



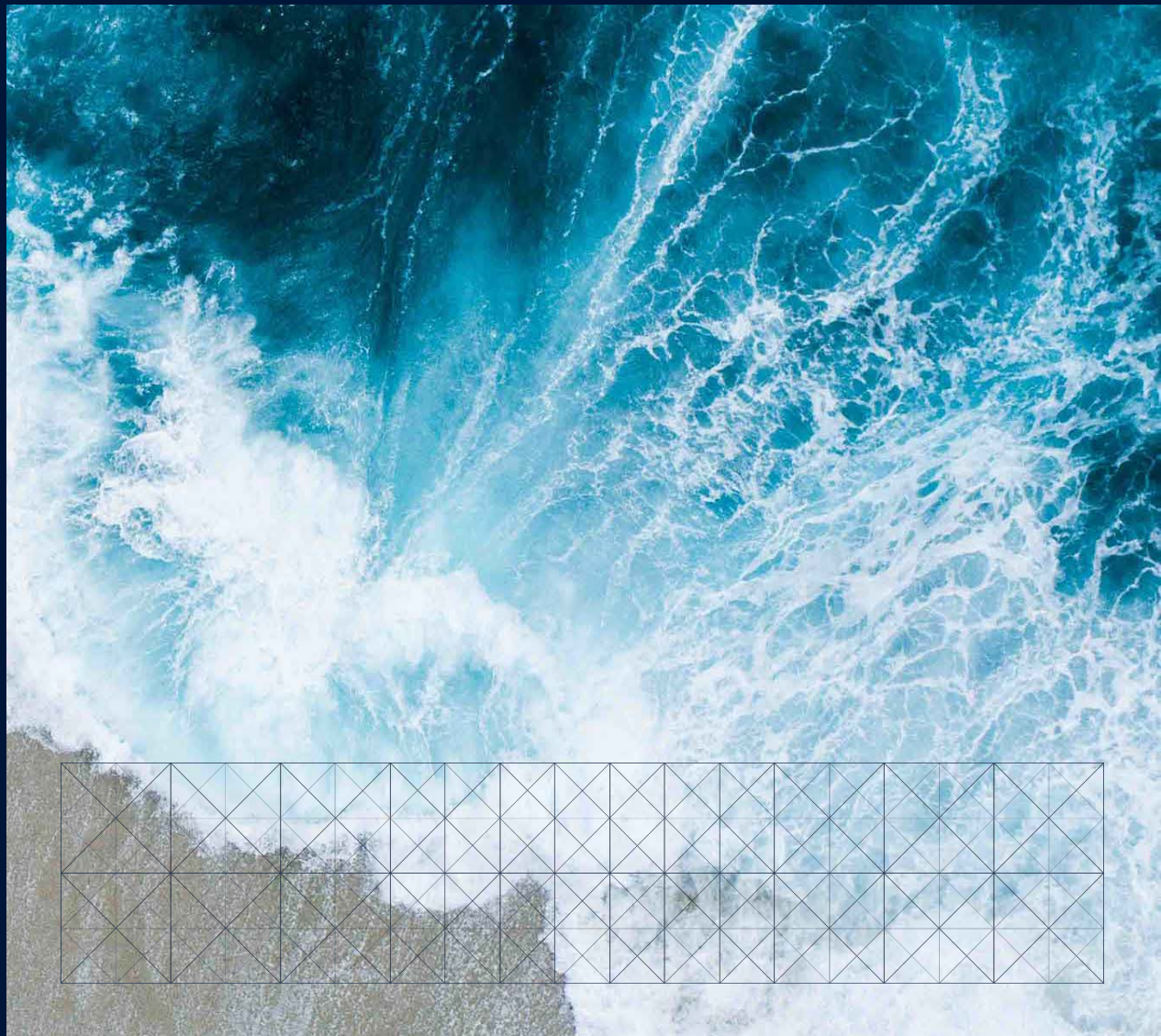
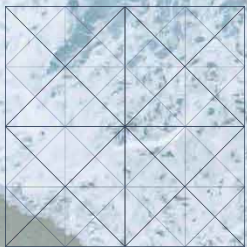
KONGSBERG

FSI EKSPORTKONTROLLSEMINAR

HOLMEN FJORDHOTELL

# GDPR og eksportkontroll

13. mars 2019



Håkon Lindteigen, Vice President Corporate Compliance



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# Responsible Business Conduct



**VALUES & CULTURE**



**COMPLIANCE**



**TECHNOLOGY & SUSTAINABILITY**



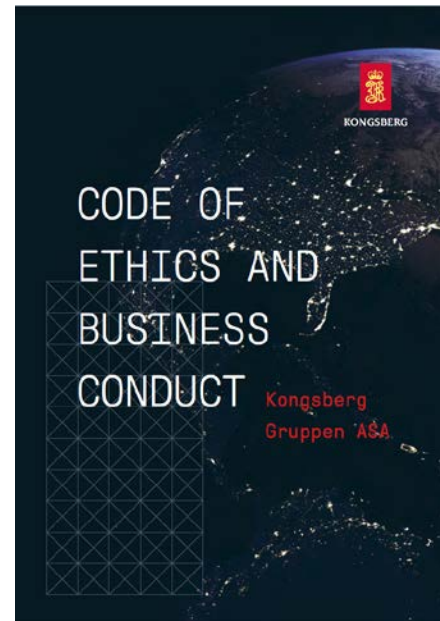
*LICENSE TO OPERATE*





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# COMPLIANCE





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# Potensielle konflikter § vs. §

## 5.5 Handelsregler (Trade Regulations)

KONGSBERG forplikter seg til å følge alle gjeldende lover om eksport, import, transittering og handel i alle land der KONGSBERG driver virksomhet. Disse lovene omfatter lover om eksportforbud, sanksjoner, toll, merking av produkt/opprinnelsesland og anti-boikott. De ansatte må være oppmerksomme på og følge disse lovene og reguleringene i det daglige arbeidet.

Det er et særlig fokus på eksport av forsvarssystemer og annet militært utstyr, samt tilhørende teknologi og tjenester. I Norge, og i de fleste land der KONGSBERG opererer, kan utstyr, tjenester og teknologi som er underlagt eksportkontroll, bare eksporteres basert på en eksportlisens fra myndighetene. Sanksjoner kan gjelde uavhengig av eksportklassifisering, og kunde og parter som medvirker i transaksjonen, skal kontrolleres i forhold til sanksjoner og eksportforbud.



## 5.9 Personvern

Innhenting og bruk av personopplysninger reguleres i stadig flere land. Et felles kjennetegn for disse landene er en strengere regulering av personopplysninger, som navn, bosted, kontaktinformasjon, både for ansatte, forbrukere og selskapsrepresentanter, i transaksjoner mellom bedrifter.

KONGSBERG skal håndtere personopplysninger i samsvar med gjeldende lover og bestemmelser. KONGSBERG vil behandle personopplysninger i henhold til relevante lover og reguleringer. Med personopplysninger menes alle opplysninger og vurderinger som kan knyttes til en enkeltperson, for eksempel en persons navn, adresse, telefonnummer, og epost adresse. Med prosessering menes enhver behandling av personopplysninger, herunder innhenting, opptak, lagring og deling av personopplysninger. Disse kravene vil gjelde for all ansatte i KONGSBERG samt kunder, kontraktsparter og andre.

### Lov om likestilling og forbud mot diskriminering (likestillings- og diskrimineringsloven)

Dato	LOV-2017-06-16-51
Departement	Barne- og likestillingsdepartementet
Sist endret	LOV-2017-12-19-115 fra 01.01.2018
Ikrafttredelse	01.01.2018
Endrer	LOV-2013-06-21-58, LOV-2013-06-21-59, LOV-2013-06-21-60, LOV-2013-06-21-61
Kunngjort	16.06.2017
Kortittel	Likestillings- og diskrimineringsloven

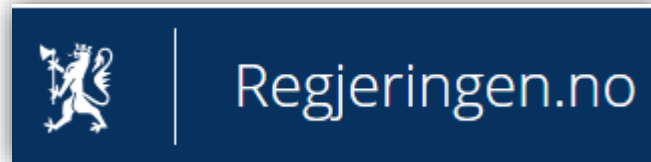
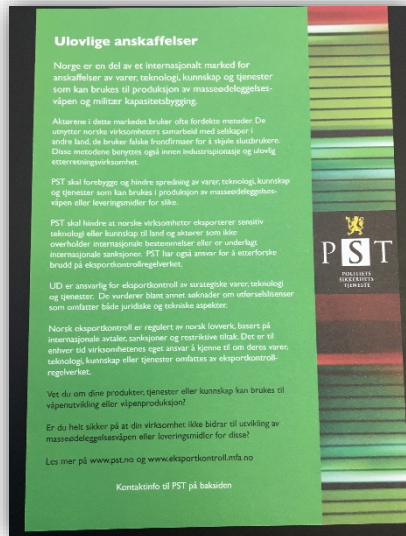




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# Når må vi vurdere?

- Besøkende
- Ansettelse
- Undersøkelser rundt samarbeidspartnere/kunder (sanksjoner etc.)





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# General Data Protection Regulation - GDPR

- **New EU Regulation**
  - "GDPR" adopted in 2016, applicable from 25 May 2018 in EU
  
- **Terms:**
  - Personal data: any information relating to an identified or identifiable natural person
  - Controller: (normally the company) determining the purposes and means
  - Processor: processes personal data on behalf of the controller
  - Data subject: the individual whose personal data are being processed



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<https://youtu.be/j6wwBqfSk-o>



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# Important changes with GDPR

- Wider territorial scope
- "One stop shop" – Norwegian Data Protection Authority as lead authority
- New documentation requirements
  - Data protection impact assessment (DPIA)
  - Data protection by design and by default
  - Data Protection officer (DPO) – assessment, not mandatory for Kongsberg Gruppen with a formal DPO
- No longer notification and license requirements towards data protection authorities
- New and enhanced rights for data subjects
  - Information and consent
  - Data portability
  - Deletion "(right to be forgotten")
  - Personal data breach notification to DPA and data subject
- Stricter financial sanctions (20 M EURO / 4 % of annual turnover)



# PRIVACY – GOVERNING DOCUMENTS



KONGSBERG

**Kongsberg Gruppen ASA**  
**Directive for Processing and transfer of personal data in KONGSBERG (Binding Corporate Rules)**  
**KOG-DIR-0070**  
 Document ID: KOG-DIR-0070 Directive for Processing and Transfer of Personal Data in KONGSBERG (Binding Corporate Rules)

Rev.	Date	Reason for issue	Author/Dept and name	Approving Dept, name, sign	Security level IPR
1	20NOV2017	First issue	Corporate Privacy Officer/ Håkan Lindblom	CEO/Geir Skjott	Company shared

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- KOG DIR 0070 – BCR
  - «Processing and transfer of personal data in KONGSBERG»
  - Identical with the BCR application to Norwegian Data Protection Authority, «Datatilsynet».
  - ✓ Final application sent 31.8.17
  - ✓ Approved 01.02.18

**Kongsberg Gruppen ASA**  
**Guideline for Processing and transfer of personal data in KONGSBERG**  
**KOG-GUI-0070**  
 Document ID: KOG-GUI-0070 Guideline for Processing and Transfer of Personal Data in KONGSBERG

Rev.	Date	Reason for issue	Author/Dept and name	Approving Dept, name, sign	Security level IPR
1	24NOV2017	First issue	Corporate Privacy Officer/ Håkan Lindblom	Group VP & Corporate Compliance Officer/ Lene Strøme	Company shared

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- KOG GUI 0070 – Processing and transfer of personal data in KONGSBERG
  - Prepared to give KONGSBERG subsidiaries a «handbook» how to be compliant to the regulations – «how we work»
  - Operational requirements in BCR
  - Mandatory guideline to be followed



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# Binding Corporate Rules

## 2. Description of Processing regulated by the BCR

KONGSBERG processes the following main categories of Personal Data, concerning Personnel, Customers, Suppliers and Business Partners for the following main purposes:

Data category	Purpose of Processing
HR management data (for example general contact information, salary information, CV, education level, performance reviews, recruitment information, union membership, bank account number, details of next of kin etc.)	Administer and manage all aspects of the Personnel relationship (including job applicants, former employees, temporary employees, employees, apprentices, students, contractors, consultants, next of kin and dependants).
IT-administration data (for example electronic logs regarding an Individual's use of IT-resources, user profile/account information etc.)	Support and manage information technology (IT) and information system (IS) administration and information security.
HSE data (for example data relating to HSE incidents and safety certificates)	Support and manage occupational health services and the registration, managing and reporting of health, service and environment (HSE) related information (incidents, issues etc.).
Planning, control data and HR reports (for example registration of hours worked, absences, holiday, overtime, employment history within KONGSBERG, gender, nationality and age)	Scheduling time tables, recording time, conducting surveys, controls and internal audits, statistics and analysis.
Background check, Integrity Due Diligence and security clearance data (for example name, gender, age, roles in companies, information available in public available sources)	Due diligence against anti-corruption laws and export controls, Integrity Due Diligence of business partners (including self-assessment and background check), processing of security clearance applications (for complying with legal obligations under the Security Act) and process requests for visits (visitors).
Video surveillance / activity logs (for example CCTV recordings and access logs)	Support and manage safeguarding against illegal or unauthorized entry into areas, buildings or rooms or to support the control of equipment and/or production processes.
Business-related data (for example business relations, business interest and security data)	Support and manage customer, supplier or partner relationships (internal/external), processing of personal data as part of provision of products and services to third parties, business operation and protection of business interests and security (e.g. information security, logging, conduction of audits and controls, surveys, analysis, reports and managing of daily operations and transactions/possible transactions involving KONGSBERG).
Complaints (for example name and contact information of complainant and contents of complaint)	Follow-up on complaints and concerns reported by Personnel to their supervisor or the Corporate Compliance Officer.

KONGSBERG PROPRIETARY – see Statement of Proprietary Information

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**Background check, Integrity Due Diligence and security clearance data (for example name, gender, age, roles in companies, information available in public available sources)**

**Due diligence against anti-corruption laws and export controls, Integrity Due Diligence of business partners (including self-assessment and background check), processing of security clearance applications (for complying with legal obligations under the Security Act) and process requests for visits (visitors).**

# BCR roll out in KONGSBERG



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**Bindig Corporate Rules**

**Kongsberg Gruppen ASA**  
**Directive for Processing and transfer of personal data in KONGSBERG (Binding Corporate Rules)**  
**KOG-DIR-0070**

Document ID: KOG-DIR-0070 Directive for Processing and Transfer of Personal Data in KONGSBERG (Binding Corporate Rules)

Rev.	Date	Reason for issue	Author/draft and name	Approving dept, name, sign	Security level/ IPR
-	24NOV2017	First issue	Corporate Privacy Officer Håkon Lindteigen	CEO/Guar. Håny	Company shared

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**Intercompany Agreement**

INTERCOMPANY AGREEMENT FOR THE PURPOSE OF IMPLEMENTING KONGSBERG'S BINDING CORPORATE RULES

between  
**Kongsberg Gruppen ASA**  
 Postboks 100, NO-5015 KONGSBERG, 043 753 709  
 and  
 [Insert name]  
 [Insert address and registration number]  
 [Insert reference to a "Member of the Group"]

**1 Definitions**  
 In this Intercompany Agreement terms in capital letters shall have the meaning as defined in KOG DIR-0070 – chapter 22 Definitions. A summary of the key terms is provided below:  
**Controller means:** A Controller is a Group Company that determines the purposes and means of the Processing of Personal Data of Individuals irrespective of whether the Processing takes place by and within the Group Company or by an external Processor  
**Data Processing Agreement (DPA):** An agreement that regulates how the Processor may Process Personal Data on behalf of the Controller.  
**General Data Protection Regulation (GDPR) means:** The EU General Data Protection Regulation, 2016/679 applicable from 25 May 2018.  
**Individual means:** An Individual shall mean an identified or identifiable natural person to whom the Personal Data being Processed relates.  
**Personal Data means:** Any information relating to an identified or identifiable natural person (Individual) who can be identified directly or indirectly.  
**Processing means:** Any operation or set of operations performed upon or use of Personal Data.  
**Processor means:** A Processor is any natural or legal person, public authority, agency or other body, which Processes Personal Data on behalf of a Controller.  
 For full definitions, see KOG DIR-0070 – chapter 22 Definitions.

**2 Purpose**  
 As part of its corporate governance, Kongsberg Gruppen ASA has adopted the Binding Corporate Rules for Processing and Transfer of Personal Data in KONGSBERG (KOG-DIR-0070), hereinafter "the BCR".  
 The purpose of this Agreement is to express Kongsberg Gruppen ASA's and members of the Group, hereinafter "the Group", commitment to comply with the BCR and to respect the BCR's third party beneficiary rights.

**Data Processing Agreement**

Annex 1 to Intercompany Agreement  
**DATA PROCESSING AGREEMENT**

**1 Background and purpose**  
 Kongsberg Gruppen ASA and Members of the Group have entered into an intercompany agreement regarding the implementation of Kongsberg Gruppen's Binding Corporate Rules (the "Intercompany Agreement").  
 During the course of Kongsberg Gruppen ASA's and Members of the Group's business activities, there may be instances where a party acts as a Processor who Processes Personal Data on behalf of other parties who are considered Controllers, of the Intercompany Agreement Section 4.  
 The purpose of this Data Processing Agreement is to regulate the rights and obligations of the parties when they act as Controllers and/or Processors in accordance with applicable data protection legislation, including the EU General Data Protection Regulation (GDPR) (EU) 2016/679, (hereby "Applicable Data Protection Law").

**2 Scope of the Data Processing Agreement**  
 This Data Processing Agreement shall apply to all Processing of Personal Data carried out by the Data Processor on behalf of the Controller. The Processor shall only Process the categories of Individuals and Personal Data Processed set out in the Records of Processing Activities maintained by the parties.

**3 The Processor's general obligations**  
 The Processor's Processing of Personal Data on behalf of the Controller under the Agreement shall be carried out in accordance with Applicable Data Protection Law.  
 The Processor shall provide the Controller with reasonable cooperation and assistance to ensure that the Controller complies with its requirements under Applicable Data Protection Law.  
 The Processor shall, taking into account the nature of the processing, assist the Controller by appropriate technical and organisational measures, insofar as this is possible for the fulfilment of the Controller's obligations to respond to requests for exercising Individuals' rights laid down in GDPR, Chapter III.  
 The Processor shall, taking into account the nature of the processing, assist the Controller by appropriate technical and organisational measures, insofar as this is possible for the fulfilment of the Controller's obligations to respond to requests for exercising Individuals' rights laid down in GDPR, Chapter III.  
 The Controller has the right to access any information the Processor holds on behalf of the Controller, unless otherwise is agreed or follows from mandatory law.  
 The Processor shall comply with the current documented instructions and routines issued by the Controller in relation to the Processing of Personal Data, unless otherwise follows from mandatory law.

KM Record of personal data processing\_Tmpl.xlsx [Read-Only] - Excel

Records of processing / Inventory List

Category of processing	Purpose of processing	Storage time	Internal IT systems	Security measures	Information owner	Use of processor	Transfer outside EEA?	Joint controller	Deviations	Comments	For sorting	Document/ routine - references
Type of processing of personal data	For what do we use the data?	How long shall the data be stored? Important input regarding storage limitation and to determine when personal data must be deleted or anonymized.	In what internal IT systems is the data stored? (Name of system as reflected in Control/Manager) See column "Use of processor" for storage in external IT services (ok? If so, move external systems to correct column).	See routines for information security (ISMS/Control/Manager). Are there additional technical or organizational security mechanisms to ensure that the confidentiality, integrity, availability and resilience of the data is protected?	Whichever role has the responsibility for the personal data required for the purpose?	Is the data stored/transferred to service providers? Specify the name of the third party and IT system where applicable (i.e., EasyCrui, Clevoite). Is there a data processing agreement? File KOG-GLU-0070 chapter	Is the data stored/transferred to a 3rd country? Are there legal grounds? File KOG-GLU-0070 chapter 17. Do we want to note need for transfer within KONGSBERG here? (check)	Is the processing defined by another organization/entprise together with KM? Specify if the Controller is	Are there any deviations from the Norwegian records of processing? If yes, refer to separate sheet with deviating information.	Comments	Only for use for sorting during work.shcps	



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# Diskrimineringslovgivning

## Lov om likestilling og forbud mot diskriminering (likestillings- og diskrimineringsloven)

Dato	LOV-2017-06-16-51
Departement	Barne- og likestillingsdepartementet
Sist endret	LOV-2017-12-19-115 fra 01.01.2018
Ikrafttredelse	01.01.2018
Endrer	LOV-2013-06-21-58, LOV-2013-06-21-59, LOV-2013-06-21-60, LOV-2013-06-21-61
Kunngjort	16.06.2017
Kortittel	Likestillings- og diskrimineringsloven

## Kapittel 2 Forbud mot å diskriminere

### § 6. Forbud mot å diskriminere

Diskriminering på grunn av kjønn, graviditet, permisjon ved fødsel eller adopsjon, omsorgsoppgaver, etnisitet, religion, livssyn, funksjonsnedsettelse, seksuell orientering, kjønnsidentitet, kjønnsuttrykk, alder eller kombinasjoner av disse grunnlagene er forbudt. Med etnisitet menes blant annet nasjonal opprinnelse, avstamning, hudfarge og språk.

### § 30. Forbud mot innhenting av opplysninger i ansettelsesprosesser

Arbeidsgivere må ikke i ansettelsesprosessen, herunder under intervju eller på annen måte, innhente opplysninger om en søkers

- a) graviditet, adopsjon eller planer om å få barn
- b) religion eller livssyn
- c) etnisitet
- d) funksjonsnedsettelse
- e) seksuelle orientering, kjønnsidentitet eller kjønnsuttrykk.

Innhenting av opplysninger om etnisitet, religion, livssyn, funksjonsnedsettelse og samlivsform er likevel tillatt hvis opplysningene har avgjørende betydning for utøvelsen av arbeidet eller yrket.

Innhenting av opplysninger om søkerens samlivsform, religion eller livssyn er tillatt hvis virksomheten har som formål å fremme bestemte livssyn eller religiøse syn, og arbeidstakers stilling vil ha betydning for å gjennomføre formålet. Dersom slike opplysninger vil bli krevet, må dette oppgis i utlysningen av stillingen.





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## Sak i Norge



GKN Aerospace på Kongsberg Industripark. Innfelt fotograf Tri Ngyen Dinh. Foto: Tri Ngyen Dinh

### Fotograf nektet inngang til industribedrift på Kongsberg

Årsak? Fødeland: Vietnam. Redaktør Svein-Yngve Madsen reagerer. Sikkerhetssjef begrunner nekten med amerikanske regler.

### Journalist nektet adgang til produksjonslokaler på grunn av nasjonal opprinnelse

A hevder han ble diskriminert av X da han ble nektet tilgang til virksomhetens lokaler på Kongsberg fordi han er født i Vietnam. A er journalist og skulle besøke virksomheten for å lage en reportasje. X viser til at virksomheten er bundet av International Traffic in Arms Regulations, og at de etter dette reglementet ikke hadde mulighet til å la personer som er født i Vietnam komme inn på området hvor virksomhetens produksjon foregår.

Likestillings- og diskrimineringsombudet har vurdert om A ble diskriminert på grunn av etnisitet, og kommet frem til at X ikke handlet i strid med diskrimineringsloven om etnisitet § 6 da A ble nektet tilgang til Xs produksjonslokaler.

- Saksnummer: 16/1817
- Lovgrunnlag: Diskrimineringsloven om etnisitet § 6
- Dato for uttalelse: 7. desember 2016



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# Sak i USA

## DOJ Settles with Honda Aircraft on Discrimination Claim Related to Export Controls

Earlier this month, the U.S. Department of Justice announced that it had reached a settlement with Honda Aircraft Company LLC in connection with allegations that Honda Aircraft engaged in unfair immigration-related discrimination against job applicants. Specifically, the DOJ alleged that Honda Aircraft, which manufactures and sells business jet aircrafts, violated the Immigration and Nationality Act's anti-discrimination provision (8 U.S.C. § 1324b) by publishing job announcements which specified that only applicants who are U.S. citizens or lawful permanent residents would be considered for employment in roles involving technical data and technology subject to the International Traffic in Arms Regulations ("ITAR") or the Export Administration Regulations ("EAR").

Although the ITAR and the EAR restrict foreign persons' access to certain export-controlled technical data and technology, the DOJ noted that those regulations do not authorize or require companies to hire only U.S. citizens and lawful permanent residents. As the DOJ further explained, even the ITAR's definition of "U.S. Persons" extends beyond lawful permanent residents and U.S. citizens to also include U.S. nationals, refugees, and asylees. See ITAR § 120.15; 8 U.S.C. § 1101(a)(20); 8 U.S.C. § 1324b(a)(3). Pursuant to the settlement agreement, Honda Aircraft agreed to pay a civil penalty of \$44,626 and to implement remedial measures, such as amending its internal hiring policies and ensuring that all its employees involved in hiring or recruiting receive non-discrimination training.





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# ITAR brudd



U.S. DEPARTMENT OF STATE

## Directorate of Defense Trade Controls

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### Penalties & Oversight Agreements

Pursuant to the International Traffic in Arms Regulations (ITAR) §127.10, the Assistant Secretary for Political-Military Affairs is authorized to impose civil penalties for violations of the Arms Export Control Act (AECA) and the ITAR. Imposition of civil penalties generally includes the payment of fines to the U.S. Treasury and a Consent Agreement, under which the company is required to institute enhanced compliance measures. The Consent Agreement outlines the measures required to enhance compliance programs.

2018	FLIR Systems, Inc.	FLIR Systems, Inc. settled allegations that it violated the International Traffic in Arms Regulations (ITAR) in connection with unauthorized exports of defense articles, including technical data; the unauthorized provision of defense services; violation of the terms of provisos or other limitations of license authorizations; and the failure to maintain specific records involving ITAR-controlled transactions. <b>FLIR's alleged unauthorized exports also included the retransfer of ITAR-controlled technical data and provision of defense services to dual-national employees of Iran, Iraq, Lebanon, and Cuba to which the United States restricts exports of defense articles and defense services.</b>	(PDF, 3.93MB)	(PDF, 4.25MB)	(PDF, 632KB)
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#### I. Unauthorized Exports to Foreign-Person Employees

Between April 3, 2008 and August 24, 2012, Respondent submitted four (4) voluntary disclosures describing the unauthorized export of technical data and defense articles; and unauthorized provision of defense services involving the design, manufacture, and sale of thermal imaging camera systems then controlled by USML Category XII to dual national/third country national ("DN/TCN") employees from over 15 countries, including Iran, Iraq, and Lebanon, that were prohibited destinations pursuant to 22 CFR § 126.1 at the relevant time. Violations were disclosed as having occurred at the company's domestic and overseas locations. In reliance on the reported remedial measures to prevent recurrence, DDTC closed the voluntary disclosure cases without imposing a civil penalty.



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# Praktisk tilnærming ved besøk, eksempel



## AIM Norway visitor information request

To be used according to procedure ITC-Co.01

Dear Visitor,

In order to validate your visit to AIM Norway we need the following information from you.

Please indicate official information as referenced in your ID or Passport:

NAME :	Ano
SURNAME :	Nym
DATE OF BIRTH :	12.01.2000
NATIONALITY:	Gammlastan
OTHER CITIZENSHIPS:	St. Claus & Bevis

COMPANY NAME :	Dontrustme Inc.
COUNTRY:	Paradise Island

Please note that AIM Norway recognizes and respects the importance of your privacy. The requested sign-in information will be used to manage and validate your visit to AIM Norway. In order to comply with Norwegian, U.S. and similar laws in other countries, we must review your name, nationality and, if needed, company via a website listing denied-access persons or companies. The ITC Department will use this information only for this purpose and will not share it with any third party unless required by law. This information will be retained in accordance with applicable legal requirements.

**Your provision of the information and your signature constitute your consent for us to use it for this purpose. Please sign this form, scan it and send it back to AIM Norway by e-mail.**

**You are free not to provide this information, but in that case, you will not be able to enter AIM Norway's facilities. If you have questions about your Privacy, please contact the ITC Department or the host of your visit.**

Thank you for your cooperation

Date:

Signature:.....





KONGSBERG

# Remember there are sharks out there



<https://vimeo.com/172436720>



KONGSBERG

**Takk**

[hakon.lindteigen@kongsberg.com](mailto:hakon.lindteigen@kongsberg.com)

