positions.</p> <p>Companies failing to meet their obligations under the law can be subject to fines.</p>	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<p><b>No.</b> The German Federal Data Protection Act ("BDSG") does not contain any specific provisions concerning the processing of personal data for equal opportunities and diversity monitoring. However, section 26 of BDSG specifically regulates data processing in the employment context in general and also regulates and specifies processing of special categories of employee personal data. Furthermore, national guidelines and case law must be considered.</p>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<p><b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.</p>	

# Hong Kong

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Gender</li> <li>Marital Status</li> <li>Pregnancy</li> <li>Breastfeeding women (in force from 19 June 2021)</li> <li>Physical or mental disability</li> <li>Family status</li> <li>Race</li> <li>Colour</li> <li>Descent</li> <li>Ethnic origin</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>No.</b> There is no general requirement to carry out equal opportunities & diversity monitoring. Employers must act in line with regulations and legislation prohibiting of any kind of discrimination at all times.
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<b>Yes.</b> Each anti-discrimination ordinance (the Disability Discrimination Ordinance (DDO), Family Status Discrimination Ordinance (FSDO), Race Discrimination Ordinance (RDO) and Sex Discrimination Ordinance (SDO)) provides that acts which may otherwise be seen to be discriminatory will not be unlawful if they were done with the aim of eliminating discrimination (i.e. positive discrimination). The permitted scope of such actions of positive discrimination are expressly set out in the anti-discrimination ordinances.  Employers will still be subject to obligations under the law to prevent discriminatory practices in the workplace.
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<b>No.</b>
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<b>No - but recommended.</b> No mandatory requirement but the Privacy Commissioner recommends conducting a DPIA in certain circumstances e.g. a major change in organisational practices that may result in expanding the amount and scope of personal data to be collected, processed or shared.

# Hungary

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Sex</li> <li>Race</li> <li>Colour</li> <li>Nationality</li> <li>Membership of a national minority</li> <li>Language</li> <li>Disability</li> <li>State of health</li> <li>Religion or belief</li> <li>Political or other opinion</li> <li>Family status</li> <li>Motherhood (pregnancy) or fatherhood</li> <li>Sexual orientation</li> <li>Gender identity</li> <li>Age</li> <li>Social origin</li> <li>Property</li> <li>Part-time or fixed-term nature of the employment relationship or other employment-related relationship</li> <li>Membership in a representative organization</li> <li>Any other status, characteristic or attribute that is suitable for protection against discrimination</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>No.</b> There is no general requirement to carry out equal opportunities & diversity monitoring. Employers must act in line with regulations and legislation prohibiting of any kind of discrimination at all times.
Can employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<b>Yes.</b> Employers must ensure the principle of equal pay for equal work applies in the context of equal treatment. Employers can pursue preferential policies for disadvantaged groups, as long as the policies meet certain requirements established under the law.  Certain employers in Hungary may be subject to additional rules, particularly around equal pay or diverse representation in the workplace, depending on the number of employees or the sector in which they are active. For example, if employers with 25 or more positions do not employ individuals with severe disabilities in at least 5 percent of those positions, they will have to pay rehabilitation allowance. Furthermore, the remuneration policies of financial institutions must be gender-neutral and in certain cases investment firms are required to implement a strategy on gender representation in their management positions.
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<b>No.</b>
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<b>Yes.</b> Equal opportunities and diversity monitoring requires a DPIA on the basis that employers will process a bigger amount of special category data about their employees and as such it is included on the "black list" of the Hungarian DPA ( <a href="https://www.naih.hu/files/GDPR_35_4_lista_HU_mod.pdf">https://www.naih.hu/files/GDPR_35_4_lista_HU_mod.pdf</a> )

# Italy

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Gender</li> <li>Marital status</li> <li>Race</li> <li>Physical or mental disability</li> <li>Religion or belief</li> <li>Sexual orientation</li> <li>Age</li> </ul>	<ul style="list-style-type: none"> <li>Trade union membership or opinion</li> <li>Politic opinion or activity</li> <li>Gender reassignment</li> <li>Pregnancy</li> <li>Maternity leave</li> <li>Physical characteristics</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<p><b>Yes.</b> Diversity monitoring can be carried out where it is required by the law and only for the purposes of comply with a specific legal provision. For example, specific provisions apply with regard to pregnant employees and the protection of their health status. Employers are permitted to ask about disabilities in order to comply with legal requirements. Diversity monitoring does not permit the employer to ask for information to which they are not otherwise entitled (this would be deemed a prohibited investigation).</p>	
Can an employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> Employer can promote diversity only when it is required by the law. For example, employers are required to hire a number of disabled persons which may vary depending on the number of total employees. In principle, the employer is prohibited from collecting information that is not relevant for the evaluation of the professional skill, so would not be permitted to collect information regarding a candidate's race, gender etc. when assessing their suitability for a role.</p>	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<p><b>No.</b> To the extent that the processing of data on diversity is relevant under employment law, this is permitted according to the Legislative Decree no. 196/2003, amended by D.Lgs. 101/2018.</p>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<p><b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.</p>	

# Netherlands

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Sex</li> <li>Race</li> <li>Age</li> <li>Disability and chronic illness</li> <li>Marital or civil status</li> <li>Sexual orientation</li> </ul>	<ul style="list-style-type: none"> <li>Religion or beliefs</li> <li>Political orientation</li> <li>Nationality</li> <li>Type of contract (i.e. fixed term or permanent)</li> <li>Working hours (i.e. fulltime or part-time)</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<p><b>No.</b> There is no general requirement to carry out equal opportunities &amp; diversity monitoring. Employers must act in line with regulations and legislation prohibiting of any kind of discrimination at all times.</p>	
Can an employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> Employers can pursue preferential policies for disadvantaged groups, as long as the policies meet certain requirements established under the law.</p>	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<p><b>Yes.</b> The Dutch Implementing Act GDPR (<i>Uitvoeringswet AVG, UAVG</i>) contains a narrow exemption from the general prohibition on processing data revealing racial or ethnic origin. The exemption permits processing for diversity purposes under certain circumstances but is also subject to a number of restrictions.</p>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<p><b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.</p>	



# Poland

What characteristics are protected from discrimination under your national law?	<p>There is an non-exhaustive list of categories, but there is a special focus on the following characteristics:</p> <ul style="list-style-type: none"> <li>• Gender</li> <li>• Race</li> <li>• Age</li> <li>• Disability and chronic illness</li> <li>• Marital or civil status</li> <li>• Sexual orientation</li> <li>• Religion or beliefs</li> <li>• Political orientation</li> <li>• Nationality</li> <li>• Type of contract (i.e. fixed term or permanent)</li> <li>• Working hours (i.e. fulltime or part-time)</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>No.</b> There is no general requirement to carry out equal opportunities & diversity monitoring. Employers must act in line with regulations and legislation prohibiting of any kind of discrimination at all times.
Can an employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<b>Yes.</b> Employer can promote and implement equal opportunity programs and protection of socially disadvantage groups, but such program cannot lead to discrimination of the rest of the team or other groups. Positive discrimination (preferential treatment) is considered illegal (it is treated as a form of discrimination).
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<b>No.</b>
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.

# Singapore

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>• Gender</li> <li>• Marital status</li> <li>• Race</li> <li>• Physical or mental disability</li> <li>• Religion or belief</li> <li>• Sexual orientation</li> <li>• Age</li> <li>• Pregnancy</li> <li>• Other family responsibilities (e.g. maternity/paternity/childcare leave)</li> </ul> <p><i>Note: these characteristics are not protected by any national law per se, but are recommended under the national guidelines issued by the Tripartite Alliance for Fair Employment Practices. If an employer is found to have discriminated against an employee, there would be grounds for a complaint to TAFEP and possibly the Ministry of Manpower, who may then sanction the employer where necessary.</i></p>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>No.</b> There is no general requirement to carry out equal opportunities & diversity monitoring. Employers must act in line with regulations and legislation prohibiting of any kind of discrimination at all times.
Can an employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> While there is no general requirement to do so, employers are encouraged to encourage workplace diversity in a bid to create an inclusive environment and enhance their reputation with job seekers, allowing them to attract the best workers in the market while providing fair opportunities for all.</p> <p>The Ministry of Manpower has published a guide for employers on how to promote workplace diversity, signalling its support of the same.</p>
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<b>No.</b>
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<b>No - but recommended.</b> A DPIA is recommended in relation to equal opportunities and diversity monitoring on the basis that employers will process special category data about their employees.

# Slovakia

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Sex</li> <li>Religion or beliefs</li> <li>Race</li> <li>Nationality and ethnic group</li> <li>Disability and chronic illness</li> <li>Age</li> <li>Sexual orientation</li> <li>Marital or family status</li> <li>Political orientation or other opinion</li> <li>Colour</li> <li>National or social origin</li> </ul>	<ul style="list-style-type: none"> <li>Property</li> <li>Lineage or other status</li> <li>Language</li> <li>Gender, including pregnancy or being a parent</li> <li>Because of a reporting of crime or other anti-social activity</li> <li>Any other status, including: (i) type of contract (i.e. fixed term or permanent), (ii) working hours (i.e. fulltime or part-time), or (iii) place of work (teleworkers)</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>No.</b> There is no general or specific requirement to carry out equal opportunities & diversity monitoring. However, the employer should collect relevant information and must act in line with regulations and legislation prohibiting any kind of discrimination at all times.	
Can an employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<b>Yes.</b> Employers must ensure there is no discrimination and/or unfair treatment and that employees have equal opportunities in the workplace.  If the company does not describe the diversity policy in its annual report, it must state in the annual report the reasons why it has decided not to apply the diversity policy.  Employers with more than 20 employees are obliged to employ 3.2% of persons with disabilities within the total number of employees of the employer. This obligation can be fulfilled by other statutory means (e.g. by purchasing specific products or services or by payment to the state budget)..	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<b>No.</b>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.	

# Spain

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Gender</li> <li>Marital status</li> <li>Race</li> <li>Physical or mental disability</li> <li>Religion or belief</li> <li>Sexual orientation</li> <li>Age</li> <li>Trade union membership</li> <li>Kinship with other employees</li> <li>Gender reassignment</li> </ul>	<ul style="list-style-type: none"> <li>Pregnancy</li> <li>Maternity/Paternity leave</li> <li>Ideology</li> <li>Social status</li> <li>Language</li> </ul> <p>Condition or circumstance:</p> <ul style="list-style-type: none"> <li>Working time reduction or leave to care for children</li> <li>Any other personal or social characteristic</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<b>Yes.</b> Royal Decree-Law 6/2019 and Organic Law 3/2007 provide certain equality measures. For more information on discrimination under Spanish law, see our article here: <a href="https://www.twobirds.com/en/news/articles/2019/spain/principales-medidas-laborales-aprobadas-por-el-gobierno-en-el-mes-de-marzo-de-2019">https://www.twobirds.com/en/news/articles/2019/spain/principales-medidas-laborales-aprobadas-por-el-gobierno-en-el-mes-de-marzo-de-2019</a>	
Can an employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<b>Yes.</b> Employers may be subject to several requirements under Spanish law to promote diversity and equality of opportunity. For example, companies employing more than 50 employees must adopt an 'Equality Plan', which is a prescribed set of equality measures under Spanish law.  Companies failing to meet their obligations under the law can be subject to fines (between 626 and 187,515 euros depending on the specific infringement).	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<b>No.</b>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<b>Yes.</b> Equal opportunities and diversity monitoring would require a DPIA if special categories of data concerning the employees are processed. In light of the Spanish Data Protection Authority's ("AEPD") guidance, a DPIA is likely to be necessary where special categories of personal data are processed in the context of an imbalanced relationship (e.g. employer-employee).	

# Sweden

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Gender</li> <li>Transgender identity or expression</li> <li>Religion or belief</li> <li>Disability</li> <li>Employees working part-time</li> </ul>	<ul style="list-style-type: none"> <li>Employees on fixed-term contracts</li> <li>Employees on parental leave</li> <li>Sexual orientation</li> <li>Age</li> <li>Ethnicity</li> </ul>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<p><b>Yes.</b> Employers in Sweden are required to take 'active measures' in order to prevent discrimination and promote equal rights and opportunities in the workplace. If a company in Sweden employs more than 25 employees, the active measures must be documented in writing. Annual gender pay-gap reports must be carried out to ensure equal opportunities / equal pay for equal work. Companies that engage 10 or more employees must ensure that the work with the report is documented in writing.</p>	
Can an employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> Employers may be subject to several requirements under Spanish law to promote diversity and equality of opportunity. For example, as from March 2021 companies employing more than 100 employees must adopt an 'Equality Plan' and, as from March 2022, companies employing more than 50 employees must also adopt it. Equality plans are a prescribed set of equality measures under Spanish law.</p> <p>Companies failing to meet their obligations under the law can be subject to fines (between 626 and 187,515 euros depending on the specific infringement).</p>	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<p><b>No.</b></p>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<p><b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees. In order to know whether or not a DPIA must be conducted, the Swedish DPA has provided statements to the effect that the company must first do a risk analysis in line with the EDPB's Guidelines on DPIAs.</p>	

# UK

What characteristics are protected from discrimination under your national law?	<ul style="list-style-type: none"> <li>Age</li> <li>Disability</li> <li>Gender reassignment</li> <li>Marriage and civil partnership</li> <li>Pregnancy and maternity</li> <li>Race (this includes discrimination on the grounds of nationality, ethnic or national origins and/or colour)</li> </ul>	<ul style="list-style-type: none"> <li>Religion or belief</li> <li>Sex (this includes discrimination on the grounds of gender identity)</li> <li>Sexual orientation</li> </ul> <p><i>Note: Protections also apply in respect of part-time workers, fixed-hours workers, agency workers and so on.</i></p>
Is there a legal requirement to carry out equal opportunities & diversity monitoring?	<p><b>No.</b> There is no general requirement to carry out equal opportunities &amp; diversity monitoring. UK employers with more than 250 staff are required to collect and publish certain gender pay information under the Gender Pay Gap Reporting (GPGR) legislation. Public sector employers are subject to specific equality and monitoring requirements.</p>	
Can an employers actively promote diversity in the workplace even if there is no legal requirement to do so?	<p><b>Yes.</b> There is no direct broad requirement to actively promote diversity and equality of opportunities in the work place under UK law but employers can choose to do so. Positive discrimination (treating one person more favourably than another because they have a protected characteristic) is generally prohibited under the law, unless an occupational requirement applies. Employers will still be subject to obligations under the law to prevent discriminatory practices in the workplace.</p>	
Does data protection law have specific provisions concerning the processing of personal data for equal opportunities & diversity monitoring?	<p><b>Yes.</b> The Data Protection Act 2018 contains two substantial public interest conditions permitting employers to process specified special category data for diversity monitoring purposes, each of which is subject to certain restrictions.</p> <p>The first condition is 'equality of opportunity or treatment'. The second condition is 'racial and ethnic diversity at senior levels of organisations'.</p>	
Is a DPIA required when an employer carries out equal opportunities & diversity monitoring?	<p><b>Yes.</b> Equal opportunities and diversity monitoring would likely require a DPIA on the basis that employers will process special category data about their employees.</p>	

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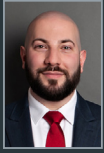


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